



EMN Ad-Hoc Query on NO EMN AHQ (correct version) on practice in regards to Sunni Arab Muslim asylum seekers from Iraq

Requested by Kathleen CHAPMAN on 23rd June 2016

Protection

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovak Republic, Spain, Sweden, United Kingdom, Norway (22 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

Background information:

In a recent UNHCR report, it was stated "In light of massive new internal displacement coupled with a large-scale humanitarian crisis, mounting sectarian tensions and reported access restrictions, UNHCR does in principle not consider it appropriate for States to deny persons from Iraq international protection on the basis of the applicability of an internal flight or relocation alternative."
(<http://www.refworld.org/docid/575537dd4.html>).




In light of the present situation in Iraq, the Norwegian Directorate of Immigration (UDI) foresees contours of a difficult situation for Sunni Arab Muslims in the areas controlled by the authorities of Iraq. So, until we receive more country information at the end of the summer, Norway has set aside those asylum applications which cannot immediately be granted for members of this group who come from Bagdad. In this connection, The UDI is looking into how other countries evaluate the security situation for Sunni Arabs in Iraq and whether the MS consider there to be regional differences in the security situation. Norway also wants to know if the MS are taking advantage of internal flight alternative in any cases, and if so, where it is considered safe.


(previous launches had errors; this one is correct)


Questions



1. 1. Does your MS grant protection (or subsidiary protection) to Sunni Arab asylum seekers from any areas of Iraq? YES/ NO
2. IF YES: Is protection granted only on the grounds of the applicant's religious affiliation (Sunni Arab) ? YES/ NO If no, please briefly describe grounds.
3. IF YES: Does this practice vary depending on which area of Iraq the applicant comes from (Bagdad, Diyala, Southern Iraq etc.) ? YES/NO
4. IF YES: Please indicate which areas are not considered safe.
5. 2. Does your MS grant protection or subsidiary protection to Sunni Arabs from ISIS-held areas regardless of religious affiliation? YES/ NO
6. 3. Does your MS consider there to be safe internal flight alternatives (IFA) for Sunni Arab asylum seekers? YES/ NO
7. IF YES: Which areas of Iraq does your MS consider safe; for example, if Sunni Arabs from southern Iraq can safely return, but Sunni Arabs from ISIS controlled areas cannot. Please briefly describe.




Responses


	Country	Wider Dissemination	Response
	Austria	No	
	Belgium	Yes	<ol style="list-style-type: none"> 1. Asylum applicants (including Sunni Arab asylum applicants) from the provinces Ninewa, Tamim (Kirkuk), Diyala, Salaheddin en Anbar can be granted subsidiary protection according to article 15 C of the AQD. If these applicants fall under the criteria of the Geneva Convention and no exclusion clause is applied they will be granted refugee status. 2. No, the protection status can also be granted on other grounds. The mere fact of being a Sunni Arab is not enough to be automatically granted refugee status, it depends on the individual grounds if an applicant is eligible for refugee status. For what concerns eligibility for subsidiary protection see the answer to question 1. 3. See answer to question 1 and 2 4. See answer to question 1. 5. See answer to question 1 and 2 6. The application of IFA is assessed on a case-by-case basis. IFA is not applied for Arab applicants from Central-Iraq towards the Kurdish KRG-region, nor towards Southern Iraq. 7. Applicants coming from one of five provinces mentioned in the answer to question 1 will not be returned. (Obviously also other applicants who are granted a protection status will not be returned).
	Bulgaria	Yes	<ol style="list-style-type: none"> 1. Yes. However each application for international protection is examined on a case by case basis taking into account the situation in the country of origin, the facts on the case and the evidence provided by the applicant.



			<p>2. Each application for international protection is examined on a case by case basis taking into account the situation in the country of origin, the facts on the case and the evidence provided by the applicant. According to the Law on Asylum and Refugees the determining factor for granting refugee status is the existence a well-founded fear of persecution due to his race, religion, nationality, political opinion or membership of a particular social group, is outside his/her country of origin and who for these reasons is unable or unwilling to avail of the protection of that country or to return thereto. For the purposes of granting refugee status, it shall not matter whether the foreigner belongs to such race, religion, nationality, social group, whether he/she expresses such political opinion or professes such political belief which is at the root of persecution. It shall be sufficient that the persecuting authority or organisation considers such foreigner belongs thereto.</p> <p>3. Each application for international protection is examined on a case by case basis taking into account the situation in the country of origin, the facts on the case and the evidence provided by the applicant.</p> <p>4. N/A</p> <p>5. See the answers above.</p> <p>6. The application of IFA is assessed on a case-by-case basis. Iraqi Kurdistan may be considered as an option in some cases.</p> <p>7. It depends on the individual circumstances.</p>
	Croatia	Yes	<p>1. Yes, in some cases. It depends on the personal circumstances of each asylum seeker (an applicant for the international protection) that are assessed on the ground of their own statement and credible information of country of origin.</p> <p>2. No. As mentioned above, it depends on the personal circumstances of each asylum seeker. For example, asylum or subsidiary protection could be granted due to unsafe situation in some part of</p>



