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7.1. Exclusion based on the commission of international crimes

COMMON ANALYSIS
Last update: June 2022
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Article 12(2)(a) QD and Article 17(1)(a) QD

Article 12(2)(a) QR and Article 17(1)(a) QR

The ground of ‘crime against peace’ would rarely arise in asylum cases. However, it may be of relevance with regard to high-ranking officials responsible for the invasion of Kuwait.

Violations of international humanitarian law by different parties in the current and in past conflicts in Iraq could amount to war crimes, such as the use of prohibited weapons and the deliberate indiscriminate attacks on civilians, etc.

Reported crimes such as murder, torture, and rape by the different actors could amount to crimes against humanity when committed as part of a widespread and systematic attack against the civilian population. Crimes in the context of past events, such as the Al-Anfal military campaign, could also trigger the consideration of exclusion in relation to ‘crimes against humanity’.

Some acts in the current conflicts, such as extrajudicial killings, torture, and forced disappearance, could amount to both war crimes and crimes against humanity.

According to COI, especially (former) members of insurgent groups (e.g. ISIL), security actors (e.g. ISF, PMF, KRG forces), as well as Baathists, can be implicated in acts that would qualify as war crimes and/or crimes against humanity [Targeting 2019, Context, 1.2, 1.2.2, 1.2.3, 3.8.1].

Acts committed in the context of the conflicts below could be also relevant for Article 12(2)(a) QD/QR and Article 17(1)(a) QD/QR:

- Iraq - Iran war (international armed conflict, 1980 - 1988);

- Al-Anfal military campaign (1987 - 1988);
- invasion of Kuwait (international armed conflict, 1990 - 1991);
- Kurdish civil war (non-international armed conflict 1995 - 1998);
- invasion of Iraq (international armed conflict, 2003);
- armed conflict between ISF and insurgent groups (non-international armed conflict, as from 2004);
- sectarian conflict/civil war (non-international armed conflict post 2003);
- ISIL conflict (non-international armed conflict, 2014 - ongoing);
- Türkiye – Iraq conflict (international armed conflict, 2019 - ongoing).

[COI references: Security 2019, Annex I; Security 2024, 1.1, 1.3]

See more information on human rights violations committed by different actors under 2. Actors of persecution or serious harm.

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