



Briefing Paper

Government/UNHCR continue fourth year of cruel limbo for Iranian Kurds in Turkey:

*refugees bilked \$1/4 million under threat of deportation for
dodgy residence permits, protection offered by other countries
obstructed, what next?*

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behalf of Iranian refugees & asylum seekers nationally and internationally.*

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*July 16, 2004, urgent telephone call from Canada to Iranian Refugees' Alliance
re: help my relatives in Turkey get on their flight to Canada*

I am calling about my brother Ahmad in Turkey. He is there with his wife and two children ages thirteen and seven. They are from the group previously residing in Iraq. They have been living a very hard life in Turkey for twenty-eight long months now.

Canada has issued them a refugee visa and arranged plane tickets for them for the end of this month. They need an exit permit to leave Turkey but the local police have told them that they won't issue it because Ministry of Interior and UNHCR have banned resettlement for Iranian refugees in Turkey who have previously been in Iraq. I called the police myself and explained to them that their visas have nothing to do with UNHCR. We have arranged it through a private sponsor and the Canadian Immigration office. The police said "it makes no difference, but we will write a letter to the Ministry".

I was in N. Iraq myself and fled to Turkey in 1995. I was resettled in Canada by UNHCR five years ago. So, I am still new in Canada. But I have done everything I could to help Ahmad to survive in Turkey and to end his misery there. Two months ago Ahmad said they had to pay \$1000 for their residence permit or they would get deported. That was an unspeakable amount for me. It took a long time to finally collect it, but I did. He paid it to the Turkish government and he now has a legal permit to stay, but now they say he still can't leave Turkey.

I. Summary

Iranian Refugees' Alliance is gravely concerned for the safety and well-being of over a thousand Iranian Kurdish refugees who have been facing serious threats of deportation since early July 2004. Refugees are being threatened with deportation because they are indigent and cannot pay exorbitant fees imposed for their residence permits. The government has finally agreed to

provide these permits after three years of refusing them the usual "asylum-seeker" status provided in the Turkish 1994 Asylum Regulations. The dodgy permits expressly preclude them from the fundamental protection against *refoulement* [forced return of a person to a country where he or she faces persecution], from all forms of humanitarian assistance, and even from permission to exit the country for onward resettlement to third countries.

Imposition of exorbitant fees on non-European refugees is not a new development in Turkey.

Since its inception around 1997, refugees and their advocates have continually protested these unwarranted fees. The issue has become critical for this group because they have been subjected to a prolonged lack of support compounded by a serious threat of *refoulement*.

Stories like that of Ahmad, a refugee who has a dedicated relative overseas to support him against all odds and also find him a way out of this cruel limbo, are not common. Most refugees do not have relatives or friends overseas and even if they do, being newly resettled refugees themselves, they are not in a position to sustain another family for prolonged periods, if at all. Resettlement through private sponsorship programs, like the one in Canada, is also rare and difficult to arrange. Until April 2004, refugees like Ahmad did not even have permission to once travel outside of Van.

In fact, the only praise Ahmad and his relative have in this rescue ordeal is for Canada. In view of Ahmad's prolonged entrapment in Van for almost two years, Canadian Immigration officers in Ankara agreed to arrange, on short notice, Ahmad's interview and medical examination as soon as the family was permitted to relocate from Van. Their visas and tickets were also issued in an amazing short period of two months. Little did they know, that Ahmad and his family were doomed to suffer unnecessarily in this indeterminate state how many more months or years, and, even worse, that at the end of this long ordeal, they may even be forcibly sent back to Iraq.

The Iranians who have been subject to this cruel limbo constitute at least 32% of the Iranian refugee and asylum seeker population in Turkey and about 27% of the total persons of concern to the Office of the United High Commissioner for Refugees (UNHCR), the international agency mandated to protect refugees there. Of critical concern are therefore, the actions, inactions, and

rationalizations of UNHCR. Not only has the agency effectively induced this crisis by peremptorily refusing to resettle the refugees in third countries, it has also piloted the government to declare an official ban on resettlement. UNHCR also justifies the refugees' indefinite cruel limbo with unacceptable rationalizations, such as the invention of a perverse "equitable" resettlement.

With only six months remaining before the European Union (EU) is due to decide whether to proceed to the next stage of Turkey's EU candidacy, the Turkish government's progress in fulfilling the required human rights criteria is under close scrutiny. However, in the last three years, Turkey has not only failed to make any concrete progress in any area of its asylum system, in regard to this third of its non-European refugee population, it has clearly backpedaled to conditions far worse than a decade ago, when Turkey lacked national asylum regulations altogether.

While UNHCR tries to present itself as an unwilling hostage to the Turkish government's policies towards these refugees, in reality it is the refugee agency itself that is the barrier to a safe, humane and lasting solution for refugees. In the past, whenever UNHCR has decided to put refugees' interests first, it has shown that it could both move them swiftly out of harm's way and also easily obtain the government's consent. In this case too, the solution is simple: refugees should be resettled in third countries without any further procrastination.

This briefing is based on firsthand interviews with refugees. It updates an earlier 50-page report published in April 2003, entitled [Off the radar screen: UNHCR/Government neglect imperils thousands of Iranian Kurdish refugees in Turkey and Northern Iraq](http://www.irainc.org/text/pub/Nireopr2.pdf), <<http://www.irainc.org/text/pub/Nireopr2.pdf>>, which documented the plight of this group and another four thousand refugees still trapped in Northern Iraq. We have withheld the names of the interviewees for their safety.

