Submission by the Office of the United Nations High Commissioner for Refugees in Cases 202501313/1/V2, 202501955/1/V2, BRS.25.001939 and BRS.25.002717 before the Council of State of the Netherlands

a) Introduction[1]

1. The Office of the United Nations High Commissioner for Refugees ('UNHCR' or 'the Office') welcomes the opportunity to submit a written expert opinion in the cases *202501313/1/V2, 202501955/1/V2, BRS.25.001939 and BRS.25.002717* in response to the invitation from the Council of State by its letter dated 25 February 2026.

2. UNHCR submits this expert opinion to provide neutral and expert information on the interpretation of the international refugee law questions that are relevant in the cases to be adjudicated by the Council of State and will refrain from commenting or taking a position on the individual cases.

3. Following this introductory section, the Office sets out its mandate and authority, followed by a section on (i) identification of the applicant's place of origin as the primary reference point for the purposes of assessing international protection needs; (ii) consideration, where relevant, of an internal flight alternative (IFA); and (iii) application of these principles to situations involving residence in internally displaced persons' camps ('IDP camps'). In short, UNHCR does not consider IDP camps in the Kurdistan Region of Iraq (KR-I), as places of permanent settlement/habitual (place of) residence ("normale woon- of verblijfplaats") nor places which represent internal flight alternatives ("binnenlands beschermingsalternatief").

b) UNHCR's mandate and authority

4. UNHCR has been entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with governments, seek solutions for them.[2] UNHCR is also responsible for supervising the application of international conventions for the protection of refugees,[3] reflected in Article 35 of the *1951 Convention relating to the Status of Refugees* and Article II of the *1967 Protocol relating to the Status of Refugees,*[4] obliging State Parties to cooperate with UNHCR in the exercise of its functions.

5. UNHCR's supervisory responsibility is exercised in part by the issuance of interpretive guidelines on the meaning of provisions and terms contained in international refugee instruments, in

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[1] This submission does not constitute a waiver, express or implied, of any privilege or immunity which UNHCR and its staff enjoy under applicable international legal instruments and recognized principles of international law. See, UN General Assembly ('UNGA'), *Convention on the Privileges and Immunities of the United Nations*, 13 February 1946: refworld.org/legal/agreements/unga/1946/13682.

[2] UNGA, *Statute of the Office of the United Nations High Commissioner for Refugees*, A/RES/428(V), 14 December 1950: refworld.org/legal/constinstr/unga/1950/72586.

[3] *Ibid*. para. 8(a).

[4] UNGA, *Convention Relating to the Status of Refugees*, 28 July 1951, UN Treaty Series, Vol. 189, p. 137: refworld.org/legal/agreements/unga/1951/39821; UNGA, *Protocol Relating to the Status of Refugees*, 31 January 1967, UN Treaty Series, Vol. 606, p. 267: refworld.org/legal/agreements/unga/1967/en/41400, (together '1951 Convention').

particular the 1951 Convention and the 1967 Protocol. Such guidelines include the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* ('UNHCR Handbook'), which was subsequently complemented by a number of *Guidelines on International Protection*.[5]

6. EU secondary law expressly recognizes UNHCR's specific role and expertise. Directive 2011/95/EU ('QD') affirms that consultations with UNHCR "*may provide valuable guidance for Member States when determining refugee status*."[6] Similarly, Directive 2013/32/EU ('APD') specifically refers to UNHCR's supervisory responsibility and requires Member States to allow UNHCR to present its views regarding individual asylum applications "*at any stage of the procedure.*"[7] Accordingly, the CJEU has considered that UNHCR's documents "*are particularly relevant in the light of the role conferred on the UNHCR by the Geneva Convention.*"[8]

7. The UNHCR Handbook has been found by the Supreme Courts of Canada, the United Kingdom, and the United States to be a "highly relevant authority",[9] a "highly persuasive authority",[10] providing "significant guidance",[11] and "should be accorded considerable weight", in light of the obligation of Member States under Article 35 of the 1951 Convention to facilitate its duty of supervising the application of the provisions of the Convention".[12] UNHCR's Handbook has also been accepted as a

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[5] UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, HCR/1P/4/ENG/REV. 4, April 2019: refworld.org/policy/legalguidance/unhcr/2019/123881.

