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# 4.4.5 Assessing applications



New guidelines were issued for the assessment of applications in some asylum authorities. For example, new guidelines on evidence assessment were issued in Lithuania, and in the Netherlands, the IND published new work instructions with guidelines on how to implement the ECHR, Article 8 *(see Section 4.1)*.[454] The IND also clarified in a working instruction its policy on refugees in the country with political views, adding further guidance on interpreting the element of 'political conviction'. The IND clarified that an applicant cannot be expected to exercise restraint in fundamental political views, when the actions or expressions are particularly important for the person's identity or moral integrity.[455]

The IND also published new work instructions on Palestinians[456] and amended its policy on Sudan by which previously-granted asylum permits will be reassessed for cases when the permit was granted due to the situation in Darfur, South Kordofan and Blue Nile.[457] Particularly for the assessment of subsidiary protection, the IND laid out new criteria for exceptional situations in asylum applications, referring to the most extreme cases of general violence and where there is a safety risk for applicants if they return to their country of origin. Following a decision of the Council of State, a criterion of a safety structure in the country or area of origin is added to the assessment as of March 2020.

Regarding the assessment of applications, Denmark expanded the safe area in and around Damascus and the Refugee Appeals Board upheld the decision of the Danish Immigration Service in several cases in February 2021 (for example, on 16 February 2021, 17 February 2021 and in another case on 17 February 2021). It concluded that the situation in the Rif Damascus is no longer a risk solely due to mere presence in the area.[458] In each case, both the Danish Immigration Service and the Board make an individual and concrete assessment of the applicant's need for protection, as well as an assessment on whether a withdrawal or refusal of the renewal of the residence permit will be contrary to Denmark's international obligations.

Based on country of origin information, Norway no longer grants international protection on a general basis to all applicants who are citizens of Syria. The Norwegian UDI now conducts a thorough assessment of the individual's protection needs. However, the current security and human rights situation indicates that most asylum seekers from Syria are in need of protection.

Sweden also updated the Migration Agency's legal governance on Syria. According to the update, a person who returns to Syria and risks being called for state military service now runs a general risk

of being persecuted. Thus, the starting point in the examination is that the person under such a risk should be granted refugee status. The Migration Agency also updated its legal position on the situation in the Tigray region in Ethiopia,[xxxiii] the security situation in certain parts of the Democratic Republic of the Congo (DRC),[459] the situation in Afghanistan,[460] Yemeni passports,[461] Palestinian
00-passports[462] and applications from Turkish citizens.[463] The Swedish Migration Agency also published its legal position on the derivative status in asylum cases.[464]

Under the Asylum Law, Article 15, Hungary lowered the threshold to exclude a person from subsidiary protection. There is no need to violate national security and instead it is enough if the person's stay in the country endangers national security. Further changes introduced by Hungary include a definition of a ‘particular social group’ under the Asylum Law, Article 64(1d). Before the change, the two elements – common characteristics and distinct identity in the relevant country – were alternative, divided by an "or", while now they are cumulative.[465]

New aspects included in the assessment of an application for international protection concern COVID-19 economic and health conditions in the country of origin. National courts now look beyond the available country of origin information and supplement it with information on COVID-19 restrictions in countries of origin or in specific areas from which an applicant originates, and to which he/she might normally be able to travel freely were it not for the COVID-19 travel restrictions. However, CALL in Belgium held on 28 May 2020 that the risks arising from the COVID-19 pandemic do not justify a need for international protection as such risks are not due to an actor of persecution. In contrast, Romania granted subsidiary protection to a family of Iraqi nationals with minor children, taking into consideration the political and human rights situation in Iraq as well as the difficulties of travel due to COVID-19 restrictions taken in certain areas of Iraq, including in the area from which the applicants originated.

Courts provided new guiding principles in assessing applications in first instance procedures. In Estonia, the Supreme Court provided guidelines in May 2020 on assessing credibility in cases concerning persecution based on sexual orientation. In France, the CNDA ruled in September 2020 that Somali children and adolescents not subjected to female genital mutilation (FGM) constitute a particular social group. The CNDA also ruled in November 2020 on the process for assessing the level of violence generated by armed conflict for the purposes of applying subsidiary protection provided in CESEDA, Article L.712-1(c).

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