II. Background

The over thousand Iranian Kurds who are being targeted have all previously resided in Iraq, most of them for many years. They are all recognized as political refugees by the UNHCR. When they came to Turkey in 2001-2002, most were already destitute due to years of living as refugees. They fled Iraq because they were under security threats there and resettlement, UNHCR's principal instrument of protection for Iranians in this unstable and dangerous region, had long since come to a stand-still.¹

Since their arrival in Turkey, they have not been properly assisted and protected by the government nor by the UNHCR. Moreover both organs have subjected them to collective punishment measures. Implementing a peremptory "irregular mover" policy,² UNHCR, the agency mandated to protect and treat refugees humanely, has denied the group all possible protection and assistance for some or all of their stay. This includes refusal to register them, provide them with financial and medical support, resettle them in third countries, and even intervene on their behalf when they have been *refouled* to Iran by the Turkish police, the gravest possible breach of international refugee law.³

Except for two windows in 1995-1996 and 2000, UNHCR has been implementing its "irregular mover" policy in Turkey since 1992.

¹ For details see "Off the radar screen."

² "Irregular mover" is a term defined by the Executive Committee of UNHCR to refer to persons "who have found protection in a particular country" but nevertheless "move in an irregular manner" to other countries to "seek asylum or permanent resettlement". But, in practice, UNHCR has been applying the term to whoever moves from its first country of asylum to another regardless of whether or not they have found protection in that country.

³ For details see "Off the radar screen."

During this period, the Turkish government has closely shadowed UNHCR policy, denying temporary residence permits to refugees and even systematically deporting them whenever UNHCR has labeled them "irregular movers" and refused them resettlement assistance. The Turkish government has, however, granted refugees temporary stay whenever UNHCR has agreed to resettle them.

As a result, in the last three years, these refugees have been regarded as "illegal immigrants" and threatened with *refoulement* every day.⁴

Before the March 2003 US-UK war began in Iraq, UNHCR was issuing formal "irregular mover" decisions to these refugees and endorsing their deportation to Iraq. But since then UNHCR has ceased this and since the overthrow of Saddam's regime in Iraq, it has officially recommended that all states, including Turkey, maintain a ban on the forced return of any person to Iraq.

But then, on August 30, 2003, Turkish police in Van randomly arrested nineteen of the refugees and *refouled* them to Iran in a matter of hours.⁵ In November 2003, fifty-three more of the refugees were detained for a week by the police in Van and threatened with deportation.⁶

As reported, the same month, UNHCR and the government finally began "consultations" to find a "solution" for the refugees. The exact details of these talks are still kept under wraps. But in December 2003, UNHCR finally granted all more than thousand members of this refugee group refugees formal

⁴ For details see "Off the radar screen."

⁵ see September 4, 2003, *Twenty Iranian Kurds deported to Iran by Turkish police return after long ordeal, refugees fear more deportations*, <<http://www.irainc.org/text/pub/PR0903.html>>; also see pages 11 & 12.

⁶ see November 6, 2003, *Urgent Appeal, Fifty-three detained Iranian refugees may face imminent deportation by Turkish authorities*, <<http://www.irainc.org/text/pub/UA1103.html>>

refugee status papers. Four months later, in April 2004, the Turkish Ministry of Interior gave refugees permission to relocate to about dozen provincial towns in central Anatolia and to apply for residence permits.

But once refugees approached the local police in their new designated provincial towns, they were confronted with exorbitant fees in order to receive their residence permits. There, they also found out that their status was “*yabancı*” [foreigner] and not “*şinmacı*” [asylum-seeker]. Until then, they were unaware that, by not being a “*şinmacı*” they were also excluded from the fundamental protection against *refoulement*.⁷

An [April 12, 2004 Ministry of Interior documentation](#) [see Appendix I] communicated by local police to each adult refugee expressly listed what they were NOT entitled to [emphasis added]:

- They shall NOT be considered as alien or refugee whose asylum claim is under consideration.
- They shall NOT be entitled to health benefits, provided to refugees or asylum-seekers.
- The proceedings for their resettlement in a third country shall NOT be carried out.

⁷ under Turkey’s *ByLaw No. 94/6169 on the Procedures and Principles Applicable to Possible Population Movements and to Foreigners Reaching Turkish Borders with the Purpose of Seeking Asylum from Turkey or Requesting Residence Permits with a View to Seeking Asylum from a Third Country, either as Individuals or in Groups*, asylum-seekers [*şinmacı*] are entitled to protection against *refoulement* on the strict condition that they register their claims within ten days of arrival provide valid identity documentation and receive resettlement assistance from UNHCR or directly from resettling countries.

- They shall be expelled from the country should they engage in unlawful acts.
- They or their family members shall NOT be protected from expulsion whether or not they are registered with UNHCR.
- Legal fees shall be required of them under the Law of Legal Fees No.492, half value shall be taken for those under the age of 18, retroactive fees shall not be taken for the past periods, but according to Law of Valuable Papers No.210, the cost for the permit shall be taken.
- According to the written warnings inside the Residence Permit, any changes in address and marital status and any traveling away from the province shall be notified rapidly to security offices.
- The granting of residence permits in Turkey is the result of our country’s good intention towards them. In this context, in the period residing in our country, they shall NOT possess attitudes and commit acts against public order, public health, public morality and national security.
- In case they do not obey the aforementioned, their residence permits shall NOT be extended and shall be revoked even if they have valid time left in them and they shall BE EXPELLED AS ALIENS ILLEGALLY STAYING in our country.

Many of the refugees still do not know the fundamental entitlements that they have been excluded from because they do not know the Turkish language and the document has not been translated to them. Nor has UNHCR explained to them the hazards of this dodgy residence permit, much less the reasons behind it.

III. The present crisis

Fees are collected for a one-year residence permit valid until March 29, 2005. For unknown reasons, they vary from 360,000,000 TLR (250 USD) to 425,000,000 TLR [300 USD] per adult person. In some towns children below 16 and in others below 18 have been allowed to pay half. This means that on average, a family of four must pay 1,200,000,000 TLR [850 USD].