[6] European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (recast)*, OJ L 337, pp. 9–26, 20 December 2011: refworld.org/legal/reglegislation/council/2011/en/84781, Recital 22. From 12 June 2026, the EU Qualification Regulation will apply: European Union, *Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection and for the Content of the Protection Granted, Amending Council Directive 2003/109/EC and Repealing Directive 2011/95/EU of the European Parliament and of the Council*, PE/70/2023/REV/1, OJ L, 2024/1347, 22 May 2024: refworld.org/legal/reglegislation/council/2024/en/148003.

[7] European Union, *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 (recast)*, OJ L 180, 29.6.2013, pp. 60–95, 29 June 2013: refworld.org/legal/reglegislation/council/2013/en/97663, Article 29. From 12 June 2026, the EU Asylum Procedure Regulation will apply: European Union, *Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU*, PE/16/2024/REV/1, OJ L, 2024/1348, 22 May 2024: refworld.org/legal/reglegislation/council/2024/en/148004.

[8] CJEU, *Mohammed Bilali v. Bundesamt für Fremdenwesen und Asyl*, C-720/17, 23 May 2019: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CJ0720, para. 57. This was restated in CJEU, Grand Chamber, *L.W. v. Bundesrepublik Deutschland*, C-91/20, 9 November 2021: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62020CJ0091, para. 56; CJEU, *P.I. v Migracijos departamentas prie Lietuvos Respublikos vidaus reikalų ministerijo*, C-280/21, 12 January 2023: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CJ0280, para. 27 and CJEU, Grand Chamber, *WS v Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet*, C-621/21, 16 January 2024: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CJ0621, para. 38.

[9] Supreme Court (Canada), *Chan v. Canada (Minister of Employment and Immigration)*, [1995] 3 S.C.R. 593, 19 October 1995: refworld.org/cases,CAN_SC,3ae6b68b4.html, paras 46 and 119; Supreme Court (Canada), *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689, 30 June 1993: refworld.org/cases,CAN_SC,3ae6b673c.html, pp. 713-714.

[10] House of Lords (United Kingdom), *R v. Secretary of State for the Home Department,(Appellant), Ex parte Adan, (Respondents),* 19 December 2000: refworld.org/cases,GBR_HL,3ae6b73b0.html.

[11] Supreme Court (United States), *Immigration and Naturalization Service v. Cardoza-Fonseca*, 480 U.S. 421; 107 S. Ct. 1207; 94 L. Ed. 2d 434; 55 U.S.L.W. 4313, 9 March 1987: refworld.org/cases,USSCT,3ae6b68d10.html.

[12] Supreme Court (United Kingdom), *Al-Sirri (FC) (Appellant) v Secretary of State for the Home Department (Respondent),* [2012] UKSC 54, 21 November 2012: refworld.org/cases,UK_SC,50b89fd62.html, para. 36. Similarly, the Handbook has been found '*particularly helpful as a guide to what is the international understanding of the Convention obligations, as worked out in practice*'. See Court of Appeal (England and Wales), *R v. Secretary of State for the Home Department, Ex parte Anthonypillai Francis Robinson*, Case No: FC3 96/7394/D, [1997] EWCA Civ 3090, 11 July 1997: refworld.org/cases,GBR_CA_CIV,3ae6b72c0.html, para. 11.

valid source of interpretation under Article 31(3)(b) of the *1969 Vienna Convention on the Law of Treaties*, in reflecting "subsequent practice in the application of the treaty".[13]

8. UNHCR regularly provides information to decision-makers and courts of law concerning the proper interpretation and application of the provisions of the 1951 Convention and has submitted third-party interventions in many national and regional jurisdictions. The Office is often approached directly by courts or other interested parties to obtain UNHCR's "special expertise" on particular legal issues.[14] The views of UNHCR are authoritative and informed by its more than seven decades of experience supervising the treaty-based system for refugee protection.

