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Amman, 5 February 2018

Subject: Internal Flight Alternative in Baghdad

Dear [REDACTED],

UNHCR's Position on Returns to Iraq, dating 14 November 2016, states:

"In the current circumstances, with large-scale internal displacement, a serious humanitarian crisis, mounting inter-communal tensions, access/residency restrictions in virtually all parts of the country and increasing pressure exercised on IDPs to prematurely return to their areas of origin following the retaking of these areas from ISIS, UNHCR does not consider it appropriate for States to deny persons from Iraq international protection on the basis of the applicability of an internal flight or relocation alternative. An internal flight or relocation alternative would only be available in the exceptional circumstances where an individual can legally access and remain in the proposed area of relocation, would not be exposed to a new risk of serious harm there, and has close family links in the proposed area, with the family willing and able to support the individual. In light of the difficult humanitarian conditions in many parts of the country, especially in areas hosting large numbers of IDPs, family members who are themselves in a situation of internal displacement would generally not be considered as being able to provide such support".¹

This means that UNHCR considers that in the vast majority of cases, the relevance and/or reasonableness requirements would not be met. As outlined in UNHCR's Guidelines on International Protection No. 4, it is moreover for the decision-maker to identify a proposed area of relocation and the decision-maker bears the burden of proof of establishing that an analysis of relocation is relevant to the particular case. If an internal flight alternative or internal relocation alternative (IFA/IRA) is considered relevant, the decision-maker is responsible for providing evidence establishing that it is a reasonable alternative for the individual concerned.²

Kindly also consider a Note published by UNHCR on 3 May 2016, which provides an overview of factual elements to be considered when assessing the availability of an IFA/IRA in Baghdad for a Sunni Iraqi national, who has been found to have a well-founded fear of persecution at the hands of ISIS in his/her area of origin.³ The information contained in the 3 May 2016 Note shows that in the specific case of Sunni Arabs from areas (previously or currently) held by ISIS, and for whom an

¹ UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 27.

² 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*, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/docid/3f2791a44.html>, paras 33-35.

³ UNHCR, *Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA) in Baghdad for Sunni Arabs from ISIS-Held Areas*, May 2016, <http://www.refworld.org/docid/575537dd4.html>.

IFA/IRA in Baghdad is proposed, in the vast majority of cases the IFA/IRA assessment is already likely to fail at the relevance stage, in particular due to the likelihood that a Sunni Arab from a (previously or currently) ISIS-held area would face new risks of serious harm upon relocation.⁴

As part of the relevance analysis, it needs to be assessed whether an individual would be able to access and legally remain in the proposed area of relocation. In this respect, we would like to refer to UNHCR's Note "*Iraq: Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA): Ability of Persons Originating from (Previously or Currently) ISIS-Held or Conflict Areas to Legally Access and Remain in Proposed Areas of Relocation*" of 12 April 2017,⁵ which, *inter alia*, provides detailed information in respect to access and residency restrictions in Baghdad as applicable to Sunni Arabs from (previously or currently) ISIS-held or conflict areas. Please take note that the information provided in this Note applies specifically to persons of Sunni Arab origin for whom an IFA is being considered, i.e. if they were to return to Iraq from abroad to an area that is not their area of origin. The information provided in this Note remains valid at the time of writing.

Access to Baghdad for persons returning from abroad: Iraqis can access Baghdad via Baghdad International Airport. According to information available to UNHCR, Iraqis of certain profiles who do not originate from Baghdad may be at risk of arbitrary arrest at any of the checkpoints between Baghdad International Airport and Baghdad City. This concerns in particular Sunni Arabs and Sunni Turkmen originating from (previously or currently) ISIS-held areas or areas affected by conflict, in relation to whom there are reports of arbitrary arrest and *incommunicado* detention on the basis of their perceived support for ISIS.⁶