Imposition of exorbitant fees on non-European asylum seekers is not a new development in Turkey. Since its inception around 1997, asylum-seekers and their advocates have continually protested these unwarranted fees. They are clearly against internationally recognized refugee and human rights standards. But, in the past seven years, while these fees have been increasing, the UNHCR Branch Office in Turkey has refrained from effectively protesting them.

Since 2002 these payments have also become mandatory from when an applicant first lodges an “asylum application” (residence-permit-request) with the Turkish authorities. But from exactly the same time, UNHCR has also been refusing to register new applicants until they have first filed with the Turkish authorities. As a result, many indigent applicants who have arrived in the past two years have been languishing in Turkey for months without being able to file applications with either organ.

Despite the inaction to challenge the fees, UNHCR has, however, played an important positive role in making these payments possible for refugees through its regular financial assistance program. Many have been paying them with their UNHCR monthly stipends.

Also, in recent years, some Iranians have been managing to obtain partial or full fee waivers. Observing the grim living conditions of asylum seekers, local authorities in some towns have been invoking exceptions in the law on behalf of some of the refugees.

For the present group of refugees, however, the Ministry of Interior has so far insisted that they must pay the fees and that no exceptions will be made, although fees for both a “foreigner” and “asylum seeker” residence permit are subject to the same *Harçlar Kanunu* [Law on Fees] No. 492. Nor does the exception provided in the law discriminate based on whether the recipient is considered a “foreigner” or an “asylum seeker”:

Article 88(d):

Mali durumlarıнын bozuk olduđuna, ikamet tezkeresi vermeye yetkili makamlarca kanaat getirilen yoksullar.

residence permits are free of charge for poor persons whose financial situation is determined to be bad by the authorities.

From conversations that refugees have had with the police in the last two months, it appears that the government had originally received assurances from UNHCR that this approximately \$1/4 million fee would be paid. “UNHCR is not keeping its promises”, refugees residing in different towns quote the police.

UNHCR, however, has been extremely tough on refugees so far, insisting that refugees should pay the fees. It has also insisted that it will not pay the money on their behalf, nor even ease the burden of these massive payments by providing refugees meaningful financial assistance.

In 2004, all that refugees from this group have received from UNHCR is just a bus voucher from Van to their new town of residence and half of a normal monthly aid. This means that a single person has received 70,000,000 TLR [48 USD] this year and another 20 USD or so for transportation

and a family of four a mere 152,000,000 TLR [100 USD] and another 50 USD or so for transportation. In the entire 2003 year, much like in 2004, all that the same family has received is 250 USD or, in some cases, 500 USD. There had been no assistance whatsoever for 2001 and 2002, even for the critically ill. Also, UNHCR officers who have recently visited refugees in their provincial towns reportedly have told them: “you may be assisted one more time this year and that is not even certain and we don’t know whether it will be half or the full amount of a normal monthly aid.”

A refugee in Turkey would normally receive from UNHCR twelve times the amount that these refugees have received in 2003 or 2004. It should also be noted that UNHCR’s normal aid, i.e. 183 million TLR for single person and 375 million for a family of four, is already below subsistence level. The minimum wage in Turkey is currently gross 423 million and net 303 million 79 thousand 500 TLR for workers above 16.⁸

Iranian Refugees’ Alliance which has had a humanitarian assistance program for Iranian refugees and asylum seekers in Turkey since 1993 has provided these refugees only with nominal assistance since their arrival, i.e. 170-340 USD to a family of four and 80-160 USD to a single person. Persons with serious illnesses have received slightly more.

Nor have refugees been permitted to work legally since their arrival, as their status had been illegal and, in any event, since asylum-seekers and refugees in Turkey are prohibited from working legally in Turkey. Consequently, all that a refugee from this group may have earned by resorting to temporary irregular jobs,

⁸ Turkishnewsline.com, June 22, 2004, *Minimum wage fixing commission to convene on Wednesday*, <www.turkishnewsline.com/haber.php?id=20944>

generally of the “3D” type: dirty, difficult and dangerous, is an average 3 USD per day.

Since their move from Van to provincial towns, the police have also been telling refugees that they are still prohibited to work. As a result, except for in one town where non-European refugees have traditionally been hired to do garbage-collection, no refugee has been able to sustain a job for more than a few days before being warned by the police or refused pay by the employer.

Refugees were given until June 30, 2004 to pay the requested fees for the residence permits. The crisis escalated after this deadline. On July 8, 2004, all fifty-five of the refugees (23 cases) who are residing in Cankiri, were arrested, forced to sign their arrest warrants and deportation orders, and subsequently detained in the police station. When some of the women were taken to their places of residence to fetch basic material for their children, the police reportedly told inquiring neighbors and standbys that “they can take all the furnishing left” because “the owners are not coming back”.

Given unclear ultimatums to pay or be deported to Iran, refugees were eventually released on the evening of July 8th. Based on reports received from other towns, many of the refugees who had not been able to pay by the deadline were told that deportation orders had been issued for them and that the police were waiting for further instructions from the Ministry of Interior.

Panic and fear have heightened since then, as the police have also started checking on refugees in their residences at odd hours of night. In some towns, refugees have been instructed not to leave their residence for days. In other towns, they have been summoned to police stations with their birth certificates, a practice that is generally understood to be part of the preparations for deportation of refugees to Iran from official transit borders.

