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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD**

Situation of human rights in Iraq

**Report submitted by the Special Rapporteur, Andreas Mavrommatis,
in accordance with Commission resolution 2002/15***

* In accordance with General Assembly resolution 53/208B, paragraph 8, this document is submitted late so as to include the most up-to-date information possible.

Executive summary

This is a brief report as it covers the period 21 August to 31 December 2002, including the presentation by the Special Rapporteur of his interim report to the General Assembly at its fifty-seventh session (A/57/325). The Special Rapporteur held consultations both in Geneva and New York during the last days of October and the beginning of November 2002 with a number of Permanent Representatives of the European Union, Iraq, Kuwait, the United States of America, as well as representatives of the International Committee of the Red Cross and international non-governmental organizations like Amnesty International and Human Rights Watch.

During the period under review, the Special Rapporteur mainly focused his efforts on the preparations for his second visit to Iraq, and especially on its programme and contents, and was hence not in a position to visit other places. Various letters were exchanged between the Special Rapporteur and the Iraqi authorities in relation to the duration of the visit and its scope, the composition of the delegation accompanying the Special Rapporteur, as well as the range of officials and representatives of civil society to be met during his visit. The visit should also allow the Special Rapporteur to travel to various areas of the country, e.g. the Baghdad area, as well the north and the south of the country, including the marsh areas. As far as the substance of the mission was concerned, the Special Rapporteur indicated that he would follow up on the issues raised during his initial visit and in his last reports to the Commission on Human Rights (E/CN.4/2002/44) and to the General Assembly. He would also consider specific civil and political rights in relation to freedom of opinion and expression, the right to peaceful assembly and association as well as to take part in public affairs, and to the protection of rights of minorities. He would finally examine a number of economic and social rights, including the unintended effects of the embargo. Regarding the dates for the visit, the Special Rapporteur is carefully watching present developments and consults as appropriate, in particular with the Iraqi authorities, in order to reach a decision as soon as possible.

The Special Rapporteur was pleased to hear about the resumption of work of the Technical Sub-Committee, discontinued since 1998, following an agreement reached by the Tripartite Commission on Missing Persons, chaired by the ICRC, in Geneva on 18 December 2002. He is of the view that only full and unreserved compliance by the Government of Iraq with all its obligations under binding human rights treaties or other customary international law, as well as Security Council resolutions, will peacefully resolve the present crisis in the best interest of the Iraqi people. Whatever the developments in respect of Iraq, human rights must be given the highest priority for the future, including the possible positioning of a human rights presence in Iraq.

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Introduction

1. The present report of the Special Rapporteur on the situation of human rights in Iraq, Andreas Mavrommatis, is submitted to the Commission on Human Rights at its fifty-ninth session, pursuant to paragraph 5 (a) of Commission resolution 2002/15. The mandate of the Special Rapporteur was originally established by the Commission in resolution 1991/74, and extended in subsequent resolutions.
2. This report should be appraised in conjunction with the interim report that the Special Rapporteur submitted to the General Assembly (A/57/325), as well as previous reports of the Special Rapporteur to the Commission and the Assembly. The report covers the period 21 August 2002 to 31 December 2002.
3. The present report will be brief, mainly because during the period under review, the Special Rapporteur was concentrating on the preparations for his second visit to Iraq and hence could not visit other places. The Special Rapporteur has focused on the programme and contents of his next visit to Iraq. As far as the actual dates are concerned, the Special Rapporteur has followed closely the developments which took place before and after the adoption of Security Council resolution 1441 (2002), and had special meetings both in Geneva and New York in order to take a final decision on the dates of the visit, which should materialize soon and, hopefully, early enough to enable him to submit an addendum to the report before or during the fifty-ninth session of the Commission, containing his findings as a result of his second visit, as well as information from other sources.