9. UNHCR also refers the Council of State to its 2024 *International Protection Considerations with Regard to People Fleeing the Republic of Iraq* ('2024 IPC – Iraq').[15]

c) Question 1: 'Normal place of residence'

Question 1.b) What is the basis for the use of the term 'normal place of residence or stay'? Is it related to provisions of the Refugee Convention and the Qualification Directive or terminology used therein? And how does this term relate to the doctrine of the internal flight or settlement alternative?

Question 1.d) Insofar as the concept of normal place of residence or habitual residence could be used in assessing the cases in question: Can the circumstances under which a foreign national ended up in a refugee camp be relevant in assessing whether a place can be regarded as a normal place of residence or habitual residence? Does the length of stay in a refugee camp matter in this regard? In that context, the Division requests that you consider the question of when, in light of the Refugee Convention, the flight comes to an end and the person concerned is no longer in a flight situation.

10. An assessment of whether a person is in need of international protection starts by determining whether the person would face a real risk of persecution or other forms of serious harm if they were to return to their home in the country of origin. Where a real risk has been established in respect of the applicant's home area, the decision-maker may consider whether there is another part of the country of origin where the applicant would enjoy internal protection, in line with Article 8 of the Qualification Directive.

11. While the Qualification Directive makes no explicit reference to the applicant's home area or "normal place of residence or stay", the concept is implied by the existence of the possibility under Article 8 for the decision-maker to assess whether an internal protection alternative is available in the country of origin. This refers to a locality other than the home area where the applicant has no well-founded fear of being persecuted and is not at real risk of suffering serious harm; or where he or she has access to protection against persecution or serious harm as defined in Article 7 of the Qualification

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[13] See e.g., Supreme Court (Canada), *Pushpanathan v Canada (Minister of Citizenship and Immigration)* [1998] 1 SCR 982, 4 June 1998: refworld.org/jurisprudence/caselaw/cansc/1998/en/91727, para. 54; Court of Appeal (England and Wales), *R v. Secretary of State for the Home Department, Ex parte Adan et al*, [1999] 3 WLR 1274, 23 July 1999: refworld.org/cases,GBR_CA_CIV,3ae6b6ad14.html, para. 71.

[14] Court of Appeal (United Kingdom), *AAA v Secretary of State for the Home Department*, [2023] EWCA Civ 745: judiciary.uk/wp-content/uploads/2023/06/AAA-v-SSHD-judgment-290623.pdf, para. 13(iii). See also, Supreme Court (United Kingdom), *R (on the application of EM (Eritrea)) v. Secretary of State for the Home Department*, [2014] UKSC 12, 19 February 2014: refworld.org/cases,UK_SC,5304d1354.html, para. 72.

[15] UNHCR, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq, Update I*, HCR/EG/IRQ/2024/01, 30 January 2024: refworld.org/policy/countrypos/unhcr/2024/en/147247.

Directive; and to which locality they can safely and legally travel and gain admittance to that part of the country and can reasonably be expected to settle there.[16] These considerations apply both in relation to qualification for refugee status on the basis of acts of persecution and for qualification for subsidiary protection on the basis of other forms of serious harm.

12. Determination of the applicant's home area or 'normal place of residence or stay' requires an individual factual assessment. The 2018 EU Agency for Asylum (EUAA) Practical Guide on Qualification for International Protection stated it as follows:

> *"Protection needs are firstly assessed with regard to the applicant's home area in the country of origin. The home area in the country of origin is identified on the basis of the strength of the applicant's connections with a particular area in that country. The home area may be the area of birth or upbringing or a different area where the applicant settled and lived, and therefore has close connections to it."*[17]

13. Similarly, the French National Asylum Court (*Cour nationale du droit d'asile*, 'CNDA') held that:

> *"widespread violence resulting from a situation of internal armed conflict [...] must be assessed* ***not at the level of the country of origin as a whole, but in the region where the applicant had the centre of his interests****, as well as in the areas he would have to cross in order to reach his region of origin"* (emphasis added).[18]

14. The criteria put forward by the EUAA and the CNDA, "area where the applicant settled and lived, and therefore has close connections to it" (EUAA) and "region where the applicant had the centre of his interests" (CNDA) speak to the same central idea, namely that the applicant's home area, or their 'normal place of residence or stay', is the place where the applicant had established themself with a level of permanency and which was central to their familial, social and/or economic ties.