Recent campaigns led by Iranian government’s forces against the forces of the Kurdistan Workers

Party (PKK) residing near the western borders of Iran have also become cause for fear. As reported, since June 1, 2004, when the Party has called off its unilateral ceasefire, fighting has increased in southeastern Turkey. Iranian soldiers have reportedly killed several members of the group so far.⁹ According to both Turkish and Iranian press, Turkish authorities have been extremely pleased with the Iranian government's campaign.¹⁰

There have also been an unusually large number of meetings in recent months between Iranian and Turkish officials in both countries. The Iranian ILNA News Agency reported on July 12, 2004, that Iranian security officials were traveling to Ankara to attend the tenth meeting of this High Security Commission and to sign an agreement in this regard.¹¹ The High Security Commission was established between Turkey and Iran in 1988 to, among other things, "coordinate their efforts against and exchange information about terrorism."¹² In the last week of July 2004, Turkish Prime minister traveled to Iran to sign security protocols among other things. "Turkey and Iran signed a security agreement here Thursday pledging to jointly combat Turkish Kurd rebels and anti-Iranian fighters", said AFP on July 31, 2004.

Thus, Iranian refugees fear that they will be forcibly returned for reciprocity.

⁹ Reuters, July 6, 2004, *Iran Troops Clash With Kurd Rebels*.

¹⁰ IRAN Newspaper, July 10, 2004 <20/04/1383>, *rizayate torkiye az mobarezeh iran ba pkk* [Turkey's Satisfaction on Iran's fight against PKK].

¹¹ ILNA News Agency, July 12, 2004 <22.04.83>, *be manzure hozur dar dahomin doreh comisione amniaty iran va torkiye, moavene amniyati intizami vazire kishvar rahi torkiye shod* [Interior Ministry's security deputy goes to Turkey to attend tenth session of Iran/Turkey Security Commission].

¹² See also "Off the radar screen", page 31 and *Unsafe Haven: Iranian Kurdish Refugees in Iraqi Kurdistan*, Iranian Refugees' Alliance, 1997/98 <www.irainc.org/text/pub/NIreport.pdf>, page 25.

IV. UNHCR's response

Iranian Refugees' Alliance has been seeking UNHCR's position since November 2003 that the agency reportedly began its "consultations" with the government. We were therefore pleased to finally receive on July 13, 2004 an official response from UNHCR's branch in Turkey. [see Appendix II] While we do not agree with the contents, we do welcome the opportunity to finally put UNHCR's official views and positions on public record.

In regard to imposition of unwarranted exorbitant fees on refugees, UNHCR regrettably confirms that it has no objections, in principle, to these fees and informs that all it has done in this regard during the past nine months is to tackle the government with two formal requests, one to "consider waiving the residence permit fees during the first year of validity" and another to apply them "in a flexible manner". UNHCR also informs that these "efforts have so far not yielded positive results". It cites government's responses, in a matter-of-factly way, that "they are mandated by the Law on Fees (Law No. 492) and the Law on Valuable Papers (No. 210)" and that "any further exceptions would constitute a precedent for other groups of foreign nationals".

Iranian Refugees' Alliance maintains that these fees are not warranted under international refugee and human rights law. Based on UNHCR's own standards, states only have a broad discretion "to choose what forms and kinds of support they will offer to asylum seekers".¹³ They do not have any discretion to impose exorbitant administrative fees on refugees. Nor is there currently any government that imposes such fees on refugees. In Turkey, these fees, even for refugees who do receive regular

¹³ see UNHCR, July 2000, *Reception Standards for Asylum Seekers In the European Union*, Geneva.

financial assistance from UNHCR, amount to a third of that assistance.

The Turkish government is supposedly in the process of bringing its asylum practices in line with international standards to meet the required human rights criteria for accession to EU. Turkey has already declared a commitment to providing social support and accommodation to refugees in its EU *Acquis*.

Admitting that Turkey's candidacy for EU membership has "important implications for UNHCR's work in the country", UNHCR has also purportedly been in "dialogue" with the government "focusing on the legislative and institutional changes required to review the geographic limitation and bring national practice in line with the EU *Acquis*." To meet EU and international standards, UNHCR agrees that Turkey needs to upgrade its reception capacities significantly.

UNHCR also purports that together with the government and nongovernmental organizations, it will seek to address the social problems of refugees and asylum-seekers. The agency says that it is also committed to ensuring that "public opinion is receptive to the needs of refugees and civil society is mobilized as a full partner in providing protection, care and solutions for them."

Therefore, instead of treating the government's responses as rules set in stone, UNHCR should match its deeds with its rhetoric and campaign nationally and internationally for the permanent abolishment of these fees for all refugees.

As an urgent step, the agency should immediately review Law No. 492 and invoke on behalf of refugees exceptions like Article 88(d), which exempt the poor from these fees. UNHCR should reject government's unwarranted and unfounded concerns regarding

precedence. Not only does the entire refugee and asylum seeker population in Turkey constitute a tiny proportion of foreigners, but the Turkish government has already granted far more generous exemptions to other foreigner groups such as capital investment companies.¹⁴

In its response, UNHCR also argues that it cannot pay the fees on behalf of refugees because "the required funds simply cannot be diverted from other competing global priorities" and that "it would be difficult, in any case, to justify using scarce emergency response resources for the payment of administrative fees."

We are, of course, not in a position to know how UNHCR balances its global priorities and why this expense should necessarily come out of emergency response resources rather than, for example, resources allocated for UNHCR's international staff's residence fees. But, whatever that may be, UNHCR should be arguing its financial priorities with the government and not with the refugees, in whose name it is receiving its funds and whose interests it should be protecting. Keenly concerned for using its "scarce emergency response resources," UNHCR should also show due concern for refugees, who by definition are not expected to have any resources at all.

