

Memorandum of Understanding
between
Ministry of Foreign Affairs of the Kingdom of Denmark
and
Ministry of Foreign Affairs of the Republic of Iraq

The Ministry of Foreign Affairs of the Kingdom of Denmark and

The Ministry of Foreign Affairs of the Republic of Iraq,

Hereinafter referred to as "the Parties".

(a) Recognising that the right of all citizens to leave and to return to their country is a basic human right enshrined, *inter alia*, in Article 13(2) of the 1948 Universal Declaration of Human Rights and Article 12 of 1966 International Covenant on Civil and Political Rights;

(b) Resolved to cooperate in order to assist the voluntary, dignified, safe and orderly return to and successful reintegration in Iraq of Iraqis now in Denmark;

(c) Noting the desire of the Parties to work with each other to achieve full observance of international human rights and humanitarian standards;

Have reached the following understandings:

PARAGRAPH 1
Objectives

With this MOU, the Parties wish to lay the basis for a closely coordinated, phased and humane process of assisted return of Iraqis in Denmark which respects the primacy of voluntary return and which takes account of the conditions in Iraq and of the importance of safe, dignified and sustainable return.

PARAGRAPH 2
Modalities of Return

The Parties hereby accept that the return of Iraqis will, primarily, take place at their freely expressed wish, based on their knowledge of the situation in intended places of return and of any options for continued stay in Denmark:

I. Iraqis holding a permanent residence permit in Denmark will return to Iraq on the basis of their freely expressed wish in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

II. Iraqis with pending applications for asylum, who decide of their own free will to return to Iraq, can opt for voluntary return.

III. Iraqis, who are found not to have protection needs or humanitarian reasons in accordance with the regulations in the Danish Aliens Act, could opt for voluntary return after a final negative decision on their asylum claim.

IV. Iraqis who have no protection or compelling humanitarian needs justifying prolongation of their stay in Denmark, but who nevertheless, continue to refuse to avail themselves of the option of voluntary return may be ordered to leave Denmark as an option of last resort. The return process of such persons will be phased, orderly and humane.

PARAGRAPH 3
Re-admission

The Republic of Iraq will readmit its nationals and will assist, where necessary, in determining the nationality of persons covered by this MOU, within the shortest possible time and in any case not later than within one month. The Republic of Iraq and the Kingdom of Denmark will cooperate closely in this respect.

PARAGRAPH 4
Commitments upon Return

The Republic of Iraq will, together with other relevant bodies, carry out the necessary measures to ensure that Iraqis abroad can return without any fear of harassment, intimidation, persecution, discrimination, prosecution or any punitive measures whatsoever. These safeguards do not preclude the right of competent authorities of Iraq to prosecute individuals on account of war crimes and crimes against humanity, as defined in international instruments, or very serious common crimes involving death or severe bodily harm in accordance with established human rights standards.

PARAGRAPH 5

Freedom of Choice of Destination

The Republic of Iraq accepts that Iraqis returning from abroad will be free to settle in their former place of residence or any other place of their choice in Iraq.

PARAGRAPH 6 Documentation

The Kingdom of Denmark will contribute towards the costs of the issuance of travel documents to Iraqis returning under this MOU.

The Republic of Iraq will, in cases in which Iraqis wishing to return do not hold travel documents, issue such documents without delay, and not later than within one month, through their diplomatic representations.

For Iraqis who have no protection or humanitarian needs justifying prolongation of their stay in Denmark and who nevertheless, following the communication of a final negative decision, continue to refuse to avail themselves of the option of voluntary return, the relevant Danish authority may issue a valid travel document, EU Laissez-Passer.

The EU Laissez-Passer may also be issued to those returning voluntarily with the assistance of the International Organization of Migration (IOM) and who are not in the possession of valid travel documents.

PARAGRAPH 7 Preservation of Family Unity

In accordance with the principle of family unity, the Kingdom of Denmark, will, in cases where all members of a family, who are all Iraqis covered by the MOU, decide to return to Iraq, make every effort to ensure that families are returned as units and that involuntary separation is avoided. Family reunification, shall in all cases, take place in accordance with the respective national and international laws.

PARAGRAPH 8 Special Measures for Vulnerable Groups

The Parties will take special measures to ensure that vulnerable groups receive adequate protection, assistance and care throughout the return and reintegration process. In particular, measures will be taken to ensure that unaccompanied minors are not returned prior to successful tracing of family members or without specific and adequate reception and care-taking arrangements having been put in place in Iraq.