15. In relation to the IDP camps in the KR-I, the Netherlands State Secretary for Justice and Security stated in 2019: "*When determining whether an area where a Yazidi has resided can be considered their normal place of residence or abode, it is important to consider whether the Yazidi has been able to function there at a normal level according to local standards.*"[19]

16. UNHCR observes that an individual who is compelled to flee their place of residence (location A) in the country of origin to escape persecution or other forms of serious harm and who flees to an IDP camp does not do so with the intention of settling permanently in the camp and making it their home. Camps, by their very nature, are intended to provide a temporary refuge to persons who cannot safely return home. But for the events that compelled the person to flee from location A to an IDP camp, the person would still have resided in location A. Where an individual who initially fled to an IDP camp subsequently flees their country and makes an application for international protection in another

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[16] See Article 7 Directive 2011/95/EU.
[17] EUAA (successor to EASO), *Practical Guide: Qualification for International Protection*, April 2018: euaa.europa.eu/sites/default/files/publications/easo-practical-guide-qualification-for-international-protection-2018.pdf, p. 12.
[18] "*La violence généralisée résultant d'une situation de conflit armé interne* [...] *doit être appréciée non pas au niveau du pays d'origine dans son ensemble mais dans la région dans laquelle le requérant avait le centre de ses intérêts ainsi qu'au niveau des zones qu'il devrait traverser en vue de rejoindre sa région d'origine*". National Asylum Court (France), M. Mohamed Adan, No. 12017575 C, 28 March 2013.
[19] "*Van belang bij de vraag of een gebied waar een jezidi heeft verbleven aangemerkt wordt als de normale woon- of verblijfplaats is of de jezidi daar naar lokale maatstaven gemeten op een normaal niveau heeft kunnen functioneren.*" Tweede Kamer, vergaderjaar 2018–2019, Aanhangsel, nr. 3344 en 3345, https://zoek.officielebekendmakingen.nl/ah-tk-20182019-3345.pdf.

country, the assessment of that person's well-founded fear of persecution or other forms of serious harm must be carried out against their place of residence (location A) prior to their flight to the IDP camp.

17. This fact pattern must be distinguished from a situation where an individual relocates from their initial place of residence (location A) in the country of origin to another location (location B) for reasons that are not related to flight. Where a person relocates for example for the purposes of education, or work, or family ties, the understanding is that the person intends to establish the new location as their 'place of residence' or home. Where this person establishes themselves in location B and centres their life through their familial, social and/or economic ties in this location, and where this person subsequently leaves their country of origin and applies for international protection in another country, the assessment of that person's well-founded fear of persecution or other forms of serious harm would reasonably be carried out against location B as the person's normal place of residence.

18. In 2013 the German Federal Administrative Court (Bundesverwaltungsgericht) held:

> *"the region of origin is not / no longer the point of reference if the foreign national had already been released from this region prior to his departure,* ***irrespective of the circumstances triggering the latter****, and had moved to another part of the country* ***with the intention of living there for an unlimited period****" (emphasis added).*[20]

19. UNHCR considers that there may be circumstances where an IDP camp evolves over time and acquires the attributes and characteristics of a normal settlement, indistinguishable from other villages or towns. In this scenario, even if the person was initially compelled to flee their home and sought safety in the camp, without the intention of settling there permanently and making the camp their home, they may with the passage of time come to consider the "transformed camp or settlement" as their new home where they intend to establish themselves and remain on a permanent basis. Whether a camp can be considered as having been sufficiently transformed so as to provide a normal place of residence to its inhabitants requires a factual assessment. A key question in this regard is whether the conditions in the "transformed camp or settlement" are such that they reach the threshold of the criteria cited above (para. 13), allowing its inhabitants to conceive of the transformed camp as the place where they have centred their interests, and where they intend to live for an unlimited period. Where this is determined to be the case, the assessment of international protection needs of an applicant who resided in such a transformed camp or settlement could reasonably be made against the settlement as the applicant's normal place of residence.

d) Question 2: Can the camps in the KR-I be regarded as the normal place of residence or stay to which Yazidis can return?