UNHCR also notes that through some unspecified "contacts with the refugee community" it has gathered "that some of the Iranian refugees have taken a collective decision not to pay the fees, even though some are in a position to do so." UNHCR's admonishment of refugees is beyond reprehensible. Collective or not, UNHCR has never even attempted to assess this community's grim sub-standard life in Turkey. The mentioned contacts, probably UNHCR officers who have

¹⁴ Law No. 3996 states that foreign capital investment companies are exempt from stamp tax imposed pursuant to Law No. 488 and from the duties imposed pursuant to Law No. 492.

visited some of the communities merely to monitor their levels of protest, have never visited refugees' dwellings or scrutinized their nutrition or health. Using refugees' bio-data to find out who has relatives overseas and considering that as "being in a position to pay" is not only unreasonable but immoral.

Furthermore, as noted previously, neither Iranian Refugees Alliance nor even refugees insist that UNHCR should pay these fees. All that refugees are asking for is regular financial assistance on an equal basis with other refugees, so that they too, like other refugees, might be able to pay at least part of these fees from their monthly stipends.

But, in that regard too, UNHCR cites "existing budgetary constraints". Notwithstanding that publicly available information indicates considerable budgetary latitude to meet the genuine needs of this group, even if UNHCR's claim is accepted, the blame still lays only on UNHCR.¹⁵

As documented in "Off the radar screen", since 2000 when the latest flow of refugees from Iraq to Turkey began, UNHCR has been striking the grim conditions and the needs of this group from all its public records. This obfuscation has curiously continued even after UNHCR has formally recognized the refugees under its mandate and responsibility in December 2003. But how can UNHCR acquire the alleged missing funds to support this group if it continuously scrubs them from its global fundraising appeals and other reports?¹⁶

¹⁵ For example, according to UNHCR's Global Report 2003, in that year UNHCR has had a fairly balanced approximately seven-million-dollar operation in Turkey and only 10% of that budget was allocated to financial assistance to refugees. <www.unhcr.ch>

¹⁶ see UNHCR *Country Operations Plan, Turkey, Planning year 2004*, October 2003 and

On the legal status of refugees, UNHCR admits that by "offering" them legal status "under Law No. 5683 for Foreigners Travelling and Residing in Turkey", the government has "expressly excluded them from the application of the Turkish national regulation dealing with refugees and asylum seekers and the 1951 Convention." But all that the refugee agency really has to offer in response to this grave breach of international refugee law and even Turkey's own national asylum regulations is a sigh of regret: that UNHCR "obviously would have preferred" the application of national regulation.

In its communications, Iranian Refugees' Alliance had clearly requested that UNHCR state its position in regard to the government's expressly stated grave warnings to refugees in the documentation issued to them: that refugees were to be expelled for nonpayment of fees as well as a battery of other minute infractions like failure to report a change of address and that their UNHCR granted refugee status would not prevent their expulsion.

Further more, as UNHCR knows, foreigners who are offered discretionary residence permits under Law No. 5683 are subject to instant deportation when the government decides, arbitrarily, not to renew or revoke their permits. A foreigner who does not have a valid permit will then be considered an "illegal alien" and deported immediately under the Passport Law No. 5682 of 15 July 1950. Article 34 of this law criminalizes entrance into Turkey without valid travel documents. So far, many refugees who were denied residence permits or whose residence permits were revoked for failing to meet the procedural rules for filing an asylum claim have been immediately deported on the basis of this law. [see Appendix III]

But nowhere in the response does UNHCR acknowledge, much less condemn, these grave

UNHCR Global Report 2003, Turkey, June 2004.

consequences of the residence permits that the government has “offered” to refugees, or even what the government has so clearly stated in the refugees’ documentation in this regard.

Nor do platitudes such as “all refugees are entitled to the fundamental protection of non-*refoulement*,” make refugees any safer. UNHCR is well aware that for this principle to have any meaning in practice, States must have domestic legal regimes whereby their responsibilities are expressly recognized. In this instance, the Turkish government has expressly repudiated its responsibilities.

UNHCR also points to Turkey’s “so-called geographic limitation” as though that would legitimize the restricting of the principle of non-*refoulement* to any non-European refugee. Moreover, Turkey has already executed this limitation in its 1994 Asylum Regulations. The Regulations clearly excludes non-Europeans of all of the rights spelled out in the UN 1951 Refugee Convention, such as the right to work, social security, public education and travel documents and the right to family reunion.

But, the principle of non-*refoulement* is of such fundamental nature that it is one of the few articles in the 1951 Convention to which a reservation cannot be made [Article 42]. It therefore applies to every person fleeing persecution and asking for asylum regardless of their race or nationality or whether they are formally given refugee status or not.

Under the 1994 Turkish Asylum Regulations, all that a non-European refugee in Turkey can expect is protection against *refoulement*, although in practice Turkish authorities have made even this rudimentary protection contingent upon a guarantee that the refugees are resettled to a third country by UNHCR.

UNHCR last defense for this “government’s decision” is that it provides refugees “the opportunity for them to move to more secure areas away from the border with their country of origin, receive residence permits and have the possibility to work ... when fully implemented, should lead to a significant improvement in the level of protection and quality of life of most refugees”.

Having some status, of course, is better than having no status, but calling an abominably expensive and haphazard residence permit “significant improvement in protection” is inconceivable.

As far as refugees’ quality of life is concerned, that too would have improved of course if UNHCR’s so-far-imaginary “work permits” were implemented. But the government has still not informed refugees of such a “possibility” nor intended to do so. In fact, the government has not provided this possibility for any non-European or even European refugee in Turkey so far.

UNHCR and government consultations began nine months ago. That UNHCR is still “seeking clarification from the relevant authorities regarding the procedures to be followed in order to obtain a work permit” clearly indicates that the “possibility” is merely wishful thinking on UNHCR’s part, if not an attempt to prettify an otherwise odious “decision” and to justify further denial of aid to refugees.