Residency requirements in Baghdad for persons returning from abroad to Baghdad: As part of the relevance analysis, it would have to be considered whether the individual concerned could legally reside in the suggested place of internal relocation. Requirements for those seeking to reside in a particular area of Baghdad, including required documentation, are reported to vary from one neighbourhood to another, and often depend on the person in charge in that specific neighbourhood (e.g. the *Mukhtar*, the officer in charge at checkpoints run by the ISF or Popular Mobilization Units / PMU). In general, requirements to settle in Baghdad are reported to be stricter in districts with a high concentration of IDPs, mostly Sunni areas such as Karkh, Abu Ghraib, Adhamiyah and Mahmoudiyah Districts.⁷ IDPs in Baghdad commonly live in private settings (with host families or

⁴ UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 26; UNHCR, *Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA) in Baghdad for Sunni Arabs from ISIS-Held Areas*, May 2016, <http://www.refworld.org/docid/575537dd4.html>, pp. 11-15. See also, Landinfo (in Norwegian), *Irak: Situasjonen for sunnimuslimene i Bagdad*, 23 June 2017, <http://bit.ly/2jWeMuV>; The New Arab, 'Don't Enter Baghdad': Wave of Murder-Kidnappings Grips Iraq Capital, 17 May 2017, <http://bit.ly/2fbLC9I>; UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 26.

⁵ UNHCR, *Iraq: Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA): Ability of Persons Originating from (Previously or Currently) ISIS-Held or Conflict Areas to Legally Access and Remain in Proposed Areas of Relocation*, 12 April 2017, <http://www.refworld.org/docid/58ee2f5d4.html>.

⁶ UNHCR, *Iraq: Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA): Ability of Persons Originating from (Previously or Currently) ISIS-Held or Conflict Areas to Legally Access and Remain in Proposed Areas of Relocation*, 12 April 2017, <http://www.refworld.org/docid/58ee2f5d4.html>, p. 3.

⁷ According to IOM, 84 per cent of IDPs in Baghdad are Sunni Arabs. IDPs in Baghdad have "re-settled in the districts of Karkh, the most densely populated district with 40% of all IDPs in Baghdad, and Abu Ghraib (30%), due to their proximity to the conflict-ravaged districts of Ramadi and Falluja"; IOM, *Integrated Location Assessment II – Part II Governorate Profiles*, October 2017, <http://bit.ly/2FHI6vh>, pp. 5, 6. Most Sunni Arab IDPs preferred to settle in Sunni-majority areas in light of the city's sectarian segregation and due to security concerns if they were to settle in a Shi'ite-majority area. In Baghdad, Sunni IDPs have reportedly been pressured to move out of Shi'ite and Sunni-Shi'ite mixed neighbourhoods; The Atlantic, *The Hell after ISIS*, May 2016, <http://theatlantic.com/1NaRaLC>; Refugees International, *Displaced in Iraq: Little Aid and Few Options*, 2 November 2015, <http://www.refworld.org/docid/563868d14.html>, p. 7; UNAMI, *Report on the Protection of Civilians in the Armed Conflict in Iraq*, 13 July 2015,

in rented apartments), critical shelters or in IDP camps.⁸ Persons originating from ISIS-held areas or areas affected by conflict and who seek to settle in these areas of Baghdad (be it with host families or in rented apartments) must, in principle, meet the following cumulative requirements:⁹

- a) A support letter from the *Mukhtar* and the Local Council confirming that the individual is residing (or intending to reside) in the particular neighbourhood/local council area;
- b) Security clearance from five different security authorities (National Security, Federal Police Intelligence, Local Police Intelligence, Baghdad Operations, ISF Intelligence); and
- c) Sponsorship from a resident of the neighbourhood in which s/he seeks to settle.¹⁰ The sponsor must present four pieces of personal documentation, i.e. ID card, nationality certificate, address card (only accepted if issued in the sponsor's name) and ration/PDS (Public Distribution System) card. In some cases, the sponsor is reportedly asked for additional documentation such as a support letter from the *Mukhtar* or Local Council confirming that the sponsor is a resident of that area.