20. UNHCR considers that the situation in the IDP camps in the KR-I have not acquired the necessary attributes and characteristics for these camps to be considered as settlements comparable to other villages or towns. The thematic report published by the Dutch Ministry of Foreign Affairs in November 2025 on Iraq Displacement Camps under the authority of the Kurdistan Regional Government ["Thematisch Ambtsbericht Irak: Ontheemdenkampen onder gezag van de Kurdistan

[20] Federal Administrative Court (Germany), 10 C 15.12, 31 January 2013: asylumlawdatabase.eu/en/case-law/germany-federal-administrative-court-31-january-2013-10-c-1512.

Regional Government"][21] provides relevant information in this regard. UNHCR refers the Council of State in particular to chapter 3 of the report on the security situation and basic services in the camps. In relation to shelter, food aid, access to healthcare, access to education, and access to water, sanitation and hygiene, chapter 3.3 of the report describes the current situation in the camps as falling below acceptable standards. The report notes furthermore in chapter 3.1 that the situation in the camps has further deteriorated in 2025 due to a reduction in available funding for humanitarian relief efforts.

21. The Ministerial report is consistent with UNHCR's 2024 *International Protection Considerations with Regard to People Fleeing the Republic of Iraq – Update I*:

> "*Yazidis make up approximately 20 per cent of the remaining IDPs who were displaced as a result of the conflict with Da'esh. Returns to Sinjar have been limited, including due to continued security concerns, unresolved housing, land and property issues, limited compensation and accountability, as well as lack of basic services and livelihoods. Yazidis also struggle to locally integrate in the KR-I as they have limited access to services and lack connections with patronage networks which could provide livelihoods.*" [22] [internal footnotes excluded]

22. On 1 February 2026 the United Nations in Iraq published a statement in response to the 23 January 2026 fire in Dawadia IDP Camp in Dohuk.[23] The statement reads (emphasis added):

> *"The United Nations regrets the incident of 23 January at the Dawadia IDP camp in Dohuk Governorate, where a fire destroyed eight prefabricated shelters, affecting two families and resulting in the death of a 20-year-old Yazidi internally displaced woman.*
>
> *Over the past six months, 28 fire incidents have been recorded across 15 IDP camps in Dohuk. This incident highlights* ***the continuing challenges faced in the remaining IDP camps, where living conditions remain inadequate****. The United Nations reiterates the need for both the Federal Government of Iraq and the Kurdistan Regional Government to continue efforts toward identifying and implementing durable solutions for all internally displaced persons in Iraq."*

23. Based on the considerations above, UNHCR considers that the IDP camps in the KR-I cannot be considered as the "normal place of residence or stay" for the purposes of assessing international protection needs for Yazidis who were compelled to flee to the camps from Sinjar. For these individuals, the relevant place of residence remains Sinjar. The fact that some Yazidis may have lived in the IDP camps for a substantial period of time prior to their flight to the Netherlands is not a relevant consideration in this regard. The Yazidis in question were compelled to flee to the camps because of the acts of persecution they faced in Sinjar (recognized as genocide by the Dutch government in 2023[24]). They remained in the camps until their departure for the Netherlands not because they intended to permanently settle in the camps and centre their life in the camps, but because of the impossibility of returning to Sinjar due to the traumatic acts of persecution in 2014 and the lack of

