



# Background Report

## **on the Refugee Crisis in Europe**

*Analysis and Recommendations*



A report by the human rights organization Jubilee Campaign  
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## 1. Summary

Unrest, violence and persecution of others has driven many people to leave Syria and Iraq to seek refuge in other countries. In Syria, many people have been killed or tortured by the Assad regime while they subsequently have to fear several terrorist groups such as ISIS and Al-Nusra who have conquered territory. Iraq similarly experiences violence from extremist groups killing many citizens and in specific terrorizing religious minorities.

Despite the large numbers of people arriving by sea, the largest part of refugees remain in their own or in neighbouring countries. Based on a gross estimation 681,713 Syrians have applied for asylum in Europe between 2011 and 2015, while 72,132 Iraqis have reached the EU by sea between 2013 and 2015. Around 4-5 million Syrians have fled to neighbouring countries while 7 million are displaced within Syria. In Iraq more than 3.5 million have been displaced.

For this report was investigated which place Islam has in society in the countries of origin and how tolerant will these Iraqi and Syrian former citizens be towards people from other religions? Since 2003 people from Iraq have experienced and created significantly more religious tension than Syrians. The number of religious minorities in Iraq are considerably smaller and there was less room for non-Muslims in government and society. However before 2001 other religions have been to a further extent presented in government under a secular Ba'ath regime. Since 2003 violence and discrimination nourished religious tensions and Islamic radicalism has disturbed the peace and stability of the country. Particularly during the Maliki governance tensions rose and gave way to the birth of ISIS. When welcoming people from Iraq it should be kept in mind that religious tensions have had a great impact on citizens. Not every person has been or will be accepting towards other religions. Syria has shown greater stability when it comes to religious tolerance.

Subsequently, part of the asylum seekers who come to Europe, have lived in refugee camps in neighboring countries, like Jordan, Lebanon and Turkey. They left these camps because of the deprived living conditions. The UN's humanitarian agencies hosting these camps are lacking a huge part of their budget. If we want to host asylum seekers in the region enough budget needs to be available in order to provide adequate care.

Lebanon, Turkey and Jordan are the three major countries hosting refugees from Syria and Iraq. Those who remain in these three countries of asylum have almost no prospect of local integration or gaining secure residency rights, both of which have been effectively ruled out by the authorities.<sup>1</sup> Many refugees do not receive quality education or can officially work. This could be maintained for a certain period of time, but with no end in sight more people decided to travel to Europe.

In order to provide a legal framework, it is important to know that people arriving in Europe by sea are illegal immigrants until they applied for asylum. They are asylum seekers for the duration of their process. When their application is approved they are officially called refugees. However when their application is rejected they are illegal immigrants again and are obliged to leave EU territory. In the group of people arriving in Europe now are refugees as well as (economic) illegal migrants, however it is necessary to individually assess each case.

Which international and European laws are applicable in the situation of asylum seekers reaching Europe by boat? The EU Member States have an obligation to process each asylum application and the non-refoulement<sup>2</sup> principle is enshrined in several laws. Subsequently the EU has a common asylum policy with several directives and regulations which provide minimum standards for the treatment of asylum seekers, however Member States are allowed to deviate which has as a consequence that national asylum policies can differ widely. Lastly with the influx of asylum seekers coming to Europe, the 2001 Directive on temporary protection might be relevant and could be reviewed as possible solution in order to divide the burden equally among the Member States.



<sup>1</sup> <http://www.unhcr.org/4a6dbdbc9.html>

<sup>2</sup> This principle states that no Contracting State shall expel or return ("refouler") a person to a country where his life or freedom would be threatened.

## 2. Definition of refugee and migrant

The media refers to boat migrants both as refugees and (economic) migrants, even though these words have different definitions. To be considered a refugee, one needs to fall under the definition of refugee based on the 1951 Refugee Convention and protocol relating to the status of refugees. This treaty states there needs to be a threat of persecution because of race, religion, nationality, membership of a particular social group or political opinion.

When a person from a third country arrives in the European Union he or she has the right to ask for asylum. This right is based on article 18 of the Geneva Convention. During their asylum application they are referred to as asylum seekers and the asylum bureau will investigate whether the applicant can be qualified as a refugee based on the qualifications provided in the Refugee Convention. Only when an applicant has received a positive decision on their asylum application they can be referred to as a refugee.

Secondly we have (economic) migrants who do not experience persecution. Yet, the circumstances can be so (economically) depraved, that one decides to leave in search for a better life. Even though every person has the right to ask for asylum and for their asylum application to be reviewed, (economic) migrants will not be qualified as refugees under the Refugee Convention and will not receive asylum. If they have not entered the European Union legally they will be considered as illegally present unless their asylum application is still under review. When they have received a negative decision on their asylum application they are illegally on the territory and are obliged to leave the country.



## 3. Facts and Figures

According to the statistics of 2016, the asylum seekers arriving to Europe by sea originate from the following countries: 43 per cent from Syria, 23 per cent from Afghanistan and 14 per cent from Iraq.<sup>3</sup> According to the UNHCR, 35 per cent of the group consists of children, 20 per cent of women and 45 per cent of men.<sup>4</sup> This chapter will elaborate further on numerical information on Syria and Iraq.

### 3.1. Syria

At the time the war broke out in 2011 in Syria the population was around 22 million. The UNHCR estimates that more than 4 million Syrians have registered as refugees in neighbouring countries in September 2015.<sup>5</sup> Another million might have fled abroad unregistered<sup>6</sup> and around 7 million are internally displaced in Syria.<sup>7</sup> This means that more than half of the country's population has been forced to move. According to the UNHCR, 681,713 Syrians applied for asylum in Europe between April 2011 and October 2015.<sup>8</sup>

According to the CIA World factbook<sup>9</sup>, 87 per cent of the population is Muslim of which 74 per cent are Sunni. Christians constitute 10 per cent of the population. This means that around 20 million people were Muslim and 2,3 million Christian. In October 2015, The European Parliament however stated that around 700,000 Christians had left the country.

### 3.2. Iraq

Iraq has a population of around 37 million people.<sup>10</sup> According to the UNHCR more than 3,5 million have been internally displaced, more than 3,5 thousand are refugees and over a 100 thousand are asylum seekers. Based on the UNHCR figures<sup>11</sup> 51,786 Iraqi's reached the EU by sea in 2015. In 2014 a group of almost 13,000 arrived and in 2013 a group of 1346 Iraqi's.

According to the CIA World factbook 2015<sup>12</sup>, 0,8 per cent of the population is Christian while 99 per cent is Muslim. Within Islam 60-65 per cent is Shia and 32-37 per cent is Sunni. As Iraq has a population of around 37 million this would mean that Iraq consists of around 296,000 Christians. Interestingly, in 2003 there were still approximately 1,5 million Christians in Iraq<sup>13</sup>. This constitutes a distressing contrast with the estimated 300,000 Christians that are still in Iraq.

### 3.3. Conclusion

It can be concluded that the largest part of effected people have fled within their country to safer zones. Others have left to neighbouring countries while people that arrived in Europe constitute the smallest group. In both countries Sunni Muslims account for the largest part of the population.