The support letter, security clearance and local sponsorship must be obtained without delay upon arrival in the neighbourhood in which the person seeks to settle. As these requirements are not based on law and their implementation is not officially monitored or subject to any complaints mechanism, even when meeting all the above requirements, residency is not guaranteed and remains at the discretion of the concerned local authorities / security organs. The fact that over 16,000 IDPs arrived in Baghdad after March 2016, when Baghdad was in principle no longer accessible for IDPs from conflict areas,¹¹ highlights the arbitrariness in implementing access and residency restrictions.¹²

Even when individuals are able to obtain a support letter and to secure a sponsor, they still need to obtain security clearance from the five security agencies listed above, where they need to apply in person. Applying for security clearance may itself be fraught with difficulties for Iraqis of certain profiles, including in particular for Sunni Arabs and Sunni Turkmen from (previously or currently) ISIS-held and conflict areas, who may at that point be arrested and detained under the Anti-Terrorism Law of 2005 (Law No. 13 of 2005)¹³ on the basis broad and discriminatory profiling.¹⁴

<http://www.refworld.org/docid/55a4b83c4.html>; Washington Post, *Iraqi Sunnis Flee Anbar only to Find New Dangers in Baghdad*, 17 May 2015, <http://wpo.st/kN6Q1>.

⁸ For a map indicating IDP camp locations, see also REACH, *IDP and Refugee Camp Locations – As of July 2017*, 19 September 2017, <http://bit.ly/2E2b8JC>. Five per cent of IDPs in Baghdad are reported to live in critical shelters, mostly in unfinished and abandoned buildings; IOM, *Integrated Location Assessment II – Part II Governorate Profiles*, October 2017, <http://bit.ly/2FHI6vh>, p. 8. See also, IOM, *Displacement Tracking Matrix - Iraq IDP Crisis - January 2014 to 30 November 2017: IDP Shelter Arrangement*, 30 November 2017, <http://bit.ly/2nDzsaB>; REACH, *Assessment of Informal IDP Sites in Iraq*, June 2017, <http://bit.ly/2FJPNkC>, pp. 8, 12.

⁹ UNHCR, *Iraq: Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA): Ability of Persons Originating from (Previously or Currently) ISIS-Held or Conflict Areas to Legally Access and Remain in Proposed Areas of Relocation*, 12 April 2017, <http://www.refworld.org/docid/58ee2f5d4.html>, pp. 4-5. Persons settling in camps or informal settlements do not usually require a support letter and a sponsor; they however need to undergo security screening and register with the camp authorities. However, see below “Pressure to return” on the intended closure of IDP camps in Baghdad.

¹⁰ The sponsor should be originally from Baghdad as indicated on his or her ID card. In addition, the sponsor's housing card should show that s/he is a resident of the city.

¹¹ UNHCR, *Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA) in Baghdad for Sunni Arabs from ISIS-Held Areas*, May 2016, <http://www.refworld.org/docid/575537dd4.html>, p. 12.

¹² According to IOM's Displacement Tracking Matrix (DTM), the vast majority of IDPs in Baghdad arrived in several waves in 2014 and 2015. Some 16,800 IDPs reportedly arrived in Baghdad Post-March 2016; IOM, *Displacement Tracking Matrix*, accessed 7 February 2018, <http://iraqdtm.iom.int/IDPsML.aspx>.

¹³ Law No. 13 of 2005, <http://bit.ly/2nVEflo>. See also UNAMI, *Report on the Death Penalty in Iraq*, October 2014, <http://www.refworld.org/docid/5445189a4.html>, pp. 39-30.

¹⁴ UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 28.

Similarly, anyone who does not meet all residency requirements listed above is not allowed to reside in Baghdad; at checkpoints in the city or during security raids such persons are at risk of arrest and detention under the Anti-Terrorism Law of 2005.¹⁵

Based on UNHCR's observations, the implementation of residency requirements usually becomes stricter following security incidents in Baghdad. Responsibility for such incidents is often broadly attributed to persons of Sunni Arab origin, especially those originating from (previously or currently) ISIS-held areas or conflict-affected areas, on account of their perceived sympathies for or affiliation with ISIS.¹⁶