			<p>the country for the certain group of people according to the Act of International and Temporary Protection (homosexuals, women, etc.).</p> <p>3. n/a</p> <p>4. n/a</p> <p>5. Yes, in some cases.</p> <p>6. Yes.</p> <p>7. It all depends on personal circumstances of each case, as we described above.</p>
	Cyprus	Yes	<p>1. Yes</p> <p>2. No, the cases are examined on an individual basis. Although there are information indicating that Sunnis are persecuted in Iraq based on their religion, it cannot be accepted and ruled out that all the Sunni applicants are persecuted merely because of their religious affiliation. Reasons of individual persecution must be established. Various factors are taken into consideration such as area of residence, job description, family member's status and experiences, personal background etc.</p> <p>3. n/a</p> <p>4. n/a</p> <p>5. Yes</p> <p>6. Yes</p> <p>7. The KRI may be considered as an option, areas where there is a predominant Sunni population. Also other factors should be taken into consideration such as the ability of the applicant to</p>


			relocate, social and cultural background, access to basic services such housing, education and health, security issues and protection issues.
	Czech Republic	Yes	<ol style="list-style-type: none"> 1. No, generally not. It is based on individual basis. The religious ground does not serve as the sufficient ground for granting international protection. 2. N/A 3. N/A 4. N/A 5. See above. 6. As above, each case is considered individually. Generally we do not return to these areas. 7. N/A
	Estonia	Yes	<ol style="list-style-type: none"> 1. In Estonia each asylum application is examined and assessed individually. All relevant information is taken into consideration when determining the need for protection and the status of the protection (like the security situation in the country of origin, belonging to an ethnic /religious minority etc.). This year we have not received any applications for international protection from Iraqi citizens, besides those who arrive via the resettlement programme. 2. - 3. - 4. - 5. -


			<p>6. -</p> <p>7. -</p>
	Finland	No	
	France	Yes	<p>1. No. There is no automatic recognition of fears of persecutions for Sunni Arabs from areas controlled by the Iraqi regime. Claims are assessed on a case-by-case basis. Subsidiary protection is granted for Iraqis, regardless of their community, from Ninive, al Anbar, Salah Addine, Kirkouk, Diayala and Baghdad governorates.</p> <p>2. n/a</p> <p>3. n/a</p> <p>4. n/a</p> <p>5. Yes, if their cases does not fall under the articles 12 and 17 of the “Qualification Directive”.</p> <p>6. No.</p> <p>7. n/a</p>
	Germany	Yes	<p>1. Yes. Protection to Sunni Arab asylum seekers is granted according to the general criteria. In particular cases refugee status may be granted to Sunni applicants that credibly claim persecution by a Shiite majority while belonging to a Sunni minority in a certain area.</p> <p>2. No. Protection is granted according to the general criteria. The applicant can claim persecution or a threat upon return on other grounds as well.</p>


			<p>3. No, protection is granted regardless of the area the applicant originates from.</p> <p>4. n.a.</p> <p>5. Yes. Protection/subsidiary protection is granted according to the general criteria. The applicant can claim persecution or a threat upon return on other grounds besides his or her religious affiliation.</p> <p>6. Internal flight alternatives are considered according to the general criteria. At the moment, internal flight alternatives for Iraq are considered only in exceptional cases.</p> <p>7. Currently, there are no general areas that are considered to be safe.</p>
	Hungary	Yes	<p>1. The conditions of international protection in case of Sunni Arab asylum seekers from Iraq is examined on a case by case basis. Provision of international protection may take place in case of Sunni Arab applicants if the condition that of are met.</p> <p>2. No. Safety situation may establish the need for international protection, if internal flight alternatives cannot be applied.</p> <p>3. n.a.</p> <p>4. n.a.</p> <p>5. n.a.</p> <p>6. In very exceptional cases Kurdistan Region in Iraq may be a safe internal flight alternative even for Sunni Arab asylum seekers, for example if they have family relations in that area.</p> <p>7. See above</p>