<sup>3</sup> <http://data.unhcr.org/mediterranean/regional.php>

<sup>4</sup> <http://data.unhcr.org/mediterranean/regional.php>

<sup>5</sup> <https://www.amnesty.org/en/latest/news/2015/09/syrias-refugee-crisis-in-numbers/>

<sup>6</sup> <http://www.economist.com/blogs/graphicdetail/2015/09/daily-chart-18>

<sup>7</sup> <http://www.thestar.co.uk/news/local/18-facts-you-need-to-know-about-the-syrian-refugee-crisis-1-7450563>

<sup>8</sup> <http://data.unhcr.org/syrianrefugees/regional.php>

<sup>9</sup> <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/sy.html>

<sup>10</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html>

<sup>11</sup> <http://data.unhcr.org/mediterranean/regional.php>

<sup>12</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html>

<sup>13</sup> <http://www.theguardian.com/commentisfree/belief/2016/mar/24/christians-in-iraq-should-they-stay-or-should-they-go>

## 4. Reasons for fleeing

According to the statistics the asylum seekers arriving to Europe by sea are 43 per cent from Syria, 23 per cent from Afghanistan and 14 per cent from Iraq.<sup>14</sup> Which reasons made people decide to leave Iraq and Syria?

### 4.1. Syria

At the time the war broke out in 2011 in Syria the population was around 22 million. More than 2.5 million of them are in Turkey as asylum seeker, one million in Lebanon, almost 250,000 in Iraq, almost 200,000 in Egypt and 600,000 in Jordan.<sup>15</sup> According to The Internal Displacement Monitoring Centre (IDMC) 6.6 million people are displaced within Syria by the end of 2015.<sup>16</sup> This means that almost half of the population had to move because of the war.



Even though it may seem like most people are fleeing from ISIS, many people are fleeing attacks from the Assad regime.<sup>17</sup> According to a survey of The Syria Campaign<sup>18</sup> from October 2015, 70 per cent of the people flee the organised crime of the Assad regime and 86 per cent say they fear kidnapping or arrest, amongst others by the Assad regime that tortures its prisoners<sup>19</sup>. Because of the ongoing war, the country deals with severe food shortages and the regime uses starvation of its own people as a war method. Some areas have not been accessible for a year now to aid workers and people lack food.<sup>20</sup>

In 2013 Human Rights Watch (HRW) reported the government detained tens of thousands of protesters and activists, inflicting beatings, electric shocks, rape, and other abuse.<sup>21</sup> The organization identified detention facilities across the country used to detain and torture government opponents. Activists cited thousands of credible cases of security forces abusing and torturing prisoners and detainees and maintained that many instances of abuse went unreported. Some victims died from torture; others declined to allow their names or details of their cases to be reported due to fear of government reprisal.

In 2013 a defector from the regime, a former military police photographer known as “Caesar”, smuggled out thousands of photographs from inside government detention centers dating from 2011 to 2013. According to the UN Commission of inquiry, a preliminary review and forensic analysis of nearly 27,000 of the photographs identified deceased detainees showing signs of torture and severe malnourishment.<sup>22</sup>

<sup>14</sup> <http://data.unhcr.org/mediterranean/regional.php>

<sup>15</sup> <http://data.unhcr.org/syrianrefugees/regional.php>

<sup>16</sup> <http://www.internal-displacement.org/middle-east-and-north-africa/syria/>

<sup>17</sup> [https://diary.thesyriacampaign.org/what-refugees-think/?akid=262.57349.36668\\_&rd=1&t=9](https://diary.thesyriacampaign.org/what-refugees-think/?akid=262.57349.36668_&rd=1&t=9)

<sup>18</sup> [https://diary.thesyriacampaign.org/what-refugees-think/?akid=262.57349.36668\\_&rd=1&t=9](https://diary.thesyriacampaign.org/what-refugees-think/?akid=262.57349.36668_&rd=1&t=9)

<sup>19</sup> *They were torturing to kill: inside Syria's death machine*, *The Guardian*, 1 October 2015.

<sup>20</sup> <https://www.vluchteling.nl/Landen-en-Themas/Syrie.aspx>

<sup>21</sup> <http://www.state.gov/documents/organization/220588.pdf>

<sup>22</sup> <http://www.state.gov/documents/organization/220588.pdf>

The Assad regime continued to use indiscriminate and deadly force against civilians, conducting air and ground-based military assaults on cities, residential areas, and civilian infrastructure. Attacks against schools, hospitals, mosques, churches, synagogues, and houses were common throughout the country. The United Nations (UN) estimated the fighting had resulted in the deaths of more than 200,000 persons from March 2011 until April 2014. The Syrian Network for Human Rights (SNHR) reported the regime conducted 32,507 extrajudicial killings during the 2014.<sup>23</sup>

Some extremist opposition organizations, including armed terrorist groups such as the al-Qaida-linked Jabhat al-Nusra and ISIS, also committed a wide range of abuses, including massacres, bombings, and kidnappings; unlawful detention; torture; summary executions; and forced evacuations from homes based on sectarian identity. U.S. intelligence officials estimated in January 2015 that ISIS has 9,000 to 18,000 fighters and thousands of sympathizers.<sup>24</sup> According to IHS Jane's, the territory controlled by ISIS saw a 14 per cent reduction between 1 Jan and 15 December 2015 and has lost another 8 per cent in the first three months of 2016.<sup>25</sup>

ISIS took control of the eastern provinces of Raqqa and Dayr al-Zawr, where it committed massive human rights abuses, according to numerous human rights organizations, the media, UN reports, and ISIS itself. According to the media and eyewitnesses, these included the mass execution of 700-900 members of the Sheitaat tribe from Dayr al-Zawr; stonings of women and men accused of adultery; crucifixions of civilians; forced marriages of kidnapped girls and women; and public beheadings of foreign journalists, aid workers, and others. Human trafficking increased, including the forcible recruitment and use of children in the conflict, as well as reports of forced marriages of women and underage girls for the purpose of sexual slavery among ISIS fighters.<sup>26</sup>

## 4.2. Iraq

The conflict in Iraq started with the war with Saddam Hussein following the Kuwait crisis in 1991 and the following embargo, which impoverished the country and malnourished the population. Subsequently the Second Gulf War began in 2003 with the invasion of Iraq led by the United States which toppled the government of Saddam Hussein. However, the conflict continued for much of the next decade as an insurgency emerged to oppose the occupying forces and the post-invasion Iraqi government. According to a BBC news article an estimated 151,000 to 600,000 or more Iraqis were killed in the first 3-4 years of conflict out of a population of around 37 million people.<sup>27</sup> However these numbers have been influenced by political agendas and experts estimate the numbers are more likely between 750,000 and 1 million. Iraqi Body Count says the most sustained period for high-level violence was from March 2006 to March 2008, when sectarian killings peaked and some 52,000 died.<sup>28</sup>

In June 2009 US troops withdrew from Iraq's towns and cities, and the last remaining US forces left the country at the end of 2011. But the Shia-led government of Nouri al-Maliki failed to unite Iraq's various communities and their divisive policies even directly led to the Sunni sense of alienation which was followed by the Anbar revolution. From 2013 Iraq faced a rapidly-rising tide of extreme Sunni rebellion in Anbar Province. Organization Iraq Body Count stated in March 2013 that "the country remains in a

<sup>23</sup> <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, <http://www.state.gov/documents/organization/236834.pdf>

<sup>24</sup> <http://edition.cnn.com/2014/08/08/world/isis-fast-facts/>

<sup>25</sup> <http://www.janes.com/article/58831/islamic-state-loses-22-per-cent-of-territory>

<sup>26</sup> <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

<sup>27</sup> <http://www.bbc.com/news/world-middle-east-21752819>

<sup>28</sup> <http://www.bbc.com/news/world-middle-east-21752819>



state of low-level war, little changed since early 2009 with a ‘background’ level of everyday armed violence punctuated by occasional larger-scale attacks designed to kill many people at once.”<sup>29</sup>