I. DEVELOPMENTS IN THE CONTEXT OF AND SINCE THE FIFTY-SEVENTH SESSION OF THE GENERAL ASSEMBLY

4. The Special Rapporteur held consultations in Geneva on 31 October and 1 November 2002 and met with the High Commissioner for Human Rights and senior officials of his Office. He also had meetings with the Permanent Representatives of France, Germany, Denmark (then chair of the European Union), Kuwait and the United States of America, as well as with representatives of the International Committee of the Red Cross. During his brief stay in New York, the Special Rapporteur presented his interim report to the Third Committee of the General Assembly and had meetings with the Permanent Representatives of Iraq (in Geneva as well as New York), the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland, human rights experts of the European Union, as well as with the Executive Director of the Office of the Iraq Programme. The Special Rapporteur also met with representatives of Amnesty International and Human Rights Watch.
5. While introducing his report to the Third Committee, the Special Rapporteur referred to the improved dialogue initiated with Iraqi officials in the aftermath of his exploratory visit to Iraq in February 2002. He also called on Iraq to embark on a series of reforms to end abuses such as extrajudicial killings; torture and cruel, degrading and inhuman treatment and punishment; forced displacement; and lack of fair trial, freedom of expression and association, religious freedom and other rights. The Special Rapporteur, whilst welcoming the amnesty decree signed by the President of Iraq on 20 October 2002 for the release of all prisoners, referred also to his intention urgently to request the Government to provide him with full details

regarding the number of inmates released and of those who did not benefit from the amnesty. He referred as well to the still-pending issue of Kuwaiti and Iraqi missing persons, to the unintended humanitarian consequences of the international embargo against Iraq, and to the feasibility and scope of his second visit to Iraq.

6. Various letters were exchanged between the Special Rapporteur and the Permanent Mission of Iraq in Geneva during the period under review. In the first, dated 26 August 2002, the Government indicated that it welcomed in principle a visit by the Special Rapporteur to Iraq and referred to the submission of a detailed programme for the proposed visit. On 13 September 2002, the Special Rapporteur wrote to the Permanent Representative of Iraq regarding the alleged execution of five men in Basra on 9 July 2002 following charges that they belonged to religious parties working as agents for the Islamic Republic of Iran. On the same day, the Special Rapporteur sent another letter regarding his next visit to Iraq and suggested that a meeting be held in Geneva in October 2002 with the Permanent Representative of Iraq to discuss the modalities of the mission and to agree on a programme. Unfortunately, that meeting could not take place.

7. On 23 October 2002, the Permanent Mission of Iraq forwarded to the Special Rapporteur a statistical study entitled "Impact of the Unjust Embargo on the Health of the Iraqi Peoples" updated on 30 September 2002. A second note verbale on the same issue was received by the Special Rapporteur on 5 December 2002 with statistics updated in October 2002. The Special Rapporteur orally requested that these data be provided with a brief commentary by the relevant Iraqi authorities and explanations as to their source and origin. On 21 October 2002, the Special Rapporteur was sent by note verbale of the Permanent Mission of Iraq a copy of Iraqi Revolutionary Command Council resolution No. 225, dated 20 October, concerning the "general, comprehensive and final amnesty for Iraqi prisoners (civilian and military) inside and outside Iraq".

8. On 4 November 2002, the Special Rapporteur wrote to the Permanent Representative of Iraq in Geneva and requested information in relation to the recently held presidential elections and the consistency of these elections with Iraq's international obligations under the International Covenant on Civil and Political Rights. The letter also made reference to the amnesty decree of the Revolutionary Command Council, asking the Permanent Representative to supply the Special Rapporteur with the list of prisoners who were released and the list of those who did not benefit from the amnesty and the reasons therefor, as well as details regarding the names of prisoners, the sentence served or being served, the crimes committed and the legal provisions under which they had been charged.

9. On 26 November 2002, the Government of Iraq sent two letters to the Special Rapporteur in response to his, dated 13 September and 4 November 2002. The first letter provides details regarding the five cases of alleged executions transmitted by the Special Rapporteur: two of them had been released, whereas the three others were executed (one in 1999 and two in 2002) on charges of drug trafficking. In its second reply, the Government indicated that elections had been monitored by local observers and the media, as well as by persons of Arab origin or foreigners who were able to go and talk freely to Iraqi citizens while they were voting. As far as

the amnesty decree was concerned, the Government confirmed that a vast number of detainees benefited from the amnesty, but that much time was still needed to establish the full lists of those who had been released and of those who remained imprisoned.¹