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[21] Ministerie van Buitenlandse Zaken, *Thematisch Ambtsbericht Irak: Ontheemdenkampen onder gezag van de Kurdistan Regional Government*, November 2025: rijksoverheid.nl/documenten/ambtsberichten/2025/11/07/thematisch-ambtsbericht-irak-november-2025.
[22] UNHCR, *International Protection Considerations Iraq*, note 1515 above, p. 98.
[23] United Nations in Iraq, *Statement Regarding the 23 January Fire Incident at Dawadia IDP Camp in Dohuk*, 1 February 2026: x.com/uniraq/status/2017999747873636433?s=46&t=GKd-B_gMTSgb5qmKZHG3kQ.
[24] Tweede Kamer der Staten-Generaal, *Brief van de Minister van Justitie en Veiligheid*, 27925 nr. 939, 2 June 2023: https://zoek.officielebekendmakingen.nl/kst-27925-939.html.

alternatives of settling elsewhere in Iraq. As noted above, rather than the camps having transformed over time into settlements of a comparable nature to ordinary towns and villages, the situation in the camps has deteriorated over time.

24. UNHCR also wishes to note that Iraqis returning from abroad are unlikely to be permitted to reside in camps, in line with the Government of Iraq's overarching objective to close the camps.[25] Furthermore, as documented by UNHCR in its 2024 *International Protection Considerations with Regard to People Fleeing the Republic of Iraq – Update I*,[26] Iraqi nationals who are not originally from the KR-I must meet certain requirements to enter and legally reside in the area, as well as to access basic services. These requirements include registration with local authorities and obtaining security clearance from the *Asayish*. Individuals who are returned to Iraq on the basis that they could re-establish themselves in the camps where they previously lived, may thus in practice be unable to settle in the camps or elsewhere in the KR-I, and may have no option but to seek shelter elsewhere.

25. In conclusion, UNHCR does not consider camps for internally displaced persons in the Kurdistan Region of Iraq (KR-I) as a normal place of residence ("normale woon- of verblijfplaats").

e) Internal flight or relocation alternative / internal protection alternative ("binnenlands vlucht- of vestigingsalternatief" / "binnenlands beschermingsalternatief")

26. According to UNHCR Guidelines, the concept of an internal flight alternative (IFA) refers to "a specific area of the country where there is no risk of a well-founded fear of persecution and where, given the particular circumstances of the case, the individual could reasonably be expected to establish him/herself and live a normal life."[27] In order to consider the availability of a proposed IFA, a relevance and reasonableness assessment is required.[28]

> "*In cases where a well-founded fear of persecution has been established in some localized part of the country of origin, the determination of whether the proposed internal flight or relocation area is an appropriate alternative for the individual concerned requires an assessment over time, taking into account not only the circumstances that gave rise to the risk feared, and that prompted flight from the area of origin, but also whether the proposed area provides a safe and meaningful alternative in the future.*"[29] [internal footnotes excluded]

27. UNHCR does not consider that IDP camps are places which represent an internal flight or relocation alternative as they are neither relevant, nor reasonable alternatives. This analysis is not unique to the camps in the KR-I. In its *Guidelines on International Protection No. 12,* UNHCR states the following:

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[25] UNHCR, *Query Response to the Embassy of the Kingdom of the Netherlands in Iraq*, 20 July 2025.
[26] UNHCR, *International Protection Considerations Iraq*, note 1515 above, pp. 193-194.
[27] UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, 23 July 2003: refworld.org/policy/legalguidance/unhcr/2003/32047, para. 6. See also, the case of *Salah Sheekh v. the Netherlands*, where the European Court of Human Rights (ECtHR) examined the question of an IFA in the context of return to Somalia and noted that "*as a precondition for relying on an internal flight alternative, certain guarantees have to be in place: the person to be expelled must be able to travel to the area concerned, to gain admittance and be able to settle there, failing which an issue under Article 3* [ECHR] *may arise, the more so if in the absence of such guarantees there is a possibility of the expellee ending up in a part of the country of origin where he or she may be subjected to ill-treatment.*" (ECtHR, *Salah Sheekh v. the Netherlands*, App. No. 1948/04, 11 January 2007: refworld.org/jurisprudence/caselaw/echr/2007/40349, para. 141).
[28] UNHCR, *Guidelines on International Protection No. 4*, note 2727 above, para. 6.
[29] UNHCR, *International Protection Considerations Iraq*, note 1515 above, p. 190.

