

**CASE LAW COVER PAGE TEMPLATE**

<b>Name of the court <sup>1</sup> (English name in brackets if the court's language is not English):</b> <b>Helsingin hallinto-oikeus (Helsinki Administrative Court)</b>			
<b>Date of the decision:</b> 18/11/2016 <b>Case number:<sup>2</sup></b> 16/1267/71			
<b>Parties to the case:</b>			
<b>Decision available on the internet?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the link: <a href="http://www.finlex.fi/fi/oikeus/hao/2016/helsingin_hao20161267">http://www.finlex.fi/fi/oikeus/hao/2016/helsingin_hao20161267</a>			
<b>Language(s) in which the decision is written:</b> A summary is available in Finnish.			
<b>Official court translation available in any other languages?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>Count(y) (ies) of origin of the applicant(s):</b> <b>Iraq</b>			
<b>Country of asylum (or for cases with statelessness aspects, country of habitual residence) of the applicant(s):</b> <b>Finland</b>			
<b>Any third country of relevance to the case:<sup>3</sup></b> <b>n/a</b>			
<b>Is the country of asylum or habitual residence party to:</b>			
The 1951 Convention relating to the Status of Refugees <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Relevant articles of the Convention on which the decision is based:	
<b>(Only for cases with statelessness aspects)</b> The 1954 Convention relating to the Status of Stateless Persons <input type="checkbox"/> Yes <input type="checkbox"/> No		Relevant articles of the Convention on which the decision is based:	
<b>(Only for cases with statelessness aspects)</b> The 1961 Convention on the Reduction of Statelessness <input type="checkbox"/> Yes <input type="checkbox"/> No		Relevant articles of the Convention on which the decision is based:	
<b>(For AU member states):</b> The 1969 OAU Convention governing the specific aspects of refugee problems in Africa <input type="checkbox"/> Yes <input type="checkbox"/> No		Relevant articles of the Convention on which the decision is based:	
<b>For EU member states:</b> please indicate which EU instruments are referred to in the decision		Relevant articles of the EU instruments referred to in the decision:	

**Topics / Key terms:**

**Asylum**

**Refugee Status**

**Internal Flight Alternative**

**Key facts**

The applicant, originating from Mosul, is an Arab and a Sunni Muslim. He had applied for international protection in Finland because of the threat posed by ISIS.

## **Key considerations of the court**

The Finnish Immigration Service had considered that all legal prerequisites for granting asylum were fulfilled in the case of the applicant originating from Iraq, and that he had a well-founded fear of being persecuted in his home country as laid down in Section 87(1) of the Aliens Act. The Finnish Immigration Service had, however, not granted the applicant asylum, because they considered that the applicant had an internal flight alternative in Baghdad. The Finnish Immigration Service had decided to deport the applicant to his home country. The question at the Administrative Court was therefore, whether the Finnish Immigration Service could have had refrained from granting asylum to the applicant in accordance with Section 88 e of the Aliens Act.

According to updated country of origin information used in the decision of the Administrative Court, the general situation in Baghdad does in itself not amount to a hindrance for an internal flight alternative. However, the applicant was a Sunni Arab from Mosul, which is under the control of and strongly associated with ISIS. According to the country of origin information, persons with the background in question are at a greater risk of being subjected to violations by Shia militias than Sunni Muslims originating from Baghdad are. They are often suspected to be ISIS fighters or supporters and therefore, the Shia militias pay close attention to them. According to the country of origin information, the militias operate freely within the area of Baghdad, including the areas with a Sunni majority.

The Administrative Court held, considering the background of the applicant, that there were significant reasons to assume that the applicant would be at serious risk of being subjected to violations by Shia militias in Baghdad. The applicant belongs to a religious minority in Baghdad. It had not been manifested that the applicant would have family- or other support networks in Baghdad, nor was there any protection available in practice from the state authorities. Taking into consideration the applicant's profile as a whole, the Administrative Court did not consider an internal flight alternative to Baghdad to be possible for the applicant. Hence, the Finnish Immigration Service should not have rejected the application based on these grounds.

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## **Other comments or references**

### References made by the court to legal provisions:

The Aliens Act Section 87(1), Section 88 e, Section 146, Section 147 and Section 148

### References made by the court to case law:

The European Court of Human Rights, Salah Sheekh v. the Netherlands, 11 January 2007

The European Court of Human Rights, J.K. and others v. Sweden, 23 August 2016

### References made by the court to country of origin information:

UNHCR Guidelines on International Protection: Internal Flight or Relocation Alternative within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 23 July 2003

UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq, 31 May 2012

UNHCR, Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA) in Baghdad for Sunni Arabs from ISIS-Held Areas, May 2016

UNHCR Position on Returns to Iraq, November 2016

Landinfo, Temanotat, Irak: Bagdad – sikkerhetssituasjon per februar 2015, 13 Februar 2015

United Nations Security Council, Third report of the Secretary-General pursuant to paragraph 6 of resolution 2169 (2014), 1.5.2015

U.S. Department of State: Country Reports on Human Rights Practices for 2015 – Iraq, 13 April 2016

UK Home Office, Country Information and Guidance, Iraq: Security Situation in Baghdad, the south and the Kurdistan Region of Iraq (KRI), August 2016

Institute for the Study of War, Control of the Terrain in Iraq, August 25, 2016

Landinfo, Respons, Irak: Situasjonen for arabiske internt fordrevne sunnimuslimer i Bagdad, 28 juni 2016

Suuntaus-hanke: Bagdadin turvallisustilanne - shiamilitiat, Maahanmuuttovirasto 29.4.2015

Lifos Temarapport Irak: Säkerhetsläget – första halvåret 2016, 18.7.2016

UK Home Office, Country Information and Guidance, Iraq: Sunni (Arab) Muslims, August 2016

Landinfo, Respons, Irak: Militser i Bagdad, 6 september 2016