



RESEARCH ARTICLE

Definition and Legal Implications of the Crime of Unauthorized Entry of Foreigners a Comparative Study with Reference to the 2017 Foreign Residency Law

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Although the entry of foreigners into the territory of a country involves certain minimal rights granted under international law, relevant authorities at the country's borders ensure compliance with requirements such as verifying documents like passports or equivalent identification, confirming the foreign individual's destination, and securing entry permits from the appropriate authorities. Additionally, authorities check for any record of individuals on the list of those prohibited from entering Iraq. Any violation of these conditions is considered unauthorized entry and may lead to legal liability for the foreigners, unless there are valid reasons for such an occurrence.

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INTRODUCTION

International legal frameworks define specific rights and methods for regulating the entry of foreigners based on the 2017 specialized international residency law and comparative regulations. The importance of this topic arises from Iraq's transition into a more open society, necessitating flexible policies towards foreigners and the amendment of several laws, including the Foreign Residency Law. The issue is also critical due to the need for criminal accountability in cases where foreigners illegally enter the territory of the Republic of Iraq, posing a threat to its security and stability.

Research problem

This issue presents several legal challenges that require investigation, especially since Iraqi law criminalizes illegal entry of foreigners with a penalty of up to three years of imprisonment. This punishment does not align with the gravity of the offense, particularly following the influx of many individuals illegally entering the country after the presence of the terrorist organization ISIS. In addition, the previous repealed law imposed temporary detention or even execution, alongside deportation of the foreigners and confiscation of their assets. Furthermore, the law did not distinguish between deportation as a punishment for illegal entry and deportation as a consequence of lawful entry where residency rules were violated.

RESEARCH METHOD

This study employs an inductive approach to analyze legal texts, coupled with a comparative method, examining the issue of illegal entry into Iraq in relation to Egyptian and French legislation due to the mutual influence of these laws in this context.

Structure of the study

The research is divided into two main sections, preceded by an introduction and followed by a conclusion. The first section addresses the concept of foreigners, while the second section explores the fundamental legal rulings regarding the crime of unauthorized entry of foreigners.

Section 1

The concept of a foreigner

This section is divided into two parts. In the first part, we examine the definition of a foreigner, and in the second part, we discuss the regulations concerning the entry of foreigners into the territory.

Part 1: Definition of a foreigner

According to the principles recognized by private international law, nationality is determined by national legislation. Iraqi foreign residency law defines a foreigner as "any person who does not hold Iraqi nationality." Based on the Iraqi Nationality Law, anyone who does not possess Iraqi citizenship is considered a foreigner. Similarly, the Iraqi Civil Status Law defines a foreigner as "someone who lacks Iraqi nationality." Therefore, a foreigner is an individual who does not have Iraqi citizenship and is thus deprived of related rights.

The Egyptian legislator also defines a foreigner as "any person who does not hold the nationality of the Arab Republic of Egypt." Therefore, the Egyptian law agrees with general principles by applying the term "foreigner" to any individual without Egyptian nationality, whether they are stateless, of unknown nationality, or have a different nationality.

The French legislator defines a foreigner as "any person who does not hold French nationality," regardless of whether they have a foreign nationality or are stateless.

The concept of a foreigner in jurisprudence

In jurisprudence, a foreigner is defined as "any person deprived of the nationality of the country in which they are present," or "one who lacks any national affiliation and does not hold the nationality of the individuals within that country according to its nationality laws."

Based on the above, we can conclude that a "citizen" is a person who, according to nationality laws, possesses the nationality of a country. Otherwise, the person is considered a "foreigner," meaning someone who does not hold the national citizenship of the country in which they reside but instead holds the nationality of another country. Whether an individual is a "citizen" or a "foreigner" depends on the nationality criterion, which can differentiate between a citizen and a foreigner.

Therefore, we can define a foreigner as "someone deprived of the rights and obligations granted to them under national citizenship laws."