Finally, on the issue of resettlement, UNHCR has written that it faces “significant constraints in its efforts to achieve one of the three traditional durable solutions – voluntary repatriation, local integration or resettlement – for these refugees.”

“Significant constraints” on local integration and voluntary return of refugees are, of course, platitudes. As noted by UNHCR in its letter, the Turkish government has not lifted its geographic

The price of being poor and disabled

Ghasim, his wife and three children are Iranian Kurds. They first fled to Iraq in September 2000 and then to Turkey in July 2002. Ghasim used to be a farmer, but after his detention in 1984, he could only support his family as a day laborer or by selling fruit.

Ghasim was persecuted by the Iranian state from 1979 on the basis of his association with a banned Kurdish political group in Iran. He lost a leg in 1982 when he stepped on a government planted mine near his hometown. Until 2000, he spent more than five years as a political prisoner in Iran's prisons, during which time he was tortured and ill-treated.

When Ghasim eventually decided to flee Iran in 2000, his only way out was to leave the country illegally because he did not have a passport. He had two options, either to escape to Turkey or to Northern-Iraq. He chose Northern-Iraq because he did not have the money to cross the border to Turkey. His physical disability was also a factor in crossing the dangerous mountains bordering Turkey.

After escaping to Northern-Iraq with his family in September 2000, they settled in Erbil. But just as they arrived in Erbil hundreds of Iranian refugees already there were fleeing to Turkey because they were not safe in Iraq and UNHCR had suspended its resettlement activities. These refugees were eventually resettled in third countries by UNHCR in Turkey in Spring 2001.

But Ghasim and his family could not follow them, because they did not have the money needed for crossing the border. They stayed behind and registered with the UNHCR in Erbil. They

obtained refugee status shortly after. But because they were not safe there, after two years, Ghasim managed to raise money from his political colleagues and then fled to Turkey.

They entered Turkey in July 2002. But although they applied for asylum with the police in Van, in compliance with all the formal requirements, they were not admitted. As a result, they were deemed as "illegal migrants", facing deportation every day.

Worse still, UNHCR also refused to register them, leaving them not only without humanitarian assistance but also unprotected against deportation. All that Ghasim was given was a "police paper" indicating that he had attempted to register with the police.

Eventually, in April or May 2003, UNHCR registered Ghasim and his family along with 800 or so other refugees who were also previously refused registration. They were all told to wait for a decision. A few months later, Ghasim, his wife, and two of his children, were suddenly apprehended by the local police in Van and summarily deported to Iran. The police knowingly left behind Ghasim's fifteen-year-old



from "MAN" No. 9, Aug. 15, 2001

son.

On that Saturday August 30, 2003 that they were deported, Ghasim, his wife and two of his children were visiting another ex-Northern-Iraq refugee family in Van. Two other ex-Northern-Iraq refugees were also visiting. While there, plainclothes police who belonged to the Foreigner's Section and who handle asylum requests suddenly raided the house at around 6:15 p.m. The police confiscated their "police papers" as well as any mobile phones they found and

ordered them to board a van that was waiting for them. They also confiscated Ghasim's UNHCR-Erbil refugee card and his ICRC prosthesis service card. Ghasim's wife and another mother cried and begged the police to allow them to go and fetch their other children. Two of the men were not accompanied by their wives, one of them seven-months pregnant. But the police said that they should not worry because they were just going for a short questioning and would come back in five minutes. While there, the police also accosted and detained another ex-Northern-Iraq family of three who happened to pass by in the street at that moment.

As soon as the van got into the Police Headquarters' yard, Ghasim and his family and nine other Iranians were forced into a chartered mini-bus [Dolmus]. Their minibus and another three filled with Iranians and other foreign nationals left the Police Headquarters at around 7:00 p.m. Ghasim, his wife and another couple continued to beg the police to allow them to fetch their children who were left behind, but the police ordered them quiet.

After five continuous hours on the bus, they were handed over to the border guards along with all the other detainees at around 12:00 p.m. They were ordered to form a line and then sit on the ground. The women and children were crying. The guard in command ordered one of the Iranians who knew some Turkish to translate. The deportees were cursed at and scolded for entering Turkey. They were told that they should run to the Iranian side of the border and if they returned they would be shot at.

When they were finally ordered to run while escorted by soldiers, Ghasim had difficulty catching up because of his prosthetic leg. A guard beat and kicked him to walk faster. The group was escorted towards Iran another half to one kilometer. The soldiers then ordered them to continue on their own for another few kilometers in a certain direction. The soldiers stood behind for about an hour while intermittently firing in the air.

Ghasim and his family and the other fifteen Iranians who were deported decided to stick together and try to return. They were stranded in the mountains for about two days without food, water, shelter, and adequate clothing in harsh rainy weather. Ghasim's wife and two children were in their house-clothes and had plastic slippers on. Because their slippers were torn quickly, Ghasim had to remove his own shoes in order for his wife to put them on. The children's feet were wrapped in shirts that some of the young men voluntarily took off.

Ghasim returned to Van Tuesday night, September 2, 2003, with great difficulty and his wife and two children returned the next night. Ghasim's amputated leg was bruised and infected when he got back. His wife's ankle was fractured. His two children could not walk because of the bruises and the blisters on their feet and legs.

The UNHCR offices in Van and Ankara were informed of the removal of these Iranians shortly after the apprehensions began. This time they actively intervened, but to no avail.

After their return to Van, Ghasim went to UNHCR to ask for protection and emergency financial and medical assistance. But UNHCR said that they could not secure even his confiscated "police paper", nor even provide him and his family with emergency financial or medical aid.