In 2014, Sunni rebels led by the extreme jihadist group calling itself Islamic State had established strongholds in the mainly Sunni Anbar Province. Much of the stories of the horrors that refugees have witnessed under ISIS rule have come from Iraq, where the Yazidi minority suffered harrowing conditions as the terrorist group advanced.<sup>30</sup>

The availability of basic necessities for living is not guaranteed for a large part of the Iraqi population. In September 2015 there were 8,2 million people dependent on humanitarian aid. This means that around a quarter of the Iraqi citizens are depended on help on one or more of the following areas: Housing, food, safety, healthcare and sanitary facilities. Approximately a quarter of the Iraqi citizens lived below the poverty line.<sup>31</sup>

According to the Dutch 2015 country report on Iraq, there were around 3,2 million internally displaced people in Iraq. Of that number around 16 per cent have been displaced since April 2015. Around one fifth of this group lives in ISIS occupied territory. The cause of the displacement lies in the continuous violence, in particular in central and west Iraq. The violence is committed both by ISIS as well as conflict related violence originating from the Shiite militias and the Iraqi army.<sup>32</sup>

More than half or even 60 per cent of Iraqi Christians have fled the country since the 2003 US-led invasion.<sup>33</sup> Before 2003 the Christian community counted around 1,5 million. However after the conflict started in 2003 merely 500,000 remained, until ISIS emerged which caused even more to flee abroad. According to official United States Citizenship and Immigration Services statistics, 58,811 Iraqis have been granted refugee-status citizenship as of May 25, 2011.<sup>34</sup>

The Kurdish region of Iraq has borne the brunt of the Middle East refugee crisis, accepting as many as one million asylum seekers, who have added one fifth to Iraqi Kurdistan’s population. While thousands live in camps set up early in 2014 to accept Syrians fleeing the civil war, many others live anywhere they can.

<sup>29</sup> <http://www.bbc.com/news/world-middle-east-21752819>

<sup>30</sup> <http://www.ibtimes.co.uk/isis-worst-refugee-crisis-generation-millions-flee-islamic-state-iraq-syria-1506613>

<sup>31</sup> Dutch country report Iraq, 2015.

<sup>32</sup> Dutch country report Iraq, 2015.

<sup>33</sup> <https://web.archive.org/web/20110429203337/http://www.cnsnews.com/news/article/48185>

<sup>34</sup> USCIS – Iraqi Refugee Processing Fact Sheet. *Uscis.gov*. Retrieved 2011-12-02

## 5. Religious backgrounds of countries of origin

With hundreds of thousands asylum seekers coming from Syria and Iraq to Europe, the fear submerges that our European culture and religious background will be distorted. Fear of Islam is subsequently a widespread concern in a Europe which is founded and raised within a mainly Christian cultural and religious background. Which place did Islam have in society in the countries of origin and how tolerant will these Iraqi and Syrian former citizens be towards people from other religions?

### 5.1. Syria

Sunni Muslims are estimated to constitute 74 per cent out of the approximately 23 million citizens and are present throughout the country. The Sunni population includes ethnic Arabs, Kurds, Circassians, Chechens, and some Turkomans. Other Muslim groups, including Alawites, Ismailis, and Shia, together constitute 13 per cent. Consequently 87 per cent of the Syrian population was Muslim. Druze account for 3 per cent of the population.<sup>35</sup>

Christian groups constituted 10 per cent of the population before the civil war, although the Christian population may have been reduced to less than 8 per cent as Christians continue to flee the country.<sup>36</sup>

This means that there are around 17 million Sunni Muslims and 3 million Muslims from different wings of Islam. There were around 2,3 million Christians in Syria.

In what form and to what extent was religion given a place in the Syrian society? The following information is derived from the Dutch Country Report on Syria from 2009.<sup>37</sup>

In Syria, the constitution provides for freedom of religion; and in general this right is respected by authorities. Religious minorities possess the right to express their own beliefs. According to international observers they enjoy more safety and tolerance as religious minorities in other surrounding Arab countries.

Membership in any “Salafist”<sup>38</sup> organization was illegal, a designation in local parlance denoting Saudi-inspired fundamentalism. Recognized religious institutions and clergy, including all government-recognized Muslim, Jewish, and Christian organizations, received free utilities and were exempt from real estate taxes on religious buildings and personal property taxes on their official vehicles. There were occasional reports of minor tensions among religious groups, some of which were attributable to economic rivalries rather than religious affiliation. Muslim converts to Christianity were sometimes forced to leave their place of residence due to societal pressure.

There is no official state religion; however, the constitution requires that the president be Muslim and stipulates that Islamic jurisprudence is a principal source of legislation. While there is no civil law prohibiting proselytizing, the government discouraged it and occasionally prosecuted missionaries for “posing a threat to the relations among religious groups.” Most charges of this kind carried sentences of imprisonment from five years to life, although such sentences were often reduced to one or two years.

<sup>35</sup> <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/sy.html>

<sup>36</sup> <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/sy.html>

<sup>37</sup> Dutch Country Report on Syria, 2009, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2009/09/17/syrie-2009-09-17>

<sup>38</sup> Salafism is an ultra-orthodox movement within Islam which aims to return to ‘pure’ Islam as it was in the time of the prophet Mohammed. Salafism literally means ‘devout pure reverends’. Salafism was born in Saudi-Arabia. Its followers adhere to a strict and literal interpretation of the Koran and Sunnah. The founder of Salafism is Mohammed Ibn Abulwahab (1703-1791). For that reason Salafism sometimes is referred to as Wahhabism, a term preferably not used by Salafists since Salafism is not created by a human but by ‘pure and real’ Islam. Within Salafism there are several movements. One of those movements preaches a violent repression of all un-believers. Al-Qa’ida and several other terroristic networks and organizations invoke this form of Salafism.

There were numerous arrests and convictions of individuals for promulgating “Wahabist<sup>39</sup>” and “Takfiri<sup>40</sup>” ideologies. The government selected Muslims for religious leadership positions who have no intention of altering the secular nature of the government. The grand mufti of the country continued to call on Muslims to stand up to Islamic fundamentalism and urged leaders of the various religious groups to engage in regular dialogue for mutual understanding.

Christians could express their religion freely in Syria. A couple of Christian holidays are public holidays. Many churches have their own schools from kindergarten until priest seminary. Even though discrimination can occur in a society with numerous religions, in general international observers state that Christians can express their religion freely.



Furthermore in general, Sunni Islamists see the Yazidi’s as heretics and have persecuted them for that reason for centuries. However there are no reports known on religious persecution of Yazidi’s in Syria.

Concluded can be that Syrians come from a relatively democratic and inclusive society where persecution of minorities did not constitute a key issue.