Part two: Regulation of foreigners' entry into the country's territory

The entry of foreigners into any country's territory requires compliance with legal conditions that allow them to enter lawfully. The general requirements for the lawful entry of foreigners into a country's territory are as follows:

Firstly: Foreigners must possess a passport, which serves as the primary document for individuals traveling between countries. This passport allows its holder to present themselves to the relevant authorities in foreign countries, proving their identity and nationality.

Considerations regarding passports include:

1. **From a legal perspective:** Iraqi legislation emphasizes the necessity for foreigners to carry a passport or an equivalent travel document. Article 3 of the Foreign Residency Law in Iraq states, "For foreigners to enter or exit the territory of the Republic of Iraq, they must ... firstly: possess a passport or (travel document)." Similarly, Article L511-1 of French law requires foreigners to provide the necessary documents to validate their lawful entry into France. Likewise, the Egyptian legislator has stressed that "entry into or exit from the Arab Republic of Egypt is only permitted for individuals with a passport or travel document."

From the above legal texts, it is clear that foreigners who wish to enter any country must carry a passport or an equivalent travel document. The passport or document must meet the necessary legal requirements to confirm the holder's identity and nationality.

2. Regarding passport conditions: The passport carried by foreigners must meet the following requirements:

- The passport or travel document must be valid and current. This is affirmed in Article 3, Section One of the Foreign Residency Law of Iraq, as well as Article 2 of the Law on Entry and Residence of Foreigners in the Arab Republic of Egypt. French legislation, in Article R211-30, also emphasizes the need for relevant documents to guarantee the foreigner's return to their home country.
- Foreigners must have a valid visa issued by the relevant authorities in their passport or travel document to be allowed entry. Article 1 of the Iraqi Foreign Residency Law defines a visa as "approval for foreigners to enter the territory of the Republic of Iraq, documented in their passport by the Iraqi consul, their representative, or any entity protecting the interests of the Republic of Iraq abroad, or authorized by the minister."

The above text shows that the Iraqi legislator has not explicitly mentioned a travel document that can substitute a passport for the holder. Since the legislator stipulates in Article 3, Section One of the Foreign Residency Law that the requirement for entering the Republic of Iraq is a passport or an alternative travel document, it is recommended that the Iraqi legislator add the phrase "or travel document" to complete the text and align it with the practices outlined in their legal texts. This phrase could be added as follows: "Approval for foreigners to enter the territory of the Republic of Iraq, documented in the passport or travel document by the Iraqi consul, their representative, or any entity protecting the interests of the Republic of Iraq abroad, or authorized by the minister." The Ministry of Interior, Iraqi consulates, their representatives, or any other entity supporting Iraqi interests abroad must issue entry visas to foreigners by recording the entry visa and stamping their entry and exit.

French law, in Article R211-1, also states that "the entry of foreigners requires an entry visa for France." The Egyptian legislator follows a similar approach, specifying in Article 2 of the Egyptian Foreigners Law that "the passport or document must be endorsed with a visa."

The Iraqi legislator grants authority to the Director General or their representative, or an ambassador, to issue entry visas for one or multiple trips to foreigners. These visas can be valid for three months, six months, or one year, allowing the holder to enter Iraq within three months of issuance and use the visa for multiple entries. The visas can be renewed under the principle of reciprocity according to guidelines issued by the Minister of Interior. The French legislator specifies different types of visas issued to foreigners intending to enter the country, such as temporary residence, long-term residence, and multiple-entry visas, which are issued through consulates and diplomatic representations abroad.

However, the Egyptian legislator has not comprehensively limited the entry of foreigners in its legal texts and has delegated this authority to the Ministry of Foreign Affairs. It determines general policies regarding entry visa issuance after coordinating with the Ministry of Interior. Through the systems and guidelines it issues, it specifies the types of entry visas, issuing authorities, issuance procedures, and visa fees.

Secondly: Foreigners must not be prohibited from entering the country due to issues related to public health, public morals, or public security.