Pressure to Return: As part of the relevance analysis, it would have to be assessed whether the protection provided to the individual concerned in the suggested place of internal relocation would be of durable nature.¹⁷ As areas have been retaken from ISIS, IDPs, particularly Sunni Arabs, reportedly face mounting pressure, and, increasingly, outright force by eviction from local authorities in Baghdad to return to their areas of origin.¹⁸ Many IDPs in Baghdad express fear for their own safety, stating that they no longer feel welcome.¹⁹ As a result, IDPs increasingly return to their areas of origin even in the face of explosive hazards, ongoing security threats and lack of essential services in areas of return.²⁰ Such returns carry a high risk of secondary displacement.²¹

¹⁵ UNHCR, *Iraq: Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA): Ability of Persons Originating from (Previously or Currently) ISIS-Held or Conflict Areas to Legally Access and Remain in Proposed Areas of Relocation*, 12 April 2017, <http://www.refworld.org/docid/58ee2f5d4.html>, p. 5.

¹⁶ Ibid.

¹⁷ Ibid, pp. 5, 6.

¹⁸ "Forced returns continue in Anbar, Salah al-Din and **Baghdad** affecting IDPs originating from recently retaken areas in Anbar, Salah al-Din and Kirkuk. Forced evictions and returns began 16 November [2017] and within 10 days affected 987 families. They briefly halted in late November, ostensibly due to an intervention by the Prime Minister's office. Between 3 and 10 December, however, a further 230 families were forcefully returned from Ameriyat al-Fallujah (AAF) and Khalidiyah camps in Anbar, **Al Salam camp in Baghdad** and from informal settlements in Tikrit" (emphasis added); UNHCR, *Iraq: Bi-Weekly Protection Update (8 - 24 December 2017)*, 24 December 2017, <http://bit.ly/2FgPApZ>, p. 2. "The issue of forced returns of IDPs continues to persist. (...) families in Salam camp (Baghdad) were forced to return to Garma district in Anbar (...). Some families have left the camps in an effort to pre-empt forced return"; UNHCR, *Iraq: Centre & South Bi-weekly Protection Update (10 - 23 November 2017)*, 23 November 2017, <http://bit.ly/2E3AQJI>, p. 2. "Despite commitments to ensure a safe, voluntary and dignified return process, families continue to be evicted from areas of Anbar, **Baghdad**, Diyala, Kirkuk and Ninawa and other areas, sometimes by local councils" (emphasis added); UN Security Council, *Report of the Secretary-General Pursuant to Resolution 2367 (2017)*, S/2017/881, 19 October 2017, <http://bit.ly/2GQgaXd>, para. 63. "UNHCR is concerned with the escalation of forced evictions and relocations from camps in Baghdad. (...) On 5 August [2017], 92 IDP families were forcibly evicted from Asia Camp in Baghdad - with security cards confiscated - and the camp was closed, on the presumption that IDPs' areas of origin had been liberated and they should return. These families were displaced from Anbar in several waves between 2014 and 2015. Those unable to return due to unsuitable or unsafe conditions in areas of origin were being required to move outside the city limits to a camp in Abu Ghraib. Security actors prevented access of humanitarian actors and media to affected families" (emphasis added); UNHCR, *Iraq: Centre & South Bi-Weekly Protection Update (4 - 20 August 2017)*, 20 August 2017, <http://bit.ly/2wgscno>. See also, Refugees International, *Too much too soon – Displaced Iraqis and the Push to Return Home*, September 2017, <http://bit.ly/2fVE73F>, p. 12; UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, paras 30, 39 (and sources quoted therein).

¹⁹ "Forced evictions and relocations from camps within Baghdad's city limits have led to fear and uncertainty among IDP families, and serious concerns for the safety and welfare of the evicted families"; UNHCR, *Iraq: Centre & South Bi-Weekly Protection Update (4 - 20 August 2017)*, 20 August 2017, <http://bit.ly/2wgscno>.

