



ELDH European Association of Lawyers for Democracy & World Human Rights

WITH LAWYERS
IN 16 COUNTRIES

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt
EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo
EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme
EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

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Hon. António Guterres
UN High Commissioner for Refugees
Case Postale 2500

CH-1211 Genève 2 Dépôt

Suisse

Thursday, 04 August 2011

Camp Ashraf

Dear High Commissioner,

I am writing to express the deep concern of the European Association of Lawyers for Democracy & World Human Rights (ELDH) at the serious threats to the residents of Camp Ashraf in Iraq.

The Iraqi government opposes the continued existence of Camp Ashraf, which is home to some 3,400 Iranian exiles and refugees, mostly members and supporters of the People's Mojahedin Organization of Iran (PMOI), who have lived in Iraq since they were allowed to move there during the rule of Saddam Hussain. Most recently, during a visit to Iran on 25 June, Iraqi President Jalal Talabani declared that Camp Ashraf would be closed by the end of 2011. The PMOI has never been listed as a terrorist organisation by the UN Security Council, and it has successfully challenged in court attempts to list it as terrorist in the United Kingdom and before the Court of Justice of the European Union.

The challenge to the existence of Camp Ashraf follows months in which the residents have come under increasing pressure from the Iraqi authorities. Following the US-led invasion of Iraq that toppled Saddam Hussain from power in 2003, the camp and its residents were

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placed under US protection but this ended in mid-2009 following an agreement between the US authorities and the Iraqi government. In July 2009 and in April 2011 Iraqi forces carried out attacks on the residents of the camp killing 47 of them and leaving hundreds of them wounded.

We respectfully ask you to recall that UNHCR is the UN agency responsible for the provision of international protection to refugees and for seeking permanent solutions for the problem of refugees. UNHCR has long been accepted by States, including Iraq, as the agency competent to protect refugees, and therefore as having the legal standing to intervene to secure protection. The circumstances in which the residents of Ashraf left their country of origin, as well as later Developments, clearly indicate that they would be at risk of persecution if returned. A group determination of refugee status would be an essential first step to identifying the residents of Ashraf as entitled to international protection and signalling the applicability of international obligations.

Secretary General Ban Ki-moon in his report to the Security Council on July 7 called on Member States “to help to support and facilitate the implementation of any arrangement that is acceptable to the Government of Iraq and the camp residents.”

Iraq is obliged under international law to protect the rights of refugees within its territory. Although not party to the 1951 Convention or the 1967 Protocol relating to the Status of Refugees, it is party to, among others, the 1966 International Covenant on Civil and Political Rights, the 1984 Convention against Torture, and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance. Each of these treaties, expressly or impliedly, incorporates the principle of non-refoulement, which is also a part of customary international law.

In such circumstance, the UNHCR has a grave responsibility as the world body responsible for the refugees. The refugee status of residents of Ashraf is indisputable. They are civilians. They cannot return to their home country and their lives are in danger in Iraq. In addition their urgent need for protection is also indisputable. The Iraqi government has publicised its intention to close the Camp. It has already killed dozens and injured hundreds of the residents. (Amnesty International, press release, 13 July 2011)

ELDH recommends

- that the UNHCR should reaffirm the refugee status of the inhabitants of Ashraf in order to give them a protective cover while they are still in Iraq and help the Member States in facilitating the implementation of arrangements for their transfer to third countries. It is to be expected that in accordance with its mandate in such situation, the UNHCR should make a group determination with regard to residents of Ashraf.
- that the Iraqi government ceases its harassment of Iranian exiles living in Camp Ashraf, north of Baghdad, ensures that they have unhindered access to medical care and other humanitarian needs.

- that the Iraqi government fully respects the human rights of the residents of Camp Ashraf, investigates the attacks on the camp by Iraqi security forces, and ensures that there is accountability for unlawful killings, torture and other violations.
- that no action should be taken to return Camp Ashraf residents forcibly to Iran, where the organization fears many would be at grave risk of torture or other serious human rights violations on account of their association with the PMOI, which previously engaged in armed opposition to the Iranian government.

We hope to count on your personal intervention in this critical situation in order to avoid a humanitarian catastrophe in Camp Ashraf.

With best regards



Thomas Schmidt
(ELDH Secretary General)