## 5.2. Iraq

Iraq has a population of around 37 million people.<sup>41</sup> According to the CIA World factbook 2015<sup>42</sup>, 0,8 per cent of the population is Christian while 99 per cent is Muslim. Within Islam 60-65 per cent is Shia and 32-37 per cent is Sunni. As Iraq has a population of around 37 million this would mean that Iraq consists of around 296,000 Christians. A bleak contrast with the 1990s when, according to Open Doors, Iraq was home to 1,2 million Christians.<sup>43</sup>

The United States Commission on International Religious Freedom (USCIRF) report 2010 on Iraq<sup>44</sup> states the following concerning minorities in the country:

Even before ISIL’s rise, the country’s smallest religious communities – which include Catholics, Christian Orthodox, Protestants, Yazidis, and Sabeian Mandaean – were mere shadows of their already-small former presence. Pre-2003, non-Muslims amounted to only an estimated 3 per cent of Iraq’s population. They have long faced official and societal discrimination, and their small size and lack of militia or tribal structures have made it difficult for them to defend themselves against violence or

<sup>39</sup> <https://en.wikipedia.org/wiki/Wahhabism>

<sup>40</sup> An extremist Sunni group that uses violence to combat all un-believers. The term un-believer is used as reference to every person whoms thinking diverts of that of their own group. <https://en.wikipedia.org/wiki/Takfiri>

<sup>41</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html>

<sup>42</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html>

<sup>43</sup> <http://www.opendoorsuk.org/persecution/worldwatch/iraq.php>

<sup>44</sup> [http://www.uscirf.gov/sites/default/files/resources/annual\\_per\\_cent20report\\_per\\_cent202010.pdf](http://www.uscirf.gov/sites/default/files/resources/annual_per_cent20report_per_cent202010.pdf)



protect their rights through the Iraqi political system. In 2013 the Christian population was estimated at 500,000, half the size estimated in 2003. Also in 2013, the Yazidis reported that since 2005 their population had decreased by nearly 200,000 to approximately 500,000, and the Mandaeans reported that almost 90 per cent of their community had left the country or been killed, leaving just a few thousand. The size of these religious communities continue to decline as the crisis in Iraq deepens, with Iraqi Christian leaders now stating that their community only numbers around 250,000- 300,000.

Systematic, ongoing, and egregious religious freedom violations continue in Iraq. Members of the country's smallest religious minorities still suffer from targeted violence, threats, and intimidation, against which they receive insufficient government protection. Although the Iraqi government has publicly condemned violence against these groups, it continues to fall short in investigating the continuing attacks and bringing perpetrators to justice, and its efforts to increase security to minority areas are not adequate. The small communities, including Chaldo-Assyrians and other Christians, Sabeen Mandaeans and Yazidis, also experience a pattern of official discrimination, marginalization, and neglect.

Human rights organisation The Freedom House reports that even though freedom of religion is guaranteed by the constitution, and religious institutions are allowed to operate with little formal oversight, all religious communities in Iraq have been threatened by sectarian violence. An estimated 300,000 to 900,000 Christians have sought safety abroad since 2003. Formerly mixed areas across Iraq are now much more homogeneous, and terrorist attacks continue to be directed toward sectarian targets.<sup>45</sup>

### 5.3. Conclusion

Concluded can be that people from Iraq have experienced and created significantly more religious tension than Syrians since western invasion. The number of non-Muslims in Iraq are considerably smaller and there was less room for non-Muslims in government and society. Violence and discrimination nourished religious tensions and Islamic radicalism has disturbed the peace and stability of the country. When welcoming people from Iraq it should be kept in mind that not every person has been or will be accepting towards other religions. Syria has shown greater stability when it comes to religious tolerance.

<sup>45</sup> <https://freedomhouse.org/report/freedom-world/2013/iraq>

## 6. Reasons for leaving neighbouring countries

Lebanon, Turkey and Jordan are the three major countries hosting refugees from Syria and Iraq. Turkey hosts almost 3 million persons of concern of whom 2,7 million are from Syrian refugees. Other countries of origin are Afghanistan and Iraq.<sup>46</sup> Lebanon has 1 million Syrians refugees.<sup>47</sup> In a country of 4.4 million inhabitants, this makes it the highest per-capita concentration of refugees worldwide, where one person out of four is a refugee.<sup>48</sup> Jordan hosts 1 million refugees out of a population of 8 million people.<sup>49</sup>

The UNHCR states that throughout the region, hope of returning home is dwindling as the crisis drags on. Refugees become more impoverished, and negative coping practices such as child labour, begging and child marriages are on the rise. Competition for employment, land, housing water and energy in already vulnerable host communities is straining the ability of these communities to cope with the overwhelming numbers and sustain their support to them.<sup>50</sup>

The UN High Commissioner, Guterres explains that worsening conditions are driving growing numbers towards Europe and further afield. However the overwhelming majority remain in the region even though host-countries don't have sufficient means to meet the needs of the refugees.<sup>51</sup>

Only a limited number of the refugees can expect to be accepted for resettlement, and yet those who remain in the three countries of asylum have almost no prospect of local integration or gaining secure residency rights, both of which have been effectively ruled out by the authorities.<sup>52</sup> Many refugees do not receive quality education or can officially work. This could be maintained for a certain period of time, but with no end in sight people are looking for resettlement and a better future.

### 6.1. Lebanon

Lebanon is not a state party to the 1951 Geneva Convention relating to the Status of Refugees or to its 1967 Protocol. It also does not have legislation or administrative practices in place to address the specific needs of refugees and asylum seekers. As a result, refugees who enter the country without prior authorization or who overstay their visa are considered to be illegal in the country and are at risk of being fined, detained for considerable lengths of time and/or deported. Without permission to stay until a durable solution is found, many live under considerable hardship. Many are extremely destitute and worry about meeting their own and their children's very basic need for food and shelter.<sup>53</sup>

The impact of the Syrian crisis on Lebanon has been profound. With over 1 million uprooted Syrians now living among a national population of more than 4 million, Lebanon today has the highest per capita concentration of refugees in the world. But this extraordinary generosity has come at a steep price for the country and its people.<sup>54</sup> The country's security is being tested as the conflict in Syria spills across the border, intermittently throughout the country and consistently in Aarsal, north Bekaa,

<sup>46</sup> <http://www.unhcr.org/pages/49e48e0fa7f.html>

<sup>47</sup> <http://data.unhcr.org/syrianrefugees/country.php?id=122>

<sup>48</sup> [http://ec.europa.eu/echo/files/aid/countries/factsheets/lebanon\\_syrian\\_crisis\\_en.pdf](http://ec.europa.eu/echo/files/aid/countries/factsheets/lebanon_syrian_crisis_en.pdf)

<sup>49</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/jo.html>

<sup>50</sup> <http://www.unhcr.org/559d67d46.html>

<sup>51</sup> <http://www.unhcr.org/559d67d46.html>

<sup>52</sup> <http://www.unhcr.org/4a6dbdbc9.html>

<sup>53</sup> <http://www.unhcr.org/4c90812e9.html>

<sup>54</sup> *Refugees from Syria: Lebanon, UNHCR, March 2015*

during the last quarter of 2014. Socially, even the most remote Lebanese communities are feeling the stress.

Circumstances are difficult because most Iraqis can only find work in the informal sector, where they are at risk of exploitative and dangerous conditions of employment.<sup>55</sup> In February 2013, Resolution No. 1/19 opened some professions, such as those involving construction, electricity, and sales, to refugees; those professions were previously restricted to Lebanese citizens.<sup>56</sup> In terms of benefits offered to refugees, the Lebanese government allows refugees to enroll in Lebanese universities and have access to primary health care after registering with the UNHCR. A education assessment in 2013 however found that 80 per cent of Syrian refugee children in Lebanon were not in school.<sup>57</sup>



Furthermore the Government issued regulations governing the renewal of residency permits. Syrians who are registered with UNHCR must pay a fee of USD 200 and in addition provide: a housing commitment (certified copies of a lease agreement or real-estate deed); certified attestation from a mukhtar (village leader) that the landlord owns the property; and a notarized pledge not to work. Some refugees are also asked to sign a notarized pledge that they will return to Syria when their permit expires or when requested by the Government. Most refugees are unable to pay the USD 200 fee and, moreover, unable to produce the documents required since most do not have formal lease agreements. As a result, there is growing insecurity and unease in refugee communities, as refugees are fearful of being arrested or detained because of lapsed residency visas.<sup>58</sup>

All these factors constitute factors based on which asylum seekers decide to make the journey to Europe.

