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Indiscriminate violence

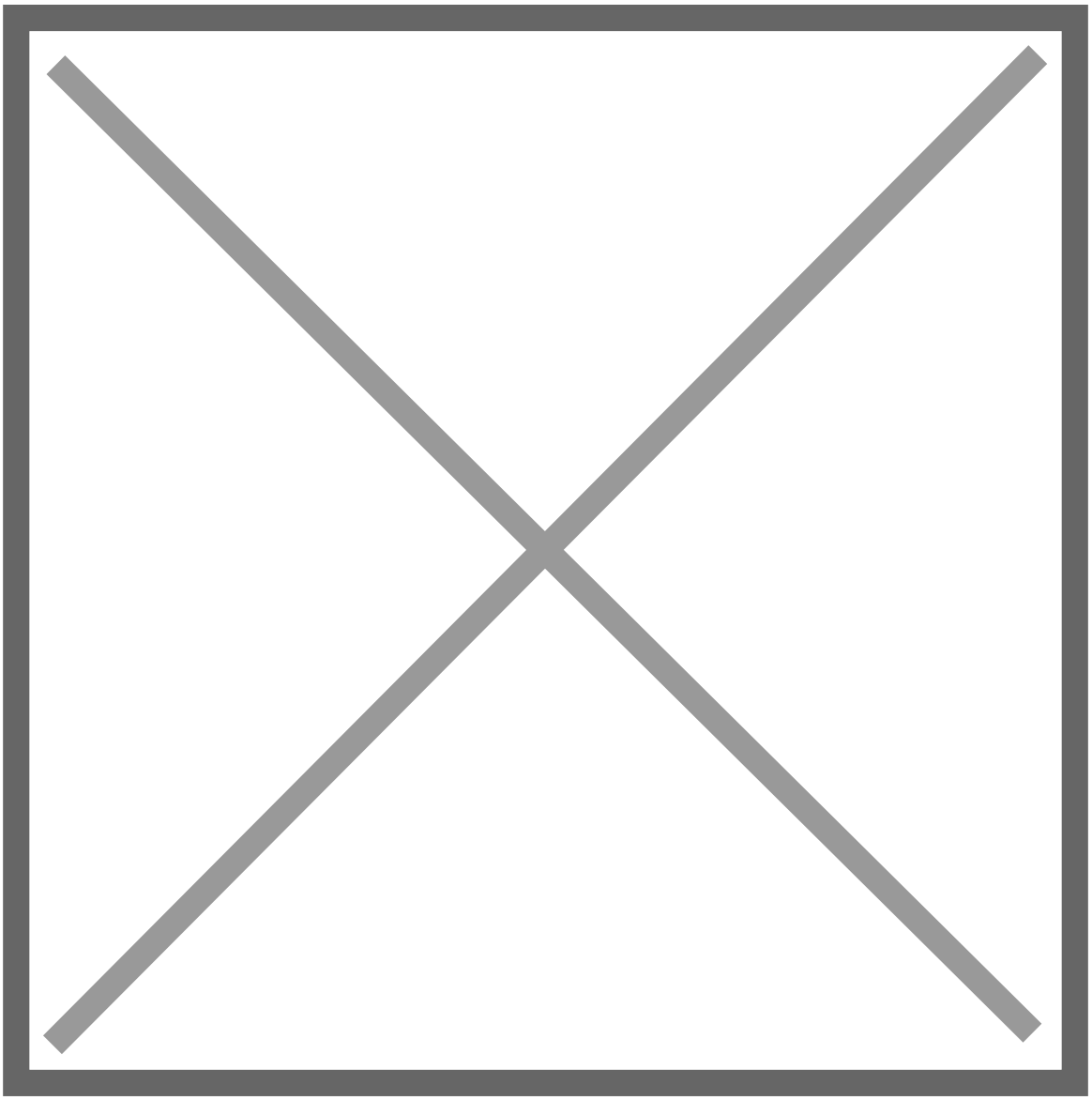
As held by CJEU in Elgafaji, the term ‘indiscriminate’ implies that the violence ‘**may extend to people irrespective of their personal circumstances**’. ‘Indiscriminate’, therefore, refers to the nature of the violence and not to its level.

Furthermore, differentiation of the level of indiscriminate violence can be made as follows:

1. territories where the degree of indiscriminate violence reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, **solely on account of his or her presence** on the territory of that country or region, face a real risk of being subject to the serious threat referred in Article 15(c) QD; and
2. territories where indiscriminate violence takes place, however it does not reach such a high level, and with regard to which additional individual elements would have to be substantiated.

In the first category, ‘mere presence’ would exceptionally be considered sufficient, and no further individual elements would need to be substantiated.

In the second category, the level of indiscriminate violence does not reach such a high level and the mere presence of a civilian would not automatically lead to a real risk sufficient to apply Article 15(c) QD. In those cases, the more the applicant is able to show that he or she is specifically affected by reason of factors particular to his or her personal circumstances, the lower the level of indiscriminate violence required in order to apply Article 15(c) QD; and the higher the level of indiscriminate violence that takes place, the lower the level of additional factors related to the personal circumstances of the applicant required. This is referred to as the ‘**sliding scale**’.



Different indicators may be taken into account when determining whether indiscriminate violence is taking place within (a part of) the territory:

- number of incidents, including their frequency and density in relation to local population;
- nature of methods and tactics, including targets;
- number of civilian casualties (including those who have been injured);
- presence and capacity of different actors in the conflict;
- geographical scope of violence;
- conflict-induced displacement.

Other significant impacts on daily life, including freedom of movement, access to basic services, healthcare, education and the situation of displaced persons upon return, can also be taken into account.

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