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3.13. Persons living with disabilities and/or with severe medical issues

COMMON ANALYSIS
Last update: January 2021
Minor updates added: November 2024

The analysis below is primarily based on the following EUAA COI report: Targeting 2019, 3.7. Some information included in the Country Focus 2024 has also been added. Country Guidance should not be referred to as source of COI.

The Government of Iraq has ratified the UN Convention on the Rights of Persons with Disabilities 12 and has adopted the Law No. 38 on the Care of Persons with Disabilities and Special Needs, including the establishment of a Commission for the promotion of respect and protection of the rights of people living with disabilities. However, people with disabilities are among the most vulnerable communities and often neglected in public discourse.

Step 1: Do the reported acts amount to persecution?

The Iraqi public healthcare system has severely deteriorated over the past two decades and has continued to be largely in crisis [Country Focus 2024, 2.1.1]. However, **the lack of personnel and adequate infrastructure to appropriately address the needs of individuals with (severe) medical issues fails to meet the requirement of Article 6 QD/QR** regarding the existence of an actor that inflicts persecution or serious harm, **unless the individual is intentionally deprived of healthcare(13).** Therefore, **the threshold for persecution for individuals under this profile would be reached in exceptional cases.**

Nevertheless, the severity and/or repetitiveness of other acts that persons living with disabilities and/or with severe medical issues could be subjected to and whether they occur as an accumulation of various measures, should be also considered. Persons with disabilities face a wide array of societal discrimination which hinders, prevents or impairs the full enjoyment of their rights and their full and equal participation in all aspects of society. Adults and children with disabilities are at a higher risk of violence than non-disabled. Children with disabilities are most at risk of being excluded from schools.

Step 2: What is the level of risk of persecution?

The individual assessment of whether, **in exceptional cases**, there is a reasonable degree of likelihood for a person with disability or severe medical issue to face persecution should take into account **risk-impacting circumstances**, such as:

- **Age:** Among others, children with disabilities are reported to be particularly prone to different forms of exploitation, including child labour, forced and/or child marriage, sexual exploitation, and trafficking [Country Focus 2024, 1.4.4]. Additionally, as of 2019, many children with disabilities dropped out of public school due to insufficient physical access to school buildings, a lack of appropriate learning materials in schools, and a shortage of teachers qualified to work with children with developmental or intellectual disabilities.

- **Nature and visibility of the mental or physical disability:** Those with mental illnesses could be particularly vulnerable to violence and discrimination.

- **Support network:** Having a family with negative perception towards the applicant could increase the risk.

Step 3: Is there a ground for persecution?

Where a well-founded fear of persecution is substantiated for an applicant under this profile, this may be for reasons of membership of a particular social group (e.g. persons with noticeable mental disabilities, due to their innate characteristic (disability) and distinct identity linked to their stigmatisation by the surrounding society).

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  For the definition of persons with disabilities, see Art. 1 of the UN Convention on the Rights of Persons with Disabilities.

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  CJEU, *M'Bodj*, paras. 35-36. See also CJEU, *MP v Secretary of State for the Home Department, C-353/16*, judgment of 24 April 2018 (MP), paras. 57, 59.

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