## 6.2. Turkey

*This information is based on the report 'Syrian refugees in Turkey; the long road ahead'.<sup>59</sup>*

Many urban refugees struggle to access adequate housing and services; their lack of work authorization forces them to find employment in the informal economy, often in unacceptable conditions and for extremely low wages. Resources become more limited.

Turkey is party to the Refugee convention however has maintained a geographical limitation that grants asylum rights only to refugees from countries that are members of the Council of Europe. As a result, a significant portion of 'non- Turkish' or non-Muslim' migrants arriving to Turkey have been defined by

<sup>55</sup> *Surviving in the City*, UNHCR, July 2009, <http://www.unhcr.org/4a69ad639.html>

<sup>56</sup> <http://www.loc.gov/law/help/refugees/legal-status-refugees.php>

<sup>57</sup> <http://unhcr.org/FutureOfSyria/the-challenge-of-education.html>

<sup>58</sup> <http://reliefweb.int/report/lebanon/syrian-refugees-lebanon-snapshot-january-march-2015>

<sup>59</sup> *Syrian refugees in Turkey: the long road ahead*, Transatlantic Council on Migration, April 2015, <http://www.migrationpolicy.org/research/syrian-refugees-turkey-long-road-ahead>

Turkish law as ‘illegal’. In addition, almost all non-European asylum seekers are not entitled to stay in Turkey, even after gaining recognized refugee status.

Many have faced difficulties finding housing, paying rent, obtaining employment, or accessing the education system or health services. In the camps are more recreational and educational activities however the unprecedented number of refugees has exceeded overall camp capacity. Lacking work authorization, or in some cases, legal status, most urban refugees must work either in the informal sector or in otherwise unacceptable conditions at very low wages.

More than one-third of urban refugees are not registered, leaving them particularly vulnerable, both to lack of services and exploitations, since registration is the first step to ensuring access to basic services and protection.

### 6.3. Jordan

Jordan is not signatory to the refugee convention. Asylum seekers can remain in Jordan for six months during which the UNHCR has to resettle them to other countries. These time limits are well over due.

Refugees do not automatically acquire rights to residency, employment, public education, or health care. Foreigners cannot live in the country without acquiring a residency permit; such permits in most cases are valid for one year only. Those permits are granted in small numbers to refugees. For instance, according to the UNHCR, just 30 per cent of Iraqi refugees were granted residency permits. In addition, about 160,000 Syrians are working illegally in Jordan.<sup>60</sup>

Jordan is a resource-poor, food-deficient country with limited agricultural land, no energy resources and scarce water supply. By October 2015, over 630,000 Syrian refugees were registered with UNHCR, stretching Jordan’s resources and exacerbating the protracted economic crisis in the Kingdom. While refugees are provided with essential services such as housing and health care in camps, they mostly have to fend for themselves in communities, paying rent, transportation and medical treatment. Refugees are not officially allowed to work and are thus largely dependent on humanitarian assistance to meet their needs.<sup>61</sup> Non-Jordanians with legal residency and valid passports can obtain work permits only if the prospective employer pays a fee and shows that the job requires experience or skills not to be found among the Jordanian population. A UNHCR survey from 2015 reports that only 1 per cent of visited refugee households had a member with a work permit in Jordan.<sup>62</sup>

According to Ministry of Education data, 83,232 Syrian children were enrolled in formal education as of As of September 2013; 56 per cent, therefore, were not receiving formal schooling.<sup>63</sup>

According to a Memorandum of Understanding (MOU) signed in 1998 between the UNHCR and the Jordanian government, asylum seekers can remain in Jordan for six months after recognition, during which time the UNHCR has to find a resettlement country for them.

While Jordan is not a signatory to the UN 1951 Geneva Convention on Refugees, article 21 of the Jordanian Constitution prohibits extradition of “political refugees.” Law No. 24 of 1973 on Residence and

<sup>60</sup> <http://www.loc.gov/law/help/refugees/legal-status-refugees.php#lebanon>

<sup>61</sup> WFP Jordan Syria Crisis Response External Situation Report No. 5, World Food Programme, October 2015.

<sup>62</sup> Syrian Refugees in Jordan ; a Reality Check, Migration Policy Centre, February 2015, [http://cadmus.eui.eu/bitstream/handle/1814/34904/MPC\\_2015-02\\_PB.pdf?sequence=1](http://cadmus.eui.eu/bitstream/handle/1814/34904/MPC_2015-02_PB.pdf?sequence=1)

<sup>63</sup> <http://unhcr.org/FutureOfSyria/the-challenge-of-education.html>

Foreigners' Affairs requires that those entering the country as political asylum seekers present themselves to a police station within forty-eight hours of their arrival. Article 31 of this Law grants the Minister of the Interior the authority to determine on a case-by-case basis whether persons that entered illegally will be deported. However, it does not identify conditions under which individuals will be eligible for asylum. It also does not impose any sanctions against asylum seekers who entered the country illegally.<sup>64</sup>

## 6.4. Funding

Part of the asylum seekers who come to Europe, have lived in refugee camps in neighbouring countries, like Jordan, Lebanon and Turkey. They flee these camps because of the deprived living conditions. The UN's humanitarian agencies hosting these camps are lacking a huge part of their budget. The Guardian reported in September 2015, that they are close to bankruptcy and cannot meet basic needs of the people they attempt to assist.<sup>65</sup>

The humanitarian global funding budget shows a huge budget gap: on 23 April 2016 of the \$17.93 billion that is needed, only 13 per cent is covered.<sup>66</sup>

The 2016 Syria Humanitarian Response Plan needs 3.18 billion, but only 250 million is contributed or committed. That is 8 per cent of the total amount needed.<sup>67</sup>

Iraq asked for 861 million, but has so far received 202 million, which is 24 per cent.<sup>68</sup>

The UNHCR wrote in an article from June 2015 that humanitarian and development assistance efforts for 3.9 million Syrian refugees and more than 20 million people living in hosting communities in neighbouring countries are in serious danger as a result of a severe funding crisis.<sup>69</sup> Already, this has meant that 1.6 million refugees have had their food assistance reduced this year; 750,000 children are not attending school; and life-saving health services are becoming too expensive for many, including 70,000 pregnant women at risk of unsafe deliveries. Some 86 per cent of urban refugees in Jordan live below the poverty line of 3.2 dollars a day, while 45 per cent of refugees in Lebanon live in sub-standard shelters.<sup>70</sup>

Furthermore, the burden on hosting countries can be substantial. For example, in response to the refugee influx, Turkey increased its public spending significantly. However, it only received \$265 million through previous response plans.<sup>71</sup>

Jordanian officials said it was necessary to invest in education in order to cater to the new refugees it hosts from neighboring countries for an estimated US\$416 million. Furthermore, health projects at a cost of JD 176 million (\$248 million) in Amman, Irbid and Zarqa would be necessary in the near future. The European Union (EU), the UNHCR and the US and Iraqi governments have donated a total of about \$50 million to Jordan, however Jordan affirms that the funds are not enough.<sup>72</sup>

<sup>64</sup> <http://www.loc.gov/law/help/refugees/legal-status-refugees.php>

<sup>65</sup> <http://www.theguardian.com/world/2015/sep/06/refugee-crisis-un-agencies-broke-failing>

<sup>66</sup> <https://fts.unocha.org/>

<sup>67</sup> <https://fts.unocha.org/>, numbers as of 23 april 2016

<sup>68</sup> <https://fts.unocha.org/>, numbers as of 23 april 2016

<sup>69</sup> <http://www.unhcr.org/558acbbc6.html>

<sup>70</sup> <http://www.unhcr.org/558acbbc6.html>

<sup>71</sup> <http://www.3rpsyriacrisis.org/the-3rp/turkey/>

<sup>72</sup> <http://www.irinnews.org/report/77357/jordan-government-calls-for-more-funds-to-host-refugees>

If we want to host asylum seekers in the region enough budget needs to be available in order to provide adequate care. When sufficient assistance is given, less people will presumably attempt to cross the sea to Europe but will instead remain in neighboring countries where they can reconstruct their lives and return to their home country when peace is returned.