	Latvia	Yes	<ol style="list-style-type: none"> 1. Yes: protection is granted to Iraqi Sunni Arabs from Baghdad and Basra. 2. Protection is granted mainly on the grounds of the applicant's religious affiliation but in some cases there was a mix of the grounds for protection. 3. Iraqi Sunni Arab asylum seekers in LV originated only from Baghdad and Basra so far, therefore we do not have comments on variety of practice towards different areas in Iraq. 4. - 5. No respective practice so far. 6. No information on the implicitly safe areas for Sunni Arabs in Iraq in our possession at the moment. 7. -
	Lithuania	Yes	<ol style="list-style-type: none"> 1. Lithuania has limited practice concerning Sunni Arab Muslim asylum seekers from Iraq. In 2015 Lithuania received 25 asylum applications from Iraq (in 2014 - 5), but most of these persons were Christians. Therefore we are not able to draw conclusions. 2. For some Sunni Muslims subsidiary protection was granted mainly due to the general unstable and insecure situation in Iraq. 3. N/A 4. N/A 5. N/A 6. N/A



			7. N/A
	Luxembourg	Yes	<p>1. Luxembourg treats every international protection application on a case by case basis analysing the facts described by the applicant as well as the evidence provided and taking into consideration the general situation of the country of origin. No specific areas have been determined (yet) which would automatically trigger international protection.</p> <p>2. N/A.</p> <p>3. N/A.</p> <p>4. N/A.</p> <p>5. See answer to question 1.</p> <p>6. Due to the recent influx of international protection seekers from Iraq, Luxembourg is currently working on a new policy paper, taking into account the different profiles (including determination of vulnerable groups), internal flight alternatives and the determination of risk areas. When completed, we will be able to give more information.</p> <p>7. N/A.</p>
	Malta	Yes	<p>1. The number of applications for international protection lodged by Iraqi nationals in Malta remains very low. In fact, the Office of the Refugee Commissioner does not have a specific policy guidance in place with regards to Sunni Arab Iraqi nationals. Each case is assessed on its own merits, taking into consideration the individual and contextual circumstances of the case.</p> <p>2. N/A</p> <p>3. N/A</p>

			<p>4. N/A</p> <p>5. The number of applications for international protection lodged by Iraqi nationals in Malta remains very low. In fact, the Office of the Refugee Commissioner does not have a specific policy guidance in place with regards to Sunni Arab Iraqi nationals. Each case is assessed on its own merits, taking into consideration the individual and contextual circumstances of the case.</p> <p>6. The number of applications for international protection lodged by Iraqi nationals in Malta remains very low. In fact, the Office of the Refugee Commissioner does not have a specific policy guidance in place with regards to Sunni Arab Iraqi nationals. Each case is assessed on its own merits, taking into consideration the individual and contextual circumstances of the case.</p> <p>7. N/A</p>
	Netherlands	Yes	<p>1. There is no specific policy for Sunni Arabs. Sunni Arabs fall under the scope of the general policy for asylum seekers from Iraq: Asylum seekers from the governorates of Anbar, Diyala, Kirkuk, Ninewa and Salah al Din and from certain parts of the so-called ‘Baghdad belts’, are eligible for subsidiary protection according to article 15(c) of the Qualification Directive. A situation as described in 15(c) does not apply to Baghdad city or all other parts of Iraq. As part of the assessment of the application will be examined whether an applicant from an area identified as an area which meet the threshold of Article 15(c) can have access to internal protection in other areas of the country, including Baghdad city. To decide whether internal relocation is possible, the personal circumstances of the applicant will be taken into account. In general it is not expected that minors without family and persons belonging to a vulnerable minority (e.g. Christians, Yezidis or lone women) relocate to, for example, Baghdad city.</p> <p>2. see above</p> <p>3. see above</p> <p>4. see above</p>

			<p>5. see above</p> <p>6. see above</p> <p>7. see above</p>
	Portugal	Yes	<p>1. PT analyses all the asylum applications, case by case, according to the invoked arguments and evidences</p> <p>2. -</p> <p>3. -</p> <p>4. -</p> <p>5. See answer to question 1.</p> <p>6. See answer to question 1.</p> <p>7. -</p>
	Slovak Republic	Yes	<p>1. Yes. However, each application is considered on a case-by-case basis.</p> <p>2. Each application is considered on a case-by-case basis. It is considered whether the applicant has relevant reasons for being granted international protection. A sole affiliation to a religious group is not a reason for being granted international protection. If the international protection is granted on religious grounds, it has to be proved that the asylum-seeker is at risk of persecution. Slovak Republic has not experienced cases of Sunni Arabs in Iraq persecuted solely on religious grounds. Apart from the religious affiliation, the assessment of each asylum application includes also evaluation of the security situation in the applicant's place of residence, the entire country as well as individual reasons of the applicant. At the same time, risk of serious harm is assessed and</p>

