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Preliminary remarks

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) QD
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;

According to Article 9(1) QD:

Article 9(1) QD
Acts of persecution

In order to be regarded as an act of persecution within the meaning of Article 1(A) of the Geneva Convention, an act must:

a) be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or
b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in point (a)

In order for a person to qualify as a refugee, there must be a connection (nexus) between one or more of the specific reasons for persecution (race, religion, nationality, political opinion or membership of a particular social group), on the one hand, and the acts of persecution under Article 9(1) QD or the absence of protection against such acts (Article 9(3) QD), on the other.

The applicability of the respective reason(s) should be assessed in relation to Article 10 QD.

Common analysis on specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided below.

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[11] of the applicant and presence of the potential actor of persecution and their capacity to target a person of interest;
- nature of the applicant's actions (whether they are perceived negatively and/or whether individuals engaged in such actions are seen as a priority target by the actor of persecution);
- visibility of the applicant whether they are perceived negatively and/or whether individuals engaged in such actions are seen as a priority target by the actor of persecution); noting, however, that the applicant does not need to be individually identified by the actor of persecution, as long as his or her fear of persecution is well-founded;
- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals);
- etc.

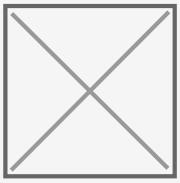
The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant's well-founded fear, unless there are good reasons to consider that such persecution will not be repeated (Article 4(4) QD). On the other hand, it should be noted that, in order to establish well-founded fear of persecution, there is no requirement of past persecution or threats. The risk assessment should be forward-looking.

A well-founded fear of being persecuted may also be based on events which have taken place and/or on activities which the applicant has engaged in since he or she left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin (Article 5 QD).

Once the required level of persecution as well as nexus have been established in relation to the home area of the applicant, the availability of protection in accordance with Article 7 QD should be explored (see the chapter Actors of protection). Where such protection is not available, the examination may continue with consideration of the applicability of internal protection alternative under Article 8 QD, if applicable according to national legislation and practice (see the chapter Internal protection alternative).

In some cases, where the applicant would otherwise qualify for refugee status, exclusion grounds would be applicable (see the chapter Exclusion). The sections below make specific references to the relevance of exclusion considerations for certain profiles.

Where the applicant does not qualify for refugee status, in particular where the requirement of nexus is not satisfied, the examination should proceed in order to determine his or her eligibility for subsidiary protection (see the chapter Subsidiary protection).



For further general guidance on qualification as a refugee, see EASO Practical Guide: Qualification for international protection.

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[11] 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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