PARAGRAPH 9
Airport Arrival and Transit Arrangements

The Parties decide that the appropriate mode of return from Denmark to Iraq is by air.

PARAGRAPH 10
Return Transportation Assistance

The Kingdom of Denmark will, according to the Danish legislation, meet the costs of travel for Iraqis covered by this MOU up to final destination in Iraq.

PARAGRAPH 11
Reintegration Assistance

The Kingdom of Denmark will continue to consider favourably the provision of support to reconstruction and rehabilitation projects with a view to facilitating the re-establishment of livelihoods in Iraq of returnees taking into account the broader reconstruction needs of Iraq.

PARAGRAPH 12
Co-ordination Mechanisms

In implementing this MOU, the Parties are committed to coordinating and consulting closely with each other. In this regard, relevant information – except person-specific information related to the content of asylum-claims – will be shared between the Parties.

PARAGRAPH 13
Personnel

The Kingdom of Denmark and the Republic of Iraq will facilitate the entry and stay, through issuance of visas as necessary, in accordance with their applicable national immigration laws, of their officials and personnel in facilitating the implementation of the MOU.

PARAGRAPH 14
Continued Validity of other Agreements

This MOU will not affect the validity of or derogate from any existing instruments, agreements, arrangements or mechanisms of cooperation between the Parties.

PARAGRAPH 15

Resolution of Disputes

Any question arising out of the interpretation or application of this MOU, or for which no provision is expressly made herein, will be resolved amicably through consultations between Parties.

PARAGRAPH 16 Coming into effect

This MOU will come into effect upon signature by the Parties.

PARAGRAPH 17 Amendment

This MOU may be amended by mutual consent in writing between the Parties.

PARAGRAPH 18 Termination

Each Party has the right to denounce this MOU at any time by notification in writing to the other Party communicated via diplomatic channels. The MOU shall cease to apply 30 calendar days after the date of the receipt of any such notification.

In witness, thereof, the representatives of the Parties have signed this MOU.

DONE at *BAGHDAD* on *13/5/2009* in two original copies in English and Arabic languages. Both Texts have being equally authentic. In case of divergence in interpretation, the English text shall prevail.


For Ministry of Foreign Affairs
of the Kingdom of Denmark


For Ministry of Foreign Affairs
of the Republic of Iraq

Annex

Concerning the implementation of the Memorandum of Understanding (MOU) between the Kingdom of Denmark and the Republic of Iraq

This annex shall form an integral part of the MOU between the Kingdom of Denmark and the Republic of Iraq.

1. Voluntary return

In accordance with paragraph 2 of the MOU the Kingdom of Denmark and the Republic of Iraq agree to promote the option of voluntary return of Iraqi nationals to Iraq to the extent possible.

In this context the Kingdom of Denmark will, in accordance with the Danish law and legislation, continue its assistance to Iraqi nationals who opt for a voluntary return.

The Danish assistance to Iraqi returnees currently includes a programme by which certain groups of rejected asylum seekers are offered six to nine months of pre-departure training in Denmark on the condition that the trainee agrees to return voluntarily to Iraq once the training in Denmark has been completed. The courses and training in Denmark under this particular programme seek to build on the trainees' existing skills and are sought matched with the needs of the labour market in Iraq.

Furthermore, rejected asylum seekers who opt for a voluntary return receive economic support in the form of cash grants as well as reintegration assistance in Iraq.

Returnees who wish to establish their own businesses are provided with "self-employment" support. This kind of support is expected to go towards the purchase of items and equipment necessary to the establishment of a small business/self-employment project which has been identified in partnership with the returnee, and marked in the business plan.

2. Competent authorities for the implementation of the MOU

The competent authority in Denmark for the implementation of the MOU:

Authority: The National Commissioner of the Danish Police, Aliens Department
Address: Anker Heegaards Gade 5, 3rd floor
1780 Copenhagen V
Denmark
Telephone: +45 33 14 88 88, ext. 6104/6365
Telefax: +45 33 43 00 39
E-mail address: udl.afd@politi.dk

The competent authority in Iraq for the implementation of the MOU:

Authority:

Address:

Telephone:

Telefax:

E-mail address:

3. Readmission procedures

In accordance with paragraph 3 of the MOU, the Republic of Iraq shall readmit its own nationals upon request by the Kingdom of Denmark.

A transfer of a person to be readmitted in accordance with paragraph 3 of the MOU shall require the submission of a readmission request from the competent Danish authority to the competent Iraqi authority, cf. paragraph 2 above.

