

Immigration and Refugee Board of Canada

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> Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

24 November 2016

IRQ105690.E

Iraq: Police procedures in the Kurdistan region for issuing a notice to appear (summons) at a police station, including whether it is issued in writing to the individual at their residence; whether an arrest warrant follows if the notice to appear is unanswered by the individual (2013-November 2016)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Procedures for Issuing Notices to Appear (Summons)

The Criminal Procedure Code 23 of 1971 of the Kurdistan Region of Iraq, as provided on the website of the Global Justice Project: Iraq (GPJI) [1], includes information on the procedures for issuing summonses under Book Two, Section 5 (Methods or Compulsion to Attend), Chapter 1 (Summons) (KRG 1971). A copy of Section 5 and other relevant Sections of this law are attached to this Response (Attachment 1).

In correspondence with the Research Directorate, a legal consultant at a law firm in Erbil that provides legal services in areas such as litigation, arbitration, and criminal law indicated that in order for a notice to appear to be issued

[t]he claimant must go to the competent police station to make a written statement of his/her claim. Once the statement is made, the police station will refer the claimant and the written statement to the competent judge of Investigation [also referred to as "investigating judge"]. Only the Investigation judge has the power to issue notices, arrest warrants, and/or any other order. (Legal Consultant 13 Nov. 2016)

In correspondence with the Research Directorate, a lawyer at a law firm in Erbil that provides legal services in litigation, corporate law, labour law and intellectual property law, indicated that

[d]epending on the circumstances and whether a complaint has been made, the procedure for a person to appear at a police station requires consent from a judge. ... Once the judge orders the police station to notify the defendant, the head of the police station will assign a [member of the] police personnel to deliver the notice to the defendant. (Lawyer 14 Nov. 2016)

According to the Legal Consultant, "every notice must be in writing, otherwise it will be void" (13 Nov. 2016). The lawyer indicated that "[t]he notice should be issued in writing" and a police officer should be sent to the relevant person's address notifying them to appear (Lawyer 14 Nov. 2016). The lawyer stated further that "in practice, there may be instances in which police officers may call the person to appear at the police station" (ibid.). Further and corroborating information on these instances could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.1 Format of the Notice to Appear (Summons)

The Legal Consultant indicated that, "[g]enerally, the format of the notice to appear [is] the same for all police stations in the Kurdistan region of Iraq," though he also noted that "there may be some little differences in the format from one governorate to another" (13 Nov. 2016). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

A sample of a blank police notice to appear, provided by the Legal Consultant, is attached to this Response as well as a translation into English (Attachment 2).

2. Arrest Warrants

The Criminal Procedure Code 23 of 1971 of the Kurdistan Region of Iraq provides the procedures for issuing arrest warrants under Book Two, Section 5 (Methods or Compulsion to Attend), Chapter 2 (Arrest) (KRG 1971). Article 97 states that "[i]f the person does not attend after being summoned, without a legal excuse, or if there is a fear that he will abscond or influence the investigation, or he does not have a specific place of residence, the judge may issue a warrant for his arrest" (ibid.).

The Legal Consultant indicated that "[i]f the individual does not appear at the police station at the date and time indicated in the notice, the competent judge may either re-issue the same notice or issue an arrest warrant. The decision is made according to the severity of the case" (13 Nov. 2016). The lawyer similarly stated that "[a]n arrest warrant will be issued should the individual not appear at the police station. The investigating judge executes the arrest warrant for the police station to act" (14 Nov. 2016). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] The GJPI provides an amended and annotated translation of the law (KRG 1971, 1). The GJPI is housed in the University of Utah, SJ Quinney College of Law, and is funded by a grant from the US Department of State (KRG 1971, 1).

References

Kurdistan Regional Government (KRG). 1971 (amended 2010). [Criminal Procedure Code 23 - Kurdish Region of Iraq](#). Translated by the Global Justice Project: Iraq (GJPI). [Accessed 22 Nov. 2016]

Lawyer, Erbil. 14 November 2016. Correspondence with the Research Directorate.

Legal Consultant, Erbil. 13 November 2016. Correspondence with the Research Directorate.

Additional Sources Consulted

Oral sources: An attorney and a lawyer based in Erbil; Kurdistan Regional Government - Ministry of Justice.

Internet sites, including: Amnesty International; BBC; eoi.net; Factiva; Freedom House; Human Rights Watch; Institute for the Study of War; Institute for War and Peace Reporting; International Crisis Group; IRIN; Minority Rights Group International; Pennsylvania State University – *Penn State Law Review*; Radio Free Europe/Radio Liberty; UN – Development Programme, Refworld; US – Congressional Research Service, Department of State.

Attachments

1. Kurdistan Regional Government (KRG). 1971 (amended 2010). [Criminal Procedure Code 23 of 1971](#). Translated by the Global Justice Project: Iraq (GJPI). [Accessed 18 Nov. 2016]
2. Kurdistan Regional Government (KRG). N.d. Police Notice to Appear. Translated by the Translation Bureau, Public Services and Procurement Canada. Sent to the Research Directorate by a legal consultant, Erbil, 13 November 2016.

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