Thirdly: Foreigners' entry must occur through designated locations, meaning they should enter via official border crossings to monitor the movement of foreigners entering the country and safeguard national security and stability. This measure also ensures the registration of foreigners, the time of their entry, and the receipt of entry authorization from the relevant authorities. This requirement is confirmed in Article 3, Section Four of the Foreign Residency Law of Iraq. Similarly, the Egyptian legislator addresses this matter in Article 3 of the Residency Law. Moreover, French legislation, in Article L511-1-1^o, stipulates that if foreigners cannot clarify their legal entry status into France, their situation should be examined.

Second section: Fundamental regulations for the crime of illegal admission of foreigners

To fully understand the legal aspects of this crime, we will divide the discussion into two parts. The first part will address the elements of the crime, and the second part will cover the penalties associated with it.

Part one: elements of the crime of illegal admission of foreigners

This crime consists of three elements: the material element, the mental element, and a presumed element, which requires that the perpetrator must have a specific characteristic, namely, being a foreigner. We will elaborate on this topic as follows:

Section one: the material element

The Iraqi legislator defines the material element as "a criminal act involving either the commission of an act considered a crime by law or the omission of an act required by law." The material element represents the outward appearance of the crime and involves an external violation of the protected interest. It includes three components: the conduct by the foreigner, the outcome, and the causal relationship between them. The offense of illegal entry of a foreigner comprises two elements: the conduct and the presumed outcome. We will discuss these elements as follows:

First: the criminal conduct

The crime of illegal entry by a foreigner occurs through positive conduct since it is considered a formal crime that is completed upon the performance of the conduct that constitutes the crime. Positive conduct is defined as a physical movement originating from the foreigner's will, resulting in changes in the external world that can be perceived by any of the senses, regardless of whether it leaves material evidence.

Before discussing the forms of positive conduct in the crime of illegal entry, we must explain the concept of "territory" since this crime is committed by the foreigner only after entering the country's territory. This can be outlined as follows:

1. Territory of the country: The actual territory of a country includes the following:

- Land territory: The country's land area.
- Water territory: Internal and territorial waters.
- Air territory: The airspace over the country.
- Additionally, the de jure territory includes all ships and aircraft flying the national flag, as well as embassies, consulates, and diplomatic representations located in other countries but under the jurisdiction of the home country.
- The extraterritorial jurisdiction refers to foreign lands occupied by the Iraqi military, whether temporarily or permanently. In such cases, Iraqi Penal Law applies to crimes committed in these areas, especially if the crimes are intended to harm the security or interests of the military.

Positive conduct in the crime of illegal entry: The criminal behavior involves performing a set of physical acts that lead to the commission of the crime, such as using physical force to enter the country, forging a passport or travel document, attempting to enter and pass through without a passport or travel document, without a visa or entry stamp, or entering through unofficial border points. Other acts include providing false information. These cases can be explained as follows:

A. Forging a passport, travel document, or entry visa: A foreigner prohibited from entering Iraq may resort to forging their passport or travel document to execute their criminal act and enter a territory where their entry is banned. The Iraqi legislator has stipulated in Article 4 that, "Any foreigner who attempts to enter Iraqi territory, if there is evidence of tampering with personal information or Iraqi or non-Iraqi visas, or alterations in the photograph in the passport or travel document, shall be referred to the competent authorities for further investigation, observing the principle of reciprocity."

B. Entry without a passport or travel document: A foreigner may engage in the criminal behavior by entering the country without a passport or travel document that verifies their identity. If entry

occurs without authorization from the competent authorities, they will be criminally liable for illegal entry.

C. Entry without an entry visa: A foreigner must have a valid and registered entry visa in their passport or travel document when entering Iraq to be granted entry at the border, whether by land, air, or sea. Article 3, Section Two of the Iraqi Foreign Residency Law stipulates that, "The entry visa ... registered in the passport or travel document ..." Moreover, the same article emphasizes that, "It must be registered in the passport or travel document with an entry stamp upon arrival in the Republic of Iraq and an exit stamp upon departure."