## 6.5. Conclusion

Lebanon hosts 1 million refugees, while Turkey and Jordan both have received 1,9 million people on their territory. Most Arab countries have not ratified the 1951 Refugee Convention and its 1967 Protocol. While regional conventions dealing with refugees in the Arab world have been developed, they have not actually been implemented. Furthermore, many Arab countries do not have domestic laws governing the status of refugees. In Jordan, Lebanon and Turkey, asylum seekers experience difficulties obtaining work permits, official education and legal residency. Furthermore, due to a lack of funding, people in refugee camps live in deprived living conditions. Also, the camps can be overcrowded and with hope dwindling of returning to their own country, people might look for a more promising future in Europe.



## 7. Legal framework for EU countries

Which international and European laws are applicable in the situation of asylum seekers reaching Europe by boat? This chapter will provide an assessment of the applicable laws in order to establish the rights and obligations of the Member States and those of asylum seekers.

### 7.1. International Law

All Member States of the European Union are party to the 1951 Convention relating to the Status of Refugees. Article 33 provides the prohibition of expulsion or return (“refoulement”) which states that no Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

All EU members states are also party to the International Covenant on Civil and Political Rights (ICCPR). Even though this treaty does not deal with the right to asylum, it does state in article 2 that each signatory shall ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant. The ICCPR includes rights such as the right to be free from torture, the right to life and the right to freedom of religion and thought. The European Convention on Human Rights enshrines similar principles in article 1 and Section I of the Convention. Article 13 of the ICCPR provides that an alien lawfully in the territory of a State Party may be expelled therefrom only in pursuance of a decision reached in accordance with law.

Even though not legally binding the Universal Declaration of Human Rights is a fundamental constitutive document of the United Nations and<sup>73</sup> states in article 14 that everyone has the right to seek and to enjoy in other countries asylum from persecution.

### 7.2. European Union Law

In article 18 of the Charter of Fundamental Rights of the European Union<sup>74</sup> is the right to asylum enshrined:

*The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.*

<sup>73</sup> Many international lawyers believe that the Declaration forms part of customary international law and is a powerful tool in applying diplomatic and moral pressure to governments that violate any of its articles.

<sup>74</sup> Article 18 Charter of Fundamental Rights of the European Union (2000/C 364/01), [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf).



Furthermore the European Union has been working on a common asylum policy since 1999. This resulted in the Common European Asylum System (CEAS). Several directives with minimum principles have been accepted. However, Member States are allowed to deviate from certain securities mentioned in the directive. This caused major differences in the quality of asylum procedures in different Member States.<sup>75</sup>

The following directives are important to the European asylum policy.

The **Dublin Regulation**<sup>76</sup> deals with the question which Member State is responsible for an asylum application. These criteria run in hierarchical order; from family considerations, to recent possession of visa or residence permit in a Member State, to whether the applicant has entered EU irregularly, or regularly. Article 3 of the Dublin regulation provides that Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones.

With the **Reception Conditions Directive** common standards are set regarding conditions of living of the asylum seeker. It ensures access to housing, food, health care and employment, as well as medical and psychological care. Diverging practices by Member States in the past, however, did lead to an inadequate level of material reception conditions for asylum seekers.

Another directive in EU asylum law is the **Asylum procedure directive** which consists of minimum rules regarding the whole of the asylum procedure. It establishes common standards of safeguards and guarantees to access a fair and efficient asylum procedure.<sup>77</sup>

Another important directive is the **2001 Directive on temporary protection** which was the EU's response during the 1990s to the conflicts in the former Yugoslavia, in Kosovo and elsewhere which demonstrated the need for special procedures to deal with mass influxes of displaced persons. It was based on solidarity between EU States. Yet, until now, the Directive have not been invoked again.

With the Temporary protection directive displaced persons from outside the EU with no possibility to go home, can receive immediate and temporary protection. It is meant especially for those situations in which Member States will be expected struggle to process the high number of asylum applications as a result from a mass influx.

### 7.3. Conclusion

The EU Member States have an obligation to process each asylum application and the non-refoulement principle is enshrined in several laws. Subsequently the EU has a common asylum policy with several directives and regulations which provide minimum standards for the treatment of asylum seekers, however Member States are allowed to deviate which has as a consequence that national asylum policies can differ widely. Lastly, with the influx of asylum seekers coming to Europe, the 2001 Directive on temporary protection might be relevant and could be reviewed as possible solution in order to divide the burden equally among the Member States.

<sup>75</sup> <http://verblijfblog.nl/2015/06/30/herziene-procedurerichtlijn-introductie/>

<sup>76</sup> Regulation No 604/2013 of the European Parliament and of the Council of 26 June 2013 (Dublin Directive), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF>.

<sup>77</sup> [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/common-procedures/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/common-procedures/index_en.htm)

## 8. Can refugees be sent back to safe third countries?

Many asylum seekers arriving in the EU, have previously resided in another safe third country (a third country is a non-EU Member State) such as Lebanon, Jordan or Turkey. Some politicians have suggested to send people back to these safe third countries. The question is whether this would legally be possible.



### 8.1. Legal framework

The Netherlands is bound to European Union Law. As stated above, based on this law every EU Member State has the obligation to examine an asylum request.<sup>78</sup> Article 3 (3) of the Dublin Regulation<sup>79</sup> however, does give Member States the possibility to return an asylum seeker to a safe third country, i.e. not an EU Member State. When an asylum seeker already applied for or has received refugee status in another third country or if the third country provides sufficient protection otherwise, it could be qualified as a safe third country. In that case, the EU Member State can declare the asylum application inadmissible according to articles 33, 35, 38 of Directive 2013/32/EU<sup>80</sup>. However there are certain requirements which need to be taken into account (Articles 35 and 38).

According to article 38 (1) a third country can only be designated as a safe third country if it fulfills conditions relating to safety and asylum practices in the third country:

- (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- (b) there is no risk of serious harm as defined in Directive 2011/95/EU;
- (c) the principle of non-refoulement in accordance with the Geneva Convention is respected;
- (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and
- (e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

EU Law prescribes that an individual examination should be possible of whether the third country is safe for a particular applicant which, as a minimum, shall permit the applicant to challenge the application of the

<sup>78</sup> Article 18 Charter of Fundamental Rights of the European Union (2000/C 364/01), [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf). See also article 3, Regulation No 604/2013 of the European Parliament and of the Council of 26 June 2013 (Dublin Directive), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF>

<sup>79</sup> Regulation No 604/2013 of the European Parliament and of the Council of 26 June 2013 (Dublin Regulation), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF>

<sup>80</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, <http://www.refworld.org/pdfid/51d29b224.pdf>.



safe third country concept on the grounds that the third country is not safe in his or her particular circumstances.<sup>81</sup> Subsequently a connection is also required between the applicant and the third country concerned on the basis of which it would be reasonable for that person to return to that country.<sup>82</sup> The applicant shall also be allowed to challenge the existence of a connection between him or her and the third country.