²⁰ "Families affected by forced or premature returns are exposed to serious security risks including tribal conflicts, and lack of shelter as their houses were damaged or destroyed during military operations, among other serious protection concerns. Many areas also lack essential services and basic infrastructure or are contaminated with explosive hazards"; UNHCR, *Iraq: Bi-Weekly Protection Update (8 - 24 December 2017)*, 24 December 2017, <http://bit.ly/2FgPApZ>, p. 2. "IDPs in many cases return to a volatile security situation with significant protection concerns due to contamination (particularly in Garma and Khalidiyah) of explosive hazards, the presence of armed groups and serious threats to life and property for vulnerable families. Others have no homes, access to services or livelihood opportunities to return to due to the recent military operations in the areas"; UNHCR, *Iraq: Centre & South Bi-weekly Protection Update (10 - 23 November 2017)*, 23 November 2017, <http://bit.ly/2E3AQJI>, p. 2. "Many IDPs in Baghdad are unable to return to areas of origin due to the protection situation including tribal conflicts and presence of armed groups, contamination with explosive hazards, as well as damage to properties and critical infrastructure"; UNHCR, *Iraq: Centre & South Bi-*

The Baghdad Provincial Council reportedly intends to gradually close all IDP camps within Baghdad City limits. A number of camps are reportedly scheduled for closure, affecting thousands of IDPs.²² Observers are concerned that IDPs, both in camp and non-camp situations in Baghdad and elsewhere, will be under increasing pressure to return prior to parliamentary and provincial elections set to be held on 12 May 2018, so that they can vote in their home areas.²³

Availability of family support: As part of the reasonableness analysis, it would have to be considered whether the individual concerned has close family links in the proposed area, with the family willing and able to support the individual.²⁴ Family members who are themselves in a situation of internal displacement would generally not be considered as being able to provide such support to persons for whom an IFA is considered.²⁵

Freedom of movement: Furthermore, the ability to lead a reasonably normal life would require that the individual concerned enjoys freedom of movement in order to access employment opportunities and basic services. Moving around Baghdad regularly entails the passing of permanent and *ad hoc* checkpoints, which heightens the risk of being targeted by both state and non-state actors.²⁶ The risk of harassment and arbitrary arrest and detention is heightened if the person concerned has not regularized his/her residency in Baghdad (see above p. 3).

We hope that the above information will assist you in supporting the legal proceedings. Please do not hesitate to contact me should you have any questions or require additional information.

Yours sincerely,

[Redacted Signature]

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Weekly Protection Update (4 - 20 August 2017), 20 August 2017, <http://bit.ly/2wgscno>. See also UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, paras 37, 39.

²¹ UNHCR, *Iraq Situation: UNHCR Flash Update - 18 January 2018*, 18 January 2018, <http://bit.ly/2EdXkLt>; UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 30.

²² “IDP camp consolidation is expected to continue over the coming months, under the government’s leadership. Six IDP camps across Iraq have recently been closed (3 in Baghdad Governorate, and 3 in Ninewa Governorate). **Some 1,628 families (9,000 persons) are currently sheltering in the additional camps targeted for closure in Baghdad Governorate**” (emphasis added); UNHCR, *Iraq Situation: UNHCR Flash Update – 26 January 2018*, 26 January 2018, <http://bit.ly/2DHP0on>, p. 1. “During UNHCR interventions with the Provincial Council, it was indicated that the authorities intend to gradually close all 34 camps within Baghdad city limits”; UNHCR, *Iraq: Centre & South Bi-Weekly Protection Update (4 - 20 August 2017)*, 20 August 2017, <http://bit.ly/2wgscno>.

²³ Education for Peace in Iraq Center (EPIC), *ISHM: January 5 - 18, 2018*, 18 January 2018, <http://www.epic-usa.org/ishm144/>; Russia Today, ‘Desolate and Deadly’: Weary Iraqis Forced to Return to Ruined, Booby-Trapped Areas, 11 January 2018, <http://bit.ly/2E63MAA>; Reuters, *Iraq Returning Displaced Civilians from Camps to Unsafe Areas*, 7 January 2018, <http://reut.rs/2D7pX9Z>.

²⁴ UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 48.

²⁵ Ibid.

²⁶ See sources included in footnote 4.