D. Entry through unofficial points: A foreigner may enter Iraqi territory without passing through the official border points, thus entering the country illegally. Article 3, Section Four of the Iraqi Foreign Residency Law specifies that a foreigner must enter the Iraqi territory through official border points and have their passport or travel document registered. Failure to comply with this requirement makes the foreigner criminally liable for the offense of illegal entry.

E. Foreigners free from contagious and infectious diseases: The Iraqi legislator has mandated that the Iraqi consulate or any other entity representing the interests of the Republic of Iraq abroad ensure, when issuing an entry visa to a foreigner wishing to enter Iraq, that the foreigner meets the requirements mentioned in Article 8, Section Five. However, some individuals may be exempt from medical examinations due to age or based on the principle of reciprocity.

F. Multiple offenses committed by a foreigner: A foreigner may commit multiple interconnected acts that are inseparable and aimed at a single purpose. In this case, there is a real multiplicity of offenses. For instance, someone committing passport forgery for entry into the country does so only with the intention of using the forged passport. By doing this, they commit another crime: using a forged official document. All these actions are taken to leave their country illegally and enter another country from which they have previously been expelled and placed on a no-entry list. Therefore, multiple acts are performed to enter a territory where their entry has been prohibited.

Second: The outcome

Every criminal act has an outcome, whether it is a material outcome that causes changes in the external world or a legal outcome that represents a violation of a right or interest protected by law. The legal outcome is intangible and inherently connected to the criminal conduct as the cause of the offense.

The question that may arise here is: What outcome results from the crime of illegal entry by a foreigner? Is it a material outcome or a legal outcome?

To answer this question, examining the relevant legal texts reveals that the mere entry of a foreigner into the country without authorization from the competent authorities suffices to establish the crime, without requiring any specific outcome. Therefore, this crime is classified as an offense of danger, where the specific conduct of the foreigner and the violation of the legally protected interest are sufficient. Thus, the outcome of this crime is a legal outcome rather than a material one.

Third: Attempt in the crime of foreign entry to the country

Article 38 of the Iraqi Foreign Residency Law states: "Any person who transports or attempts to transport someone to Iraq in violation of the provisions of this law shall be sentenced to imprisonment for up to one year and a fine not less than 500,000 dinars and not more than 1,000,000 dinars, or either penalty. Anyone found on a means of transport bound for Iraq, whose driver attempts to bring them into the country, shall be subject to the same penalty unless proven otherwise."

This shows that the Iraqi legislator imposes the same penalty for the attempted illegal entry as for the completed crime, even if the crime was not fully realized due to factors beyond the foreigner's control. In this way, the Iraqi legislator departs from the general principles of the Iraqi Penal Law, which stipulates in Article 31 that attempted crimes should carry half the penalty of the completed crime.

Part two: The mental element

The crime of foreign entry cannot occur without intent, meaning it requires both knowledge and will. Regarding knowledge, it is necessary for the foreigner to be aware of the facts constituting the crime and that their criminal conduct makes them criminally liable. For instance, when using a forged passport, entering without a visa, or crossing Iraq's borders through unofficial points, the foreigner is considered aware of the criminal conduct they are undertaking to achieve the outcome, which is illegal entry into the country.

Regarding will, the foreigner must have a deliberate intention to perform an act constituting the crime with the aim of achieving the outcome. Without this intention, criminal liability does not arise. For example, if a foreigner enters a country due to a lack of understanding, coercion, or necessity to protect themselves from imminent danger, or due to young age, in all these cases, the criminal intent of the foreigner is nullified, and consequently, the criminal liability for the crime of illegal entry into the Republic of Iraq is also removed.

Section three: the status of the offender

Criminal liability for the offense of illegal entry by foreigners is contingent upon a presumed condition known as the status of the offender. This condition must be met for the crime to be established. It is essential that the individual in question is a foreigner, meaning that they possess a nationality other than that of the country they intend to enter. This concept of a foreigner has been precisely defined previously, so it will not be repeated here.