			<p>in case there is a risk of serious harm, the applicant is granted international protection regardless of his/her religious affiliation.</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. Yes. Each case is considered individually. If there is a risk of serious harm in a specific case, the subsidiary protection is granted regardless of the applicant's religious affiliation.</p> <p>6. Yes. It is possible to use IFA. However, Slovak Republic does not have any experience with the persecution of Sunni Arabs in general.</p> <p>7. As mentioned above, Slovak Republic does not have experience with persecuted Sunni Arabs in Iraq and thus it would allow for their IFA. However, Slovak Republic does not make use of the territorial principle in resettlement and the internal flight is considered in case of each applicant individually. Mainly it is considered whether the applicant can travel safely without any security threats to other specific areas of the country, whether he/she has any family or social ties there, and thus whether it is possible to assume that he/she would be able to safely and legally reside there. Moreover, the general security situation is assessed, stability of this security situation as well as the fact whether the Iraqi state authorities have full control over the given area.</p>
	Spain	Yes	<p>1. In connection with the proposed consultation it is noted that no returns to Iraq have been made from Spain several years ago. Consequently the safety of various parts of Iraq has not been assessed.</p> <p>2. See response to first question.</p> <p>3. See response to first question.</p> <p>4. See response to first question.</p>

			<p>5. See response to first question.</p> <p>6. See response to first question.</p> <p>7. See response to first question.</p>
	Sweden	Yes	<p>1. Yes</p> <p>2. No</p> <p>3. Yes</p> <p>4. The Migration Agency has no statistical data on individual grounds for refugee status or subsidiary protection. The Migration Agency makes individual assessments in each Iraqi case and when these assessments are made, the finding that a person belongs to a certain group or has a certain religious affiliation constitutes important evidence that will be taken into consideration when determining the need for protection and the status of the protection. The situation of general violence in Anbar, Nineva and Salah al-Din, in combination with a remarkably low respect for human rights is generally considered enough to entail a need for subsidiary protection for every person residing in those areas, irrespective of religious affiliation or belonging to a certain group. In the areas of Kirkuk and Dialya, the situation is considered to be that of an armed conflict, and in order to establish a need of protection, an individual assessment must be made in accordance with the principles set out in the case of Elgafaji. Within that assessment, the fact that a person is a Sunni Muslim can be of relevance. The threshold to substantiate an individual risk is generally very low.</p> <p>5. Yes - see above</p> <p>6. Yes</p> <p>7. Since only certain parts of Iraq are affected by the conflict, an internal flight alternative may be an option. It can be considered possible to refer a Sunni Muslim to an internal flight alternative in</p>

			Baghdad or southern Iraq, but only after an individual assessment of the relevance and reasonableness of such an alternative.
	United Kingdom	Yes	<p>1. At the time of writing, the Home Office does not have an individual policy in respect of Sunni Arabs. Asylum applications are assessed on a case-by-case basis.</p> <p>2. As above, asylum applications are assessed on a case-by-case basis. Protection is not necessarily given only on religious grounds.</p> <p>3. See below.</p> <p>4. In general the Home Office currently considers it unsafe to return to Anbar, Diyala, Kirkuk, Ninewah, Salah al-Din and parts of Baghdad governorate which border Anbar, Salah al-Din and Diyala.</p> <p>5. The Home Office considers it unsafe for anyone to return to ISIS-held areas (see above). This does not necessarily mean that a Sunni Arab from an ISIS-held area will be given protection, as they may be able to internally relocate.</p> <p>6. Yes. In general relocation is possible to the areas of Iraq outside those listed above. Whether internal relocation is possible in any individual application will depend on the facts of the case.</p> <p>7. This will depend on the facts of the case.</p>
	Norway	Yes	<p>1. YES</p> <p>2. YES.</p> <p>3. YES</p> <p>4. • Sunni Arabs from Diyala (from the military controlled areas) risk persecution if they return to their home area due to the general conditions for this group in these areas (religious affiliation). •</p>

			<p>At this time, Norway is considering the risk of returning this group given the applicant's religious affiliation; for example, to Bagdad or other areas of Iraq. Applications from Sunni Arab asylum seekers have been set aside until we have further information.</p> <p>5. YES.</p> <p>6. YES.</p> <p>7. Norway has until recently, practiced internal flight alternative to Bagdad for Sunni Arabs from Central Iraq. However, Norway has just changed the practice regarding Sunni Arabs from ISIS-held areas, because we no longer consider it safe for them to return to Bagdad. (http://www.refworld.org/docid/575537dd4.html).</p>
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