Until they relocated from Van in April 2004, Ghasim and his family were haunted every day by the fear of a second deportation. Now, like hundreds of other ex-Iraq refugees, they are again facing deportation, because they are too indigent to pay the requested \$1,000 for their residence permits.

When Ghasim's indigence and disability took him to Northern Iraq in 2000, many other Iranian political refugees who were also compelled to flee Iran but were financially better off fled directly to Turkey. Thanks to UNHCR's assistance those Iranians are now leading new lives in third countries. But Ghasim and his family's fate, UNHCR insists, must be tied to those who are still trapped in Iraq. ●

limitation to accept Iranians as refugees. The Turkey Representative of UNHCR, Ms. Gesche Karrenbrock, has also recently reiterated that “Turkey can't provide a permanent solution to refugee problem”.¹⁷ Nor has there been any indication that refugees want to “voluntarily repatriate” to their persecutors.

But “significant constraints” in achieving resettlement of refugees remains as illusory now as it has been since three years ago when UNHCR first imposed an arbitrary ban on it. That UNHCR has finally piloted the government to declare that it too has banned resettlement also does not make this claim any more tenable. UNHCR’s letter states:

The Government has taken the decision not to permit the resettlement of these Iranian refugees from Turkey. The Turkish authorities have stated their concern that the commencement of resettlement processing, particularly while no parallel efforts are underway in Iraq, would induce Iranian refugees in that country to cross the border in search of this durable solution. The Government’s firm position is expressly reflected in the documentation issued to the refugees.

The government’s ban, as UNHCR admits, has only recently been declared. But what is left intentionally unsaid is the connection between this ban and the one that UNHCR has imposed since 2001. Nor does the claim that the government has all of a sudden become concerned with lack of parallel resettlement efforts in Iraq seem tenable. UNHCR’s resettlement efforts were suspended in 1999. Yet, for all these years, not only had the government not expressed any concerns, in

¹⁷ Dicle Haber Ajansı'nın (DİHA) İstanbul, June 18, 2004, *Turkey can't provide a permanent solution to refugee problem*, <<http://www.kurdishinfo.com/modules.php?name=News&file=article&sid=400>> visited July 26, 2004>

Spring 2001 that UNHCR decided to resettle over 500 ex-Iraq Iranian refugees from Turkey, the government unhesitatingly cooperated with UNHCR.

The government’s seemingly independent “firm” position is also undermined by Turkish officials’ public statements. As a matter of fact, what officials continue to stress as their concern is still UNHCR’s lack of resettlement efforts in Turkey and not the agency’s lack of parallel efforts in Iraq. For example, just a few weeks after the government’s documentation was issued to refugees, the Governor of Van, Hikmet Tan, stressed:¹⁸

We want them [ex-Iraq Iranian refugees who were residing in Van from 2001-2004] to move on to Europe, but this is a slow process and we want it to be speeded up.

UNHCR does not express an opinion on what it says is the government’s justification for the ban. But, in stating its own position, albeit with equivocal language, it shows that it fully concurs with that justification:

For its part, UNHCR considers that the solution needs of Iranian refugees in Iraq and those who travelled onward to neighbouring countries should be addressed in a coordinated manner and on a regional basis. This is necessary to ensure equity among similarly situated refugees residing in different countries and to avoid encouraging risky secondary movements. Having said this, UNHCR’s activities within Iraq are presently quite limited, placing efforts to achieve comprehensive solutions for Iranian refugees living in that country – whether through voluntary repatriation, local integration or resettlement – on hold for the time being.

¹⁸ IRIN-a UN humanitarian information unit, May 19, 2004, *TURKEY: Special report on Iranian refugees from Iraq*.

It is, of course, true that there are currently more than 10,000 Iranian Kurds stranded in Iraq without effective protection and that UNHCR's efforts have come to a standstill there. But, the belief that those trapped in Iraq can only be helped by means of not helping those who are in neighboring countries or vice versa is unconscionable.

Equitable resettlement, a creative invention of UNHCR branch in Turkey, can indeed be a valuable concept in refugee protection, only if it is applied to make resettlement available to more refugees lacking other durable solutions, and, for example by making countries share the responsibility of resettling refugees more equitably. But, as in any other protection or humanitarian crisis, denying available resettlement places to eligible refugees only because some others cannot access it is reprehensible.

UNHCR's "equitable" resettlement is, indeed, more than reprehensible because the agency is not even withdrawing resettlement from this group to conserve precious and scarce opportunities for resettlement. According to its own statements, UNHCR fails to fill thousands of offers from resettling governments every year.

In the name of this "equity", UNHCR is also obstructing refugees like Ahmad who have against all odds found a "solution" on their own. Government's like Canada, which are willing to provide resettlement to refugees and, in fact, rely on UNHCR to facilitate these efforts, are also blocked.

In the end, as the letter explicitly acknowledges, UNHCR's true aim is to prevent more refugee movements from Iraq. UNHCR's concern for the "risk" associated with these "secondary movements" is not a convincing concern either when contrasted with the very real dangers in Iraq that are driving refugees across or the very real dangers that UNHCR is imposing on refugees in Turkey.

UNHCR's letter concludes with the promise that the agency "will move forward with solutions-oriented activities as soon as conditions in Iraq permit". This, effectively means that when UNHCR finally decides to act, it may not even decide to resettle refugees in third countries but choose "solutions-oriented" activities such as forcibly returning the group to Iraq and warehousing them there indefinitely. UNHCR also makes the promise that "should the situation in Iraq fail to improve in the future, UNHCR would have to review the solutions options for these Iranian refugees, as well as for Iraqi refugees who find themselves in a similar situation in Turkey". But the future that UNHCR conveniently keeps pointing to has long passed.