The fundamental principle discussed in the relevant legislation is that entry into the country's territory is prohibited for a foreigner without complying with all the legal conditions for entry. These restrictions are no longer absolute but have been shaped through criminal legislation. Some foreigners are exempt from the entry procedures and the regulations of this law despite having a foreign nationality. The details of this are as follows:

First - individuals exempt from the provisions of the law:

In Article 1, Section Three, the Iraqi legislator specifies the categories of individuals who are not subject to the provisions of this law:

- i. Heads of State, Kings, and Foreign Heads of Government, along with their family members and entourages during their travels.
- ii. Heads of diplomatic and consular missions, along with officially accredited or non-accredited staff and their families, following the principle of reciprocity and the issuance of special passports by the Ministry of Foreign Affairs.
- iii. Individuals responsible for the management of ships, airplanes, and trains entering the Republic of Iraq during the stay of the vessel, aircraft, or train, provided that the Iraqi authorities approve the entry and exit of their travel documents.
- iv. Passengers on ships, airplanes, and trains who are allowed by the Iraqi authorities to disembark or temporarily stay in the territory of the Republic of Iraq during the stay of the vessel, aircraft, or train.
- v. Individuals exempt under agreements or international treaties to which the Republic of Iraq is a party.
- vi. Children below the passport age whose names are included in their parents' passports.

Second: political refugees

The Iraqi legislator has exempted political and military refugees from the provisions of the Foreign Residency Laws. Article 8 of the Iraqi Law on Political Refugees states:

1. Any individual who:
2. Is accepted as a refugee in Iraq, or Enters Iraq to seek asylum, is exempt from the provisions of the Foreign Residency Laws.

Third: displaced persons

These individuals are those who, due to armed conflicts and a need to protect their lives, are forced to flee their homes, whether because of human actions or natural causes. These circumstances push people to either relocate within their country or cross into neighboring countries. This situation has been observed during the conflict with the terrorist organization ISIS in Iraq, which resulted in widespread destruction and significant material and moral losses. The displacement included movements across the Iraq-Syria border to escape danger.

In cases like these, displaced people in border areas have been driven to migration out of necessity and are thus exempt from the regulations of the Foreign Residency Law. There are also some international humanitarian organizations, such as the Human Rights Organization and the Red Cross and Red Crescent societies, which are exempt from entry conditions due to the humanitarian work they carry out.

CONCLUSION

Based on the above, we conclude that the Iraqi legislator has exempted certain categories of foreigners from the provisions of the Foreign Residency Law for the following reasons:

1. **Political reasons:** Including heads of state and senior embassy staff.
2. **International agreements:** Foreigners exempt under international treaties and agreements to which the Republic of Iraq is a party.
3. **Economic reasons:** Passengers on ships, airplanes, and vehicles entering Iraq and staying in the country for a period.
4. **Social reasons:** Residents of border areas in neighboring countries who carry out daily activities in Iraq, as governed by agreements between the Republic of Iraq and their respective countries, with the knowledge of the border authorities.

Section Two: penalties for illegal entry of foreigners

For the crime of illegal entry, both primary and secondary penalties have been established, which will be detailed below.

Primary penalty

The punishment for illegal entry includes imprisonment for a period not exceeding one year, and a fine ranging from a minimum of 500,000 dinars to a maximum of 1,000,000 dinars, or one of these two penalties. Article 39 states that anyone who attempts to enter the Republic of Iraq in violation of the provisions of this law shall be subject to the aforementioned penalties unless proven otherwise.

Further, Article 40 provides for imprisonment of up to three years and a fine ranging from 500,000 to 3,000,000 dinars for anyone who violates specific provisions of this law. The Iraqi legislator classifies the crime of illegal entry by a foreigner as a misdemeanor, prescribing penalties that may include either simple imprisonment, more severe imprisonment, or a fine. Additionally, the court is given authority to order deportation of the foreigner as an ancillary penalty.