In UNHCR's view, mere transit alone does not constitute a connection or meaningful link, unless there is a formal agreement for the allocation of responsibility for determining refugee status between the relevant countries, based on their

comparable asylum systems and standards.<sup>83</sup> Consequently in UNHCR's view, the question of whether an asylum seeker can be sent to a third country for determination of his/her claim must be answered on an individual basis.<sup>84</sup>

Another requirement consists of the acceptance of return of the applicant to the third country territory by the third country. If the third country does not allow the applicant to enter its territory, Member States themselves, in accordance with article 38 (4) shall ensure that access to a procedure is given.

For more information on the legal framework, consult 'Section 12; The safe third country concept'.<sup>85</sup>

## 8.2. Analysis of third countries

Many Arab countries hosting refugees, such as Lebanon and Jordan did not ratify the 1951 Refugee Convention and its 1967 Protocol.<sup>86</sup> Some do not have effective asylum procedures accessible for asylum seekers. The UNHCR is in general allowed to process asylum applications on their territory, however due to insufficient funding applications might take years to process. Consequently in Jordan, Lebanon and Turkey it should be examined whether these countries fulfil the requirement of article 38 (1)(e) which ensures to people the right to apply for refugee status.

Furthermore although these countries in general are seen as safe countries and are not violating the prohibition of *refoulement* as required in article 38(c), it still needs to be assessed per country whether a third country fulfils articles 38 (a-d). Subsequently an applicant should be allowed to claim, on individual bases, that the third country is not safe in his or her particular circumstances, which would require a state to individually process a case.

Furthermore, some refugees have stayed in a safe third country for several months up to years, while others merely transited through in order to reach Europe. Each case would individually need to be assessed to examine whether there is a link established between the asylum seeker and the third country.

<sup>81</sup> Article 38, (2)(c), Directive 2013/32/EU.

<sup>82</sup> Article 38 (2)(a), Directive 2013/32/EU.

<sup>83</sup> <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4bab55e22>, p. 18.

<sup>84</sup> <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4bab55e22>, p. 12.

<sup>85</sup> <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4bab55e22>

<sup>86</sup> Turkey ratified the Refugee convention on March 30th, 1962.

Additionally, these countries are sometimes dealing with over a million refugees on their territory while resources are running out. Many live in camps where the safety might not always be guaranteed. Not every asylum seeker can work, study or apply for asylum. Even if every requirement is fulfilled it should be assessed whether it is desirable or realistic to return asylum seekers to countries coping with these problems. EU countries might consider supporting the safe third countries financially in order to improve living conditions in the third countries and in order to share the financial burden. See also the chapter 'Funding'.

The chapter entitled 'Reasons for refugees to leave neighbouring countries' elaborates on the current situation of asylum seekers in the mentioned three countries.

Another question is whether the safe third countries are willing to accept the returned asylum seekers and it should be taken into account that costs are involved in returning asylum seekers to a third country.

### 8.3. Conclusion

Consequently, returning asylum seekers to a third country has some legal implications which need to be considered as well as require some practical alterations. The country needs to make applications for asylum accessible and needs to assure that people would be safe in accordance with article 38 (a-e). An individual assessment of each case is necessary in order to establish whether someone has a connection with the third country and whether the country is safe for the individual in question.

Another concern would be the living circumstances of asylum seekers in overloaded third countries and improvement of living conditions might be necessary before returning people.



## 9. Analysis and recommendations

Iraq and Syria have both been very unstable these last years. War has caused many to flee. The largest part of refugees are still remaining in their home country, have moved within their country (internally displaced) or have fled to neighboring countries such as Lebanon, Jordan and Turkey. Funding however, is lacking in these countries and it has been difficult to provide these people with adequate living facilities. Subsequently it remains a struggle for a large part of asylum seekers to receive official education, legal residency or permits to work. With no future and no end in sight, more people decided to leave for Europe.

European countries have an obligation to process asylum applications based on European law. However with the current crisis politicians have suggested to provide for shelter in the region instead of accepting them in European countries.

If Europe wishes to shelter asylum seekers in the region, it should assess whether it is possible to return asylum seekers based on the 'safe third country' principle, enshrined in EU law. However certain conditions need to be met and agreement needs to be sought with third countries such as Lebanon, Turkey and Jordan. Even if not all requirements are met, such as the requirement of a connection between the asylum seeker and the third country, it is worth considering to establish shelters in neighboring countries in agreement between governments. EU law will have to be revised in order to make this legally possible.



However when people are sheltered in neighboring countries, asylum seekers will be more inclined to return to their home country once peace is re-established. It would furthermore be less difficult to integrate in neighboring countries considering the similarity in religion, culture and language.

Subsequently these neighboring countries need to be able to financially support these asylum seekers. Assistance for these governments as well as for organizations such as UNHCR would be needed in order to provide adequate living conditions for returning and remaining asylum seekers. Subsequently the legislation in these host countries would need to be altered considering that it is currently difficult to receive work permits, education and legal residency.

In an attempt to enhance the Arab states' legal framework for governing refugee issues, human rights organizations and the UNHCR have submitted an array of legal suggestions to improve and regulate services offered to refugees. These suggestions have included: (1) ratifying the 1951 Status of Refugees Convention and its 1967 Protocol, (2) issuing comprehensive domestic legislation regulating benefits offered to refugees and asylum seekers, (3) creating a reception center on border areas to provide temporary legal protection to refugees, and (4) enhancing mutual cooperation with the UNHCR to facilitate the repatriation process and the distribution of appropriate services to refugees and asylum seekers.<sup>87</sup>

<sup>87</sup> <http://www.loc.gov/law/help/refugees/legal-status-refugees.php>



If European countries due wish to accept asylum seekers it would be of interest to examine the 2001 Directive on temporary protection (see chapter 7). The temporary protection directive is an exceptional measure to provide displaced persons from non-EU countries and unable to return to their country of origin, with immediate and temporary protection. It applies in particular when there is a risk that the standard asylum system is struggling to cope with demand stemming from a mass influx that risks having a negative impact on the processing of claims.

Furthermore many Europeans fear the increase of the Muslim population in their country. This fear is not entirely without foundation considering the fact that the largest part of the population arriving from the top refugee producing countries are Muslim. Moreover some of these countries

such as Afghanistan and Iraq have for several years and continue to experience Islam domination and intense religious tensions, mostly since the start of western involvement. These countries have shown intolerance versus other religions such as Christianity. This intolerance derived from government as well as from citizens. The NGO Open Doors has produced the World Watch List for many years<sup>88</sup>. Both Iraq and Afghanistan have several times been in the top 5 countries where Christians experience the most persecution. USCIRF<sup>89</sup> has marked Iraq as a Country of Particular Concern since 2008<sup>90</sup> and Afghanistan is also being monitored closely. These tensions might be transferred to Europe amongst asylum seekers and amongst the European population. There have been reported cases of discrimination amongst asylum seekers where religious intolerance is proven and concerns might be raised.<sup>91</sup> In this context providing refuge in neighboring countries might be a possible solution.

Lastly there is hope that the countries producing asylum seekers might stabilize again in the future. We already have seen signs of new democracy appearing in Syria and Iraq, where the Democratic Self Administration-Rojava has several cantons in northeast Syria and the Nineveh Plains in Iraq<sup>92</sup>. More information on the administration can be found in the appendix. This autonomic region emerged from a social Contract concluded in 2014 between three principal minorities of Kurds, Syriacs and Arabs. The administration is based on European values of democracy and it includes minorities, aiming to create a safe place for everyone. Only in a government where minorities are respected, people can safely return and peace can be re-established.

