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2. Refugee status

GUIDANCE NOTE
Last updated: February 2019

All elements of the definition of a refugee in accordance with the QD should be fulfilled for the qualification of the applicant as a refugee:

Article 2(d) of the Qualification Directive Definitions
'refugee' means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 *[exclusion]* does not apply;

Article 9 QD outlines how 'persecution' should be assessed.

Article 10 QD provides further clarification on the different reasons for persecution (race, religion, nationality, political opinion or membership of a particular social group). A link (nexus) between those reasons and the persecution or the absence of protection should be established in order for the applicant to qualify for refugee status.

Guidance on specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided in the following section.

An individual assessment is required for every application. It should take into account the individual circumstances of the applicant and the relevant country of origin information. Factors to take into account in this assessment may include, for example:

- home area [13] of the applicant and presence of the potential actor of persecution;
- nature of the applicant's actions (whether or not they are perceived negatively and/or whether or not individuals engaged in such actions are seen as a priority target by the actor of persecution);
- visibility of the applicant (i.e. to what extent it is likely that the applicant is known to or could be identified by the potential actor of persecution); noting, however, that the applicant does not need to be individually identified by the actor of persecution, as long as his/her fear of persecution is well-founded;
- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals, network);

- etc.

The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant's well-founded fear, unless there are good reasons to consider that such persecution will not be repeated (Article 4(4) QD).

See guidance on particular PROFILES

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[13] Protection needs are firstly assessed with regard to the applicant's home area in the country of origin. The 'home area' in the country of origin is identified on the basis of the strength of the applicant's connections with a particular area in that country. The home area may be the area of birth or upbringing or a different area where the applicant settled and lived, therefore having close connections to it. [back to text]

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