The legislator's penalties for illegal entry are seen as inadequate, especially given Iraq's current security challenges, including terrorism, human trafficking, and drug smuggling, which threaten national security, sovereignty, economic stability, and citizen safety. Therefore, it is recommended to amend Article 40 of the Law on the Residence of Foreigners (Law No. 76 of 2017) as follows:

" Without prejudice to any more severe penalties provided in other laws, anyone who violates Articles 3, 8, 11, or 32 of this law shall be punished by imprisonment for a period of two to five years and a fine of at least 500,000 dinars and not exceeding 3,000,000 dinars, with the confiscation of assets held by the individual to deter any foreigner from violating entry regulations into the Republic of Iraq."

Comparison with other countries

In Egyptian law, the penalty for illegal entry is up to six months' imprisonment and a fine ranging from 200 to 1,000 pounds, or one of these penalties. If the foreigner is a national of a country at war with Egypt, or if entry occurs in a border area designated by the Minister of the Interior, penalties

are increased to a minimum of two years' imprisonment and fines ranging from 1,000 to 5,000 pounds.

In French law, Article L621-2 of the Immigration and Asylum Code provides for imprisonment of up to one year and a fine of 3,750 euros for a foreigner who enters France in violation of Article 511-1, provided they are not from an EU member state. Article L624-1-1 prescribes a three-year prison term for those who evade or attempt to evade deportation orders. Airlines may also be fined up to 10,000 euros if they transport a foreigner without proper travel documents or visas.

These comparisons reveal that the penalties imposed for illegal entry into Iraq are relatively mild. The court may also suspend the execution of the sentence if the foreigner is suffering from a communicable and dangerous disease, considering the need to protect public interests.

Secondary penalties: deportation and confiscation

1. **Deportation:** Defined as "the expulsion of a foreigner who illegally entered the Republic of Iraq's territory, with an administrative decision issued by the competent authority." If the main penalty is a fine, the residency administration collects the fine and issues an administrative order for deportation under Article 47 of the Iraqi Law on Foreign Residence. If imprisonment is imposed, the criminal court judge issues the primary sentence followed by the ancillary deportation order.
2. **Confiscation:** This secondary measure may involve confiscating assets held by the foreigner in Iraq as part of the legal consequences of the offense.

Thus, deportation as an ancillary penalty does not involve merely expelling the foreigner from the country but rather ensuring they are returned to a location outside Iraq's borders.

Therefore, the authority responsible for deportation is the residency management, as stipulated in Article 26 of the aforementioned law. When issuing an ancillary penalty, the judicial authority may impose deportation for a foreigner convicted of illegal entry into Iraq, in accordance with Article 45 of the Law on Foreigners' Residency. However, if the foreigner is subject to the legal provisions of Articles 39 or 40 of the Residency Law, deportation may be enforced as a consequence of illegal entry, revealing a legal shortcoming in Iraq's system. Consequently, the proposal is to amend Article 45 of the Law on Foreigners' Residency as follows:

First: If the court issues a ruling based on any of the penalties listed in Articles 41 and 42 of this law, it must proceed with deporting the foreigner from the territory of the Republic of Iraq.

Second: If the court issues a ruling based on any of the penalties listed in Articles 39 and 40 of this law, it must proceed with deporting the foreigner from the territory of the Republic of Iraq.

The Egyptian legislator in Article 38 refers to ancillary penalties with the phrase, "... without prejudice to the execution of a decision... or forfeiture...." Moreover, Article 41 of the Egyptian law allows for additional penalties, stating, "... any person violating Article 23 of this law may be subject to deportation."

