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Article 15(a) QD

Death penalty or execution

Qualification directive

Article 15(a)

The death penalty is as such, and under any circumstances, considered as a form of serious harm under Article 15 QD. The sentence does not need to have already been imposed. The mere existence of a real risk that on return a death penalty may be imposed on an applicant could be considered sufficient to substantiate the need for subsidiary protection.

As the addition of the term ‘execution’ suggests, Article 15(a) also encompasses intentional killing of a person by non-state actors exercising some kind of authority. It may also include extrajudicial killing, but an element of intentional and formalised punishment needs to be present.

Specific considerations

Moratorium on the death penalty. In cases where a moratorium on the death sentence is in place, but the death penalty as such is not abolished, there may still be a real risk of the death penalty or of execution for the applicant.

If the real risk of the death penalty or execution cannot be excluded, this may also be likely to cause fear and distress comparable to the serious harm described under Article 15(b) QD.

Alternatives to the death penalty. Alternatives to the death penalty such as life imprisonment, especially where there is no prospect of release, should furthermore be assessed in relation to potential protection needs under Article 15(b) QD.

Exclusion considerations. In some cases, the death penalty could have been imposed for a serious crime committed by the applicant or other acts falling within the exclusion grounds (Articles 12 and 17 QD). Therefore, although the criteria of Article 15(a) QD would be met, exclusion considerations should be explored. See EASO Practical Guide: Exclusion.

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