The presence of internally displaced persons, including those who are receiving international assistance, in one part of the country, is not necessarily evidence of the reasonableness of a proposed internal flight or relocation alternative in that part of the country. Internally displaced persons often do not enjoy basic rights and may face economic destitution or existence below an adequate level of subsistence, which would be evidence of the unreasonableness of the proposed internal flight or relocation alternative. It is also necessary to consider the capacity of local authorities to provide protection against harm, as well as whether human rights, particularly non-derogable rights, are respected. ***Further, in some situations, internal displacement may be the result of ethnic cleansing policies, or similar****, in violation of the prohibitions on forcible transfer and arbitrary displacement under IHL in the context of an armed conflict.* ***In such circumstances, an internal flight or relocation alternative should not be presumed to exist*** [emphasis added].[30]

28. For UNHCR guidance on assessing the relevance and reasonableness of other potential internal flight or relocation alternatives in the KR-I or elsewhere in Iraq, UNHCR refers the Council of State to the 2024 *International Protection Considerations with Regard to People Fleeing the Republic of Iraq – Update I*.[31]

29. UNHCR also underlines in this context the serious and ongoing trauma experienced by many Yazidis in Iraq, including many children, as a result of their persecution.[32] UNHCR recalls the importance of assessing personal circumstances, including the existence of psychological trauma, which may militate against consideration of internal flight or relocation in their country of origin.[33] Such trauma and past experiences are crucial elements that must be taken into account in examining any claim for international protection from any member of this group. In this respect it is relevant that the Dutch government in June 2023 stated in relation to the Yazidis:

"*The government believes that sufficient facts have been established to conclude that [Islamic State] is highly likely to be guilty of genocide.*"[34]

f) Conclusion

30. UNHCR does not consider camps for internally displaced persons in the Kurdistan Region of Iraq (KR-I) as normal places of residence ("normale woon- of verblijfplaats"), nor does the Office consider IDP camps as places which can constitute an internal flight or relocation alternative.

UNHCR
12 March 2026

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[30] UNHCR, *Guidelines on International Protection No. 12: Claims for Refugee Status Related to Situations of Armed Conflict and Violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees and the Regional Refugee Definitions*, 2 December 2016: refworld.org/policy/legalguidance/unhcr/2016/113881, para. 42. See also, UNHCR, *Guidelines on International Protection No. 4*, note 2727 above, para. 31.

[31] UNHCR, *International Protection Considerations Iraq*, note 1515 above, pp. 190-198. UNHCR also notes with concern the recent developments in the KR-I. See New York Times, *Pro-American Kurdish Forces Are Preparing Possible Iran Incursion,* 4 March 2026: nytimes.com/2026/03/04/us/politics/kurds-trump-iran-war.html; BBC, *Iran Targets Headquarters of Iranian Kurdish Forces in Iraq*, 5 March 2026: bbc.com/news/articles/c2k88y1147jo.

[32] See also, UNHCR, *COI Note on the Situation of Yazidi IDPs in the Kurdistan Region of Iraq*, May 2019: refworld.org/reference/countryrep/unhcr/2019/122812, p. 8.

[33] See UNHCR, *Guidelines on International Protection No. 4,* note 2727 above, paras 24 and 26.

[34] "*Voor de Nederlandse regering zijn bij de erkenning van genocides uitspraken van internationale gerechts- en strafhoven, eenduidige conclusies volgend uit wetenschappelijk onderzoek en vaststellingen door de VN leidend. Het kabinet is van oordeel dat er voldoende feiten zijn vastgesteld om te kunnen stellen dat IS zich hoogstwaarschijnlijk schuldig heeft gemaakt aan genocide.*" (Tweede Kamer der Staten-Generaal, note 24 above).