The French legislator stipulates that imprisonment may be accompanied by a regional ban of up to three years for a foreigner convicted of entering or residing illegally in France, with this regional ban serving as an additional penalty following the execution of deportation after the imprisonment period. Furthermore, Article 131-30-2 of the amended French Penal Code of 1994 allows the court to impose a ban on residing in France for a foreigner aged over thirteen or a resident with legitimate reasons, such as having a French spouse or a child. This ban is, however, mandatory in cases of terrorism, fraud, or crimes committed by armed groups threatening national security.

Additionally, Article L214-3 of the French Code on Entry and Residence of Foreigners and the Right of Asylum requires that administrative decisions banning entry be issued in writing by the Minister of the Interior, justified by reasons related to national security. Article L624-2 of the same code grants the court the authority to impose an entry ban for up to three years for violating the law, with deportation enforced automatically to the borders.

Execution of deportation

The Iraqi legislator has authorized the Minister of the Interior or an authorized representative to deport foreigners who violate entry conditions or lose their residency status in the Republic of Iraq.

Secondly – confiscation

Confiscation is defined as the involuntary transfer of ownership of an asset to the state without compensation. In the Iraqi and Egyptian laws on the residence of foreigners, confiscation is not explicitly addressed and therefore requires reference to the general rules of criminal law.

Conversely, the French legislator in Article L622-1-4 of the Code on Entry and Residence of Foreigners and Right of Asylum provides for confiscation of items used to commit a crime, such as vehicles used by a foreigner to facilitate entry into French territory.

CONCLUSION

Upon completion of this study (name of the research), the main findings and recommendations are as follows:

1. Criminal liability for the offense of illegal entry by foreigners necessitates the characteristic of being a foreigner to commit the crime.
2. Primary penalty for a foreigner's illegal entry into Iraq is considered a criminal offense. The court has the discretion to suspend the penalty if the foreigner suffers from a contagious and dangerous disease that poses a public health risk.
3. Responsibility for deportation lies with the Iraqi Minister of the Interior or a designated official for foreigners violating entry conditions or residency status.
4. Application of general principles of criminal law, including Article 31 of the Iraqi Penal Code, allows for the imposition of criminal fines.

RECOMMENDATIONS

1. We recommend that the relevant authority urgently issue regulations and guidelines related to the Law on the Residency of Foreigners No. (76) of 2017 to clarify some of the ambiguities in the legal texts that require interpretation and evaluation. This measure will assist the passport and residency authorities in implementing the law at airports, borders, and seaports without the need for interpretation and evaluation of complex legal texts.
2. We suggest that the Iraqi legislator amend Article 40 of the Law on the Residency of Foreigners No. (76) of 2017 as follows: "Without prejudice to any harsher penalties provided for in other laws, imprisonment for a period of at least 2 years and up to 5 years and a fine of at least 500,000 (five hundred thousand) Iraqi dinars and up to 3,000,000 (three million) Iraqi dinars, or either of these penalties, shall be imposed for violations of the provisions of Articles 3, 8, 11, and 32 of this law, with regard to the offense of entering the Republic of Iraq."
3. We propose adding a second clause to Article 45 of the Law on the Residency of Foreigners No. (76) of 2017, as follows:

First: If the court issues a ruling imposing one of the penalties stipulated in Articles 41 and 42 of this law, it must proceed with deporting the foreign nationals from the territory of the Republic of Iraq.

Second: If the court issues a ruling imposing one of the penalties stipulated in Articles 39 and 40 of this law, it must proceed with deporting the foreign nationals from the territory of the Republic of Iraq.

