

## **REPORT**

### **Concerning the Systematic Deportation of Asylum Seekers During the Month of August 2009**

The return and deportation of refugees is prohibited under International Conventions ratified by the TRNC and International Customary law. However, during August 2009, at least 19 Iraqi asylum seekers that had tried to or made application for seeking asylum to United Nations High Commissioner for Refugees (UNHCR) through Turkish Cypriot Human Rights Foundation (TCHRF) and Refugee Rights Association (RRA) were deported. TRNC authorities have a duty to assist the Iraqis that were obliged to leave their country due to the ongoing war, especially to those of Palestinian descent, who are continuously facing arrest, abduction, torture that result in death and whose neighbourhoods are under armed attacks. Contrary to this obligation of the State, and even though the circumstances of the refugees were known, they were deported from TRNC. There is a very high probability that those with Palestinian descent were sent to Iraq or Palestine and the others to Iraq via a third country. It has been declared in various reports of United Nations Bodies and Non Governmental Organisations that human rights of the people that are deported are under threat to their rights to life and freedom from torture due to the conflict in Iraq and Palestine.

#### **August 2009 Asylum Applications**

On 6<sup>th</sup> of August, Kyrenia Police Headquarters put 3 Iraqis under detention in Ercan Police Station contrary to the duty of the Immigration Office to confer a legal order against their deportation. These persons were released the same day after their statuses were brought to the attention of the Immigration Directorate of the Police Headquarters by TCHRF and RRA. The 3 Iraqis concerned were later arrested while trying to pass the Green Line to seek asylum in south Cyprus and were sentenced to 10 days imprisonment. At the end of their prison sentence, against the efforts of the TCHRF and RRA, they were deported.

On 13<sup>th</sup> of August, an Iraqi family of Palestinian descent came to TRNC by ship from Syria. Their entry to TRNC was not allowed by the Immigration Officers because the family did not possess visas and came to seek asylum. Until the day of their deportation the family was kept under custody in Famagusta Police Headquarters. On 14<sup>th</sup> of August the RRA lawyer delegated by TCHRF for the purpose of collecting information concerning asylum application of the family was denied even the opportunity to meet them. During the encounter with the Police Chiefs in charge in Famagusta Police Headquarters, it was stated that the family would not be sent back provided that the Ministry of Internal Affairs submit a written request against their deportation by the afternoon of 17<sup>th</sup> of August. Although this was brought to the attention of the authorities in the Ministry within office working hours, the necessary steps were not taken and the refugees were sent back.

On 16<sup>th</sup> of August, an Iraqi family of 4 that came to TRNC in order to seek asylum was deported to Hatay (Turkey) from Ercan Airport.

On 28<sup>th</sup> of August, according to the information brought to the attention of TCHRF and RRA, a family of 6 had arrived from Syria to seek asylum. The entry of the concerned family to TRNC was stopped by the Immigration Officers and they were kept under custody until deportation. On 31 August, the RRA lawyer went to the Famagusta Police Station in order to meet with the family but was not allowed to do so. Furthermore, attempts made against deportation of the family within the Ministry of Internal Affairs proved to be futile.

On 4<sup>th</sup> of September, a deportation decision was taken concerning 2 Iraqis of Palestinian descent aged 17 and 19 who entered TRNC with valid visas on 30<sup>th</sup> of July. Although an application to UNHCR seeking asylum was presented through TCHRF and RRA, this did not have an effect on the outcome. It is important to note that one of the persons concerned was a minor under 18 and he had no family member either in Iraq or in Palestine. This matter was completely overlooked, and an application to court also failed to prevent the human rights violation in question.

### **The Legal Provisions in TRNC National Law Against Deportation of Asylum Seekers**

- 1) The 1951 Convention Relating to the Status of the Refugees, that is in force under the temporary article 4 of the TRNC Constitution, states under Article 32 that refugees that are lawfully in a country shall not be expelled on the grounds of national security and under Article 33 that refugees shall not be expelled or returned (“refouler”) to the frontiers of any territory where his life or freedom would be under threat because of his race, religion, nationality, membership of a particular social group or political opinion.
- 2) Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that was implemented by the TRNC parliament under Legislation No: 28/2004 prohibits the expulsion, return or extradition of a person to a State where he/she might be tortured.
- 3) Article 14(2) of the TRNC Constitution, Article 3 of the European Convention on Human Rights, Article 7 of Convention on Civil and Political Rights, and Article 37(a) of Convention on the Rights of Child, all bestow a right of freedom from torture, inhuman and degrading treatment and the fundamentality of the human right concerned requires a broad interpretation of such articles conferring a positive duty on the State Authorities against expulsion where there is substantial grounds to believe that the person concerned will face a real risk of being subjected to torture or inhuman or degrading treatment or punishment in the country where he/she is returned.
- 4) Article 15 of the TRNC Constitution, Article 2 of the European Human Rights Convention, Article 7 of Convention of Civil and Political Rights, and Article 6(1) of Convention on the Rights of the Child protect the right to life and physical integrity which is subject to interpretation similar to the above provisions.

