

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 _____ on _____ 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**