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- Article (L111-1) of the amended Law on the Entry and Residence of Foreigners and the Right of Asylum in France.
- Article (1) of Resolution No. (320) of 1962 on the control of entry and exit from Lebanese border posts.
- Article (R211-30) of the French Code, as amended by Law No. (527 of 2014).
- Article (3/second paragraph) of the Iraqi Foreigners' Residence Law in force.
- Article (R211-1) of the French Code, as amended by Law No. (223) of 2008.
- Article (2) of Law No. 89 of 1960, as amended by Law No. (88) of 2005 regarding the entry and residence of foreigners in and out of the territory of the Arab Republic of Egypt, and corresponding to Article (7) item (second) of the same Iraqi law, and corresponding to Article (8) the decision of the Egyptian Minister of Interior itself.
- Article (L311-1) of the French Code, as amended by Law No. (778) of (2018).
- Article (8) Clause (Second) of the Iraqi Foreigners' Residence Law in force, corresponding to Article (L121-1) of the French Law and amended by Law No. (911 of (2006) and Article (L511-3-2-3^o) of the same law and amended by Law No. (247) of (2016), and corresponding to Article (5) of the Egyptian Minister of Interior Decree No. (31) of 1960.
- Article (L511-1-1o) of the French Code, as amended by Law No. (734) of 2020.
- Article (1) of the Iraqi Foreigners' Residence Law, corresponding to Article (1) of the amended Egyptian Entry and Residence Law, and corresponding to Article (L111-1) of the amended Law of Entry and Residence of Foreigners in France.
- Article (28) of the Iraqi Penal Code.
- Article (7) of the amended Iraqi Penal Code, corresponding to Article (1) of the amended Egyptian Penal Code, Articles (113-1), (113-2), (133-2-1), (113-3), (133-4), (133-4) and (133-5) of the amended French Penal Code.
- Article (4) of the Iraqi Foreigners' Residence Law, corresponding to Article (40) of the Egyptian Foreigners' Residence Law No. 2005, as amended, and corresponding to Article (L511-1-II-3^o) of the Law on the Entry and Residence of Foreigners and the Right of Asylum in France, as amended by Law No. (734 of 2020).
- Article (3), item (fourth) of the Iraqi Foreigners' Residence Law, corresponding to Article (3) of the amended Egyptian Foreigners' Residence Law of 2005.
- Article (142) of the amended Iraqi Penal Code, corresponding to Article (32) of the amended Egyptian Penal Code.
- Articles (132-3) and (132-4) of the French Penal Code, as amended.
- Article (40) of the amended Egyptian Foreigners' Residence Law, and Article (L622-1) of the Law on the Entry and Residence of Foreigners in the Right of Asylum in France, as amended by Law No. (1560 of 2012).

Article (37) of the amended Egyptian Law on the Entry and Residence of Foreigners of 2005, corresponding to Article (L111-4) of the Law on the Entry and Residence of Foreigners and the Right of Asylum in France.

Article (8) of the Iraqi Political Refugees Law No. (51) of 1971.

Articles (2) and (3) of the amended Law No. (88) of 2005 on the Entry and Residence of Foreigners in Egypt.

Articles (41, 47, 44, 43) of the Iraqi Foreigners' Residence Law in force.

Article (L621-2) of the Law of Entry and Residence of Foreigners and the Right of Asylum in France, as amended by Law No. (778) of 2018.

Article (L624-1-1) of the Law of Entry and Residence of Foreigners and the Right of Asylum in France, as amended by Law No. (778) of 2018.

Article (L625-1) of the Law on the Entry and Residence of Foreigners and the Right of Asylum in France, as amended by Law (274 of 2016).

Article (1) Clause (Second) of the Iraqi Foreigners' Residence Law.

Articles (41), (38) and (23) of the amended Egyptian Entry and Residence Law.

Article (L621-2) of the Law of Entry and Residence of Foreigners and the Right of Asylum in France, as amended by Law (778) of (2018).

Article (131-30-2) of the French Penal Code, as amended by Law No. (778) of 2018.

Article (L213-3) of the Law of Entry, Residence and Right of Asylum in France, as amended by Law No. (1353) of 2014

Article (L624-2) of the Law on the Entry and Residence of Foreigners and the Right of Asylum in France, as amended by Law No. (274) of 2016.

Article (27) of the Iraqi Foreigners' Residence Law.

Article (101) of the amended Iraqi Penal Code, corresponding to Article (24) of the amended Egyptian Penal Code.