<sup>88</sup> <https://www.opendoorsusa.org/christian-persecution/world-watch-list/>

<sup>89</sup> <http://www.uscirf.gov/all-countries/countries-of-particular-concern-tier-1>

<sup>90</sup> <http://www.refworld.org/docid/4d8e90c22b.html>

<sup>91</sup> <http://www.dw.com/en/refugees-dont-leave-their-conflicts-behind/a-18746390>

<sup>92</sup> <https://peaceinkurdistancampaign.files.wordpress.com/2011/11/rojawa-info-may-2014.pdf>

## Appendix

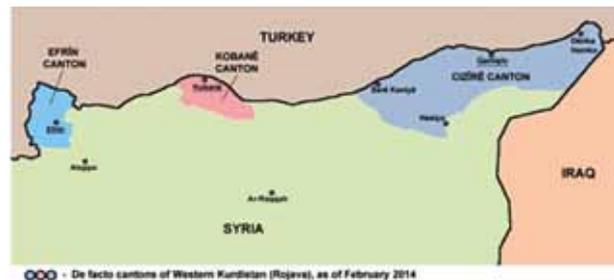
### New democracy in the Middle East

#### Special report 2015 on new democratic initiatives in Syria and Iraq

by Branislav Škripek MEP

*Branislav Škripek was born in Piestany in Slovakia and studied theology. In 2012 Škripek was elected into the Slovakian parliament. In May 2014 he was elected for the first time member of the European Parliament where he is member of the European Christian Political movement (ECPM). Subsequently he participates in the Committee on Civil Liberties, Justice and Home Affairs and in the D-IL Delegation for relations with Israel. As a substitute he sits in the FEMM Committee on Women's Rights and Gender Equality, DMER Delegation for relations with Mercosur and the DLAT Delegation to the Euro-Latin American Parliamentary Assembly.*

The persecuted Christians and other minorities in the Middle East are a major focus point in my work. I dealt with the issue in several one-minute speeches and hosted a number of events including the presentation of the first common declaration of the Yazidi, Chaldean-Syriac-Assyrian and Turkmen peoples of Iraq in november 2014. Thanks to EPCM I was introduced to European-Syriac Union (ESU), an organization representing the interests of Christians<sup>93</sup> in the Middle East, namely in Syria and Iraq.



Thanks to this link I was invited to an official visit of the **Democratic Self Administration – Rojava**<sup>94</sup> (DSA), in *Jazira* (Gozarto/Cizîrê) canton in northeast Syria (including a Yazidi refugee camp) and the Nineveh Plain in Iraq.

Rojava Administration is an unique rising regional democratic initiative in the mayhem of collapsing Syria and Iraq. It is isolated geographically and military (all borders are closed) from four sides:

- North – hostile neighbourhood policy of Turkey
- East –uncertain relationship with Kurdistan
- West – still threatening Assad's regime and radical Al-Nusra
- South – ultimate enemy IS

Rojava Administration is still at the very beginning of its existence. The goal of the mission was to find out the political and military ability to protect and govern the region, and as well to observe the new form of working democracy and social inclusion.

<sup>93</sup> **Syriacs** (or Assyrians, Chaldeans or Arameans) is ancient indigenous ethnic group whose origins lie in ancient Mesopotamia. A majority of them belongs to the Christian religion. Today Syriacs are located in several states (Turkey, Syria, Iraq and Iran) where they live as minorities. They have never established their own state. Unfortunately they hold a long record of persecution. Creating their own regional administration in Nineveh Plain and the Democratic Self-Administration gives a good opportunity to end the persecution.

<sup>94</sup> **Democratic Self Administration** is an autonomous region in northern Syria established by its Social Contract at January 2014 between three principle minorities of Kurds, Syriacs and Arabs. It is based on European values of democracy and respecting minorities. Rojava consists of three cantons of Afrin, Jazira and Kobani.

## Political structure

The delegation met with the officials of all the bodies of the DSA. The regional government has a president, vicepresidents and a board of ministers, including female ministers. Each ministry has a specific portfolio and during the working meeting the officials strategic points of growth were explained:

- building sustainable security forces
- efficient exploitation of natural resources<sup>95</sup>
- define infrastructural recovery plans
- facilitating local NGOs in networking with EU NGOs

The regional parliament of Jazira canton has 101 members in which all ethnical and religious minorities are proportionally represented. There is a strong emphasis on representing women in every office (40 per cent of all positions).



I met also with military officials representing the Syriac Christian military body of Jazira canton – The *Syriac Military Council* (MFS). In alliance with the Kurdish People’s Protection Army (YPG) they form the principal military unit that protects the citizens of the canton *Jazira* against IS or other extremist groups. In contrast to highly publicized victories of IS in Syria and Iraq, the units of MFS and YPG have recently gained strategic towns and villages in northeast Syria<sup>96</sup> and established a safe corridor. This is considered to be a significant move.



MFS consists of volunteers recruited from the region. The recruits are usually young. Members of MFS are therefore highly motivated as there are protecting own villages and families. Unfortunately they are poorly equipped. Their basic means of fighting against the well-equipped IS soldiers are outdated Kalashnikov rifle AK-47 and a few machine guns.

The police forces, called *Sutoro*, dedicated to law enforcement in cities and villages, is even less equipped. These police forces are often also used to fight at the frontline.

A number of meetings with representatives of various NGOs proved that the developed civil society more or less efficiently substitutes the absent role of the official Syrian government. Despite the lack of funding and other resources, NGOs cover areas such as education, social services, women protection etc.

<sup>95</sup> 400.000 barrels of oil produced daily before the war.

<sup>96</sup> e.i. regions of Tal-Tamir and Al-Hasakah

## Goals of the Democratic Self Administration

The DSA calls for international acknowledgement and recognition that would create:

- the ability of the international community to support the DSA by military means and support both YPG and Syriac Military Council (in line with the EP resolution of 12 March).
- an advantageous negotiating position with regional partners (Iraqi Kurdistan) and players (Turkey, Iraq, Syria)
- the lifting of economic embargo in the region originally established against Assad's regime and consequently the development of own free market economy
- a possibility to represent the DSA on different international forums and institutions
- targeted humanitarian aid

On 12 March 2015 the European Parliament adopted with overwhelming majority a resolution in which it expressed its support for the local self-governing entities of the region and the YPG and Syriac Military Council.

## Conclusion

The Democratic Self Administration has shown a solid level of independence and an enormous will to govern itself in every aspect of statehood, in democratic cooperation between Kurds and other minorities. Even though the DSA is in the early stage of its existence, it has established the fundamental political structure and created an environment for a healthy civil society. Military bodies prove that, in cooperation with other regional militias and international allies, they can protect their own territory and provide a safe place to live, not only ask others to protect them. The integrity of the government, with proclaimed democratic principles of human rights and respecting all ethnic and religious minorities, indicates this initiative is sustainable and trustworthy. Moreover in my opinion it represents a role model for the Middle East where the international community has a lack of vision. Therefore I call on my ECR colleagues for continuing support for the recognition of the Democratic Self Administration – Rojava and work together for this goal at EU and EU Member-State level.

## Contact Details

### Jubilee Campaign

P.O. Box 84  
4200 AB Gorinchem

Tel.: +31 (0) 183 820 200

E-mail: [info@jubileecampaign.nl](mailto:info@jubileecampaign.nl)

Website: [www.jubileecampaign.nl](http://www.jubileecampaign.nl)

Contact details authors:

Marie-Thérèse Hengst, [marie.therese@jubileecampaign.nl](mailto:marie.therese@jubileecampaign.nl)

Mirjam Bos, [legal@jubileecampaign.nl](mailto:legal@jubileecampaign.nl)