V. Conclusion

All refugees have a fundamental right to seek effective protection, not only from their persecutors, but also from unnecessarily severe or unduly prolonged restrictions on their fundamental human rights.

The so-called recent "decision" devised by the government and UNHCR over six months of consultations is an extension of UNHCR's three-year long punitive measures imposed on refugees to deter "secondary movement" of those who are still in Iraq. The government has now agreed to make UNHCR's policy its official policy in exchange for highly priced dodgy residence permits expressly excluding refugees from protection against *refoulement*.

Under a March 2001 National Plan of Action for the Adoption of the EU *Acquis* (NPAA), Turkey supposedly began "consideration" to lift its geographical restriction to recognize non-Europeans as refugees and to develop accommodation facilities and social support for them. In July 2003, Turkey released the latest update of its NPAA with a more detailed "roadmap" to achieve these goals, including drafting of legislation and institutional changes.

However, in the last three years, Turkey has not only failed to make any concrete progress in any area of its asylum system, in regard to this third of its non-European refugee population, it has clearly backpedaled to conditions far worse than a decade ago, when Turkey lacked national asylum regulations altogether.

UNHCR cannot, of course, be held accountable in the same way as sovereign states. But when governments consult with UNHCR, and the result is blatantly in violation of international refugee and human rights, or when UNHCR is obligated to provide a lasting solution to refugees, but recklessly refrains from doing so, the agency must be held accountable.

In this case, while UNHCR tried to present itself as an unwilling hostage to the Turkish government's policies towards these refugees, in reality it is the refugee agency itself that is the barrier to a safe, humane and lasting solution for refugees. In the past, whenever UNHCR has decided to put refugees' interests first, it has shown that it could both move them swiftly out of harm's way and also easily obtain the government's consent.

With only six months remaining before the EU is due to decide whether to proceed to the next stage of Turkey's EU candidacy, the Turkish government's progress in fulfilling the required human rights criteria applicable to its citizens is under close scrutiny.

But unfortunately, as far as the rights of refugees or immigrants are concerned, the international community has failed to address Turkey's performance. That at a time like this, Turkey's track record on asylum consists only of empty promises and significant regressive measures against a third of its non-European refugee population should impel the international community to begin acting urgently.

VI. Recommendations

Iranian Refugees' Alliance urges the Turkish government, UNHCR and the international community to act immediately and ensure effective protection for over thousand refugees in Turkey who have been subject to unnecessarily severe and unduly prolonged restrictions on their fundamental human rights.

To Turkish Government

- retract the documentation issued to refugees on April 12, 2004 and grant *prima facie* asylum seeker status to all members of this group in line with the 1994 Turkish Asylum Regulations;
- expressly commit to applying the principle of *non-refoulement* to all of the refugees;
- abolish all residence fees for all refugees, either by relying on exceptions in relevant laws or by amending them;
- In line with the requirements of EU Accession Partnership and the declared commitment in the National Plan to accession to the EU, provide all refugees with comprehensive support, including lodging and food or work permits;
- Immediately issue exit permits to all refugee who have obtained visas from a third country.

TO UNHCR

- retract UNHCR and government's agreement made public in April 12, 2004 and demand that the government expressly apply the principle of *non-refoulement* to the refugees;
- denounce imposition of exorbitant resident fees and take all necessary measures to waive or rescind these fees;

- immediately provide refugees with regular financial assistance on an equal basis with other refugees;
- immediately facilitate the exit from country of refugees who have privately obtained resettlement in third countries and facilitate the processing of all other such pending applications;
- immediately begin resettlement of refugees who do not have private sponsors;
- disclose accurate information and report fully on Iranian refugees who have moved to Turkey from Iraq.

To the international community

- Condemn the present Turkish government and UNHCR agreement in regard to the refugees as outlined above;
- Urge the Turkish government to respect its responsibilities and obligations toward refugees as outlined above, and to cooperate with other governments in finding durable solutions for them;
- Hold UNHCR accountable for its instrumental role in protecting and finding durable solutions for this vulnerable group as outlined above, and condemn its deliberate negligence to fulfill its obligations so far;
- Criticize UNHCR's use of punitive measures against refugees who move to seek effective protection;
- Urge UNHCR to conduct its activities with maximum transparency and impartiality, and keep the international community fully informed about the situation of all Iranian refugees in Turkey;
- Domestic and international human rights organizations scrutinizing Turkey's EU

accession progress should also include in their agenda asylum and refugee issues, make specific demands and press for urgent measurable progress in these areas;

To the European Union

- Maintain refugee protection high on the agenda in reviewing Turkey's fulfillment of the required criteria for accession to the European Union and demand measurable progress in this area;
- Emphasize the necessity of progress in refugee protection in the run-up to the European Union's December 2004 decision on the next stage of Turkey's EU candidacy;
- Address the situation of this group of refugees in your next regular report due in September 2004 and demand an end to their cruel limbo. ●

Please access the appendices at:

Appendix I- [Turkish language and unofficial English translation of Turkish Ministry of Interior's April 12, 2004 documentation to refugees](http://www.irainc.org/text/pub/NIpaperAppendixI.pdf)
<<http://www.irainc.org/text/pub/NIpaperAppendixI.pdf>>

Appendix II- [UNHCR-Turkey's July 13, 2004 response to Iranian Refugees' Alliance, Inc.](http://www.irainc.org/text/pub/NIpaperAppendixII.pdf)
<<http://www.irainc.org/text/pub/NIpaperAppendixII.pdf>>

Appendix III- - [Yuksekoa Magistrate Court's deportation order to refugees not accepted in the asylum system](http://www.irainc.org/text/pub/NIpaperAppendixIII.pdf)
<<http://www.irainc.org/text/pub/NIpaperAppendixIII.pdf>>