10. The above issues shall be on the Special Rapporteur's agenda during his next visit to Iraq as priority items.

11. The Special Rapporteur wrote again on 25 November 2002 to the Permanent Representative of Iraq in Geneva in connection with his next visit to Iraq. He informed the Permanent Representative of the contemplated duration of the visit (two weeks), of the desired composition of the delegation accompanying the Special Rapporteur (four human rights officers and three English/Arabic interpreters), and of his intention to carry out visits not only to the Baghdad area, but also to the north and the south of the country, including the marsh areas. This might imply the splitting of his delegation into two or three groups. The Special Rapporteur also highlighted that he wished to meet with a wide range of national and local officials from the Government, the army, the police, the judiciary, and the health, school, employment, agricultural and trade sectors. In addition, the Special Rapporteur would also meet with key representatives of civil society such as economic actors, and representatives of local groups dealing with women's and children's issues and with health, education, the media, and public and cultural life. He would undertake visits as appropriate to prisons, hospitals and health and nutrition centres, as well as to places of worship, parliament and universities.

12. The Special Rapporteur also indicated his intention to meet with the representatives of the United Nations agencies accredited in the country and continue his cooperation with the Resident Representative of the United Nations Development Programme and the UNICEF Programme Director. As far as the substance of his visit was concerned, he mentioned that he would follow up on the various issues raised during his initial visit and in his last reports to the Commission on Human Rights and to the General Assembly, and would focus on specific civil and political rights in relation to freedom of expression, the right to peaceful assembly and association, the right to take part in public affairs, and to the protection of the rights of minorities. He would also study in depth a number of economic and social rights, including the unintended effects of the embargo.

13. Finally, the Special Rapporteur emphasized that full respect of the terms of reference applicable to Special Rapporteurs' visits, attached to the letter for easy reference, was crucial and reiterated that absolute freedom of movement throughout Iraq and the ability to conduct private and confidential interviews were sine qua non conditions for the success of his mission.

14. The Permanent Mission of Iraq in Geneva sent a note verbale to the Special Rapporteur dated 20 December 2002 in response to his letter of 25 November 2002, indicating in substance that the Government of Iraq, as an expression of good faith and serious desire to cooperate and hold a constructive and fruitful dialogue, welcomed the next visit to Iraq and requested the Special Rapporteur to provide further details about the dates, period, programme, and officials and other personalities that the Special Rapporteur wished to meet, in order to coordinate and guarantee their presence during the period of the visit.

15. The Permanent Mission of Iraq sent another note verbale on 30 December 2002 in response to the letter sent by the Special Rapporteur on 25 November 2002, informing him that the Government would like to know the dates and the period of his next visit to Iraq.
16. As already stated, the Special Rapporteur is of the opinion that the visit to Iraq should take place, in the interests of the Iraqi people, as soon as possible; he had in mind between November 2002 and January 2003 as possible dates. Circumstances have made the finalization of the actual dates rather difficult, but the Special Rapporteur is watching developments carefully and consults as appropriate in order that a decision can be taken soon.
17. In any event, pending such an important and urgent visit, the Special Rapporteur intends to continue and intensify meetings in Geneva with the Permanent Representative of Iraq and expects that, as promised, officials from the Human Rights Section of the Ministry of Foreign Affairs, who have daily experience in situ of the situation and do not have to refer back to the capital in order to respond to queries, might also be able to attend such meetings.
18. Topics for discussion would be the human rights issues referred to in this report as well as the details of the programme of the next visit. The Special Rapporteur also proposes, if circumstances permit, to visit other places outside Iraq, where he could gather recent information on human rights issues in Iraq.
19. Finally, the Special Rapporteur received a note verbale on 30 December 2002 from the Permanent Mission of Iraq in response to his letter of 1 July 2002, in which he requested the Permanent Representative to provide him with accurate information about the death penalty, the number of persons executed in 2000 and 2001, the detention conditions in Abu Ghraib prison of persons sentenced to death, the role of special courts, the issues of Arab ethnicity and "Arabization", as well as the impact of Security Council resolution 1409 (2002) on the humanitarian situation in Iraq. In substance, the Government of Iraq indicated in its reply that during 2000 and 2001, 259 persons had been executed, the majority of whom (165 cases) had been convicted of murder and 80 of crimes related to drug trafficking. Out of the total number, 109 persons were executed following decisions made by the special courts. A draft study on the reduction of crimes currently carrying the death penalty was being prepared and would be sent to the Special Rapporteur once formally approved. Details were also given in relation to the number of persons having benefited from legislation, presidential decrees or decisions of the Court of Cassation reducing death sentences between 2000 and 2002, as well as to the composition of special courts and the procedures followed.²
20. During the period under review, the Special Rapporteur was also informed of the publication on 2 December 2002 by the United Kingdom Foreign and Commonwealth Office of a report entitled *Saddam Hussein: crimes and human rights policies*. Many of the human rights abuses mentioned in the report had already been brought to his or his predecessor's attention. The Special Rapporteur, having studied this report, drew the attention of the Permanent Mission of Iraq in Geneva to it.

