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4.2.2. Arbitrary arrests, illegal detention and prison conditions

COMMON ANALYSIS
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Special attention should be paid to the phenomena of arbitrary arrests and illegal detention, as well as to prison conditions. When assessing the conditions of detention, the following elements may, for example, be taken into consideration (cumulatively): number of detained persons in a limited space, adequacy of sanitation facilities, heating, lighting, sleeping arrangements, food, recreation or contact with the outside world.

In cases where the prosecution or punishment is grossly unfair or disproportionate, or where a person is subjected to prison conditions which are not compatible with respect for human dignity, a situation amounting to serious harm under Article 15(b) QD/QR may occur.

It should be highlighted that in some cases, there would be a nexus to a reason for persecution falling under the definition of a refugee, and those individuals would qualify for refugee status. If nexus to a reason for persecution is not substantiated, Article 15(b) QD/QR would apply.

Reports have described detention facilities as seriously overcrowded and with poor infrastructure, including the facilities for juveniles. Children were not always separated from adult detainees. International human rights groups documented a wide range of torture and abuses in detention facilities run by the Ministry of Interior and, to a lesser degree, in facilities run by the Ministry of Defence and in facilities run by the KRG. In the KRI, the access of local and international organisations to detention facilities was also severely limited, rendering the monitoring of the situation almost impossible [Targeting 2019, 1.18; Actors of protection 2018, 6.5.3, 6.5.4].

Arbitrary arrests and detention continued to be reported in the recent years, especially against those perceived as opposing the state and state-affiliated actors. Unlawful detention of minority groups by PMF in Ninewa governorate was reported. Cases of abuses and torture by both security forces and PMF have been reported during arrests and pre-trial detention, especially targeting Sunni Arabs. Act of torture against LGBTIQ individuals, protesters and journalists have

also been alleged. Individuals accused of ISIL affiliation have been kept in secret prisons [Country Focus 2024, 1.1.1, 1.1.2, 1.1.3, 1.2.1, 1.5]



In some cases, the arrest, detention and imprisonment would have been imposed for a serious crime committed by the applicant, or for other acts falling within the exclusion grounds (Article 17 QD/QR). Therefore, although the criteria of Article 15(b) QD/QR would be met, exclusion considerations should be examined (see 7. Exclusion).

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