A readmission request shall contain the following information:

- particulars of the person to be readmitted (as listed in the attached form "Information on the identity of the person to be readmitted");
- all relevant documentation of the nationality of the person to be readmitted (cf. paragraph 5 below);
- to the extent possible, indication that the person to be readmitted may need help or care, as well as indication of any other protection or security measure which may be necessary.

The competent Iraqi authority shall reply in writing to a readmission request from the competent Danish authority within 30 calendar days from the date of receipt of the readmission request.

Where there are legal or factual obstacles to the request being replied to within 30 calendar days, this time limit may, upon duly motivated request, be extended with a maximum of six calendar days.

Reasons shall be given for the refusal of a readmission.

After agreement has been reached or, where appropriate, after expiry of the deadline of 30 calendar days, the person concerned shall be transferred within three months. On request of the competent Danish authority, this time limit may be extended by the time taken to deal with legal or practical obstacles. In case the person to be readmitted absconds for a period of time, that period of time shall not count toward the said three months.

Readmission requests, including all the necessary documentation, from the competent Danish authority shall be submitted to the competent Iraqi authorities via the Danish Embassy in Baghdad.

Replies from the competent Iraqi authorities shall as well be submitted to the competent Danish authorities via the Danish Immigration attaché at the Danish Embassy in Baghdad.

4. Transfer modalities

Before the transfer of a person, the competent Danish and Iraqi authorities shall make arrangements in writing in advance regarding the transfer date, the point of entry, possible carriers and other information relevant to the transfer.

The precise transfer modalities will later be discussed in detail by the relevant Danish and Iraqi authorities.

In accordance with paragraph 9 of the MOU, return shall as a rule take place by air. Return by air is not restricted to the use of Danish national carriers or security staff, and may take place by using scheduled flights as well as charter flights.

5. Means of evidence regarding Iraqi nationality

Proof of Iraqi nationality can be furnished through the following documents:

- valid travel documents
- valid identity cards

Prima facie evidence of the presumption of Iraqi nationality can be furnished through the following documents:

- photocopies of travel documents or identity cards
- expired travel documents or identity cards
- driving licenses or photocopies thereof
- birth certificates or photocopies thereof
- confirmation of nationality or photocopies thereof
- military books or photocopies thereof
- *bona fide* statements by witnesses
- statements made by the person concerned and language spoken by him or her, including by means of an official test result
- any other document which may help to establish the nationality of the person concerned.

If none of the documents listed above can be presented, the competent authorities shall make the necessary arrangements in order to establish the nationality of the person to be readmitted.

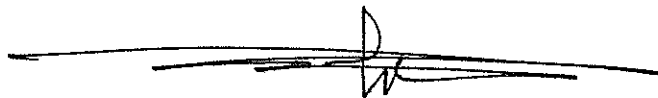
The competent Iraqi authorities may hold interviews in Denmark, if necessary, with persons who cannot provide sufficient documentation for Iraqi identity and nationality. The National Commissioner of the Danish Police will cover all expenses in this regard.

6. Final clauses

This Annex enters into force at the same time as the MOU. Amendments to this Annex must be agreed in writing between the Danish and Iraqi competent authorities.



For Ministry of Foreign Affairs
of the Kingdom of Denmark



For Ministry of Foreign Affairs
of the Republic of Iraq

FORM to be used for the readmission of Iraqi nationals to Iraq

Information on the identity of the person to be readmitted:

Identity	Name	
	Date of birth and sex (age)	
	Time of entry in Denmark	
	Wishes to cooperate in the return efforts	
	Family situation (single, family with children)	
	Language	
	Father's name	
	Paternal grandfather's name	
	Place of birth	
	Religion	
	Ethnicity	
	Civil status (all wives must be mentioned by name and date of birth, and names of parents)	
	Children	
	Siblings (address, telephone no.)	
Relatives currently living in Iraq (address, telephone no.)		
Address where the person was born/raised	Village/town/city, street name and no.	
	Area of the town	
	Province	
	Name of village leader	
	Date of leaving this address	
Latest residential address before entering Denmark	Village/town/city, street name and no.	
	Area of the town	
	Province	
	Name of village leader	
	Name of village mullah	
	Date of departure from Iraq	
Military particulars	Military particulars – where/when – regiment/barrack	
Identity documents	Which documents? Issued by whom? When and where?	
Education	Which education? When?	
Employment	Last place of employment	
Registered by	Telephone no.	Name