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3.3.4. Serious and individual threat

COMMON ANALYSIS
Last update: October 2021

In situations where the level of indiscriminate violence does not exceptionally reach what is referred to as the ‘mere presence’ threshold, the assessment should continue with an analysis of the individual circumstances of the applicant.

[…] the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection.

CJEU, *Elgafaji*, para.39

Certain personal circumstances could contribute to an enhanced risk of indiscriminate violence, including its direct and indirect consequences.

? refugee status — It is important to differentiate these individual elements from the individual elements which would result in the deliberate targeting of the applicant, whether as an individual or as a part of a group defined by one of the grounds under the refugee definition.

? IPA — The assessment should also be distinguished from that under internal protection alternative, with regard to the reasonableness for the applicant to settle in a different location than their home area.

In the context of the ‘sliding scale’, each case should be assessed individually, taking into account the nature and intensity of the violence in the area, along with the combination of personal circumstances present in the applicant’s case. It is not feasible to provide exhaustive guidance what the relevant personal circumstances could be and how those should be assessed.

The text below provides some indications concerning the relevant considerations and the nature of the assessment.

Indiscriminate violence, examples of relevant personal circumstances

- **Age:** When assessing the risk of indiscriminate violence, this personal circumstance would be of particular importance in relation to the ability of the person to assess the risks. For example, incidents in schools have been reported

in many parts of Nigeria and landmine contamination has been reported, especially in the northeast states of Borno, Adamawa and Yobe. Children may also not be in a position to quickly assess a changing situation and avoid the risks it entails. In some cases, elderly age may also impact the person's ability to assess and avoid risks associated with an armed conflict.

- **Health condition and disabilities, including mental health issues:** Serious illnesses and disabilities may result in restricted mobility for a person, making it difficult for them to avoid immediate risks and, in the case of mental illnesses, it can make them less capable of assessing risks. In other cases, such conditions may require frequent visits to a healthcare facility. The latter may have different implications related to the assessment of the risk under Article 15(c) QD. Taking into account road security, this may increase the risk of indiscriminate violence as the person would be required to travel. Moreover, if healthcare facilities are damaged and closed because of fighting, such an applicant may be at a higher risk due to the indirect effects of the indiscriminate violence as they would not be able to access the healthcare they need.

- **Economic situation:** Applicants in a particularly dire economic situation may also be less able to avoid the risks associated with indiscriminate violence. They may be forced to expose themselves to risks such as working in areas which are affected by violence in order to meet their basic needs. They may also have less resources to avoid an imminent threat by relocating to a different area.

- **Knowledge of the area:** When assessing the risk of indiscriminate violence under Article 15(c) QD, the relevant knowledge of the area concerns the patterns of violence it is affected by, the existence of areas contaminated by landmines, etc. Different elements may contribute to a person's knowledge of the area. It can relate to their own experience in the specific area or in areas similarly affected by indiscriminate violence, or to their connection to a support network which would insure they are informed of the relevant risks.

- **Occupation:** The occupation the person is likely to have when they return to their home area may also be relevant to assess the risk under Article 15(c) QD. It may, for example, be linked to the need for the applicant to travel through areas where road incidents are often reported, or to work near to locations known to be particularly targeted in the conflict e.g. schools, religious buildings, IDP camps.

Individual elements related to the above can exist in combination. Other factors may also be relevant.

It is not feasible to provide general guidance on which individual circumstances would be sufficient to substantiate a real risk under Article 15(c) QD in areas with high level of violence compared to areas where the violence is considered to not be at a high level. Each case should be assessed individually.

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