21. With regard to the issue of Kuwaiti prisoners of war and persons unaccounted for, the Special Rapporteur was pleased to hear that the Tripartite Commission on Missing Persons, chaired by the ICRC, had met in Geneva on 18 December 2002 and reached a formal agreement paving the way for a resumption of the work of the Technical Sub-Committee which had been discontinued since 1998. The Sub-Committee met on 8 January 2003 under the chairmanship of the ICRC and decided to meet again on 22 January. In addition, the Special Rapporteur welcomes the invitation extended to Ambassador Yuli Vorontsov, the High-Level Coordinator, pursuant to Security Council resolution 1284 (1999), to visit Iraq. The Special Rapporteur reiterates his willingness to assist in any way possible to solve the issues of the missing persons.

22. Irrespective of whether the Special Rapporteur will be in a position to carry out his visit to Iraq in the next few weeks, he will continue to follow all human rights issues raised during his exploratory visit to Iraq in February 2002 and in his last two reports to the Commission and the Assembly, as well as matters raised in the present report, and shall carefully examine all new information on violations of human rights.

23. The Special Rapporteur shall also press for appropriate replies to all his requests for information, both in respect of those cases where no reply has been received or where the reply was incomplete or unsatisfactory.

24. Priority shall be given to information on ongoing serious violations of the right to life, including extrajudicial killings and the death penalty, torture, forced displacement, and the lack of fair trial, freedom of expression and association, and religious freedom.

25. Other matters to be examined will include planned reforms in the prison sector and their implementation; the decree allowing the changing of nationality and/or ethnicity to the Arab one; "Arabization", as well as the decree dealing with the naming of children.

26. The Special Rapporteur shall continue to follow the issue of the unintended effects of the embargo and his contacts on this issue with specialized agencies, including UNICEF and the Office of the Iraq Programme.

II. CONCLUSIONS AND RECOMMENDATIONS

27. **The Special Rapporteur reiterates all his previous recommendations and in particular those included in his last two reports (E/CN.4/2002/44 and A/57/325). He shall revert to the issue of recommendations in the light of developments following his next visit to Iraq. In the meantime, the Special Rapporteur urges the Government of Iraq to comply forthwith with all these recommendations in the best interest of the Iraqi people.**

28. **Full and unreserved compliance by the Government of Iraq with all its obligations under binding human rights treaties or under customary international law is a must, and at the same time the international community should stand ready to assist in the process as appropriate. This includes the Special Rapporteur.**

29. **Therefore, whatever the developments in respect of Iraq (the Special Rapporteur can only express hope that compliance with Security Council resolutions will peacefully resolve the issue of weapons of mass destruction), human rights must be given the highest priority for the future. This should include a human rights presence in Iraq that, in cooperation with the Government, would ensure that appropriate legislation, practices and institutions for the implementation of human rights norms are in place, and at the same time monitor compliance with these norms, make recommendations and report as appropriate. Sufficient funds to implement the above should be earmarked as of now.**

Notes

¹ The summarized reference to the two answers dated 26 November 2002 by the Government of Iraq is based upon an unofficial translation from Arabic into English.

² The summarized reference to the note verbale dated 30 December 2002 of the Permanent Mission of Iraq is based upon an unofficial translation from Arabic into English.
