

Please cite as: EUAA, '3.3.5. Serious and individual threat' in *Country Guidance Afghanistan*, janvier 2022.

3.3.5. Serious and individual threat

COMMON ANALYSIS
Last updated: February 2019

CJEU in *Elgafaji* notes:

> *While it is admittedly true that collective factors play a significant role in the application of Article 15(c) of the Directive, in that the person concerned belongs, like other people, to a circle of potential victims of indiscriminate violence in situations of international or internal armed conflict, it is nevertheless the case that that provision must be subject to a coherent interpretation in relation to the other two situations referred to in Article 15 of the Directive and must, therefore, be interpreted by close reference to that individualisation.*[36]

However, the existence of a serious and individual threat to the life or person of an applicant for subsidiary protection is,

> *(...) not subject to the condition that that applicant adduce evidence that he is specifically targeted by reason of factors particular to his personal circumstances.*[37]

Furthermore,

> *- the existence of such a threat can exceptionally be considered to be established where the degree of indiscriminate violence characterising the armed conflict taking place (...) 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 presence on the territory of that country or region, face a real risk of being subject to that threat.*[38]

For territories where the indiscriminate violence does not reach such a high level, 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 for him or her to be eligible for subsidiary protection.[39] See Indiscriminate violence.

Certain applicants may be considered at enhanced risk of indiscriminate violence, including its direct and indirect consequences due to, inter alia: geographical proximity to areas which are targeted by violence, age, gender, health condition and disabilities, lack of a social network, etc.

Profiles at enhanced risk of indiscriminate violence could include, for example:

- Civilians who may be substantially and materially affected by violence because of their geographical proximity to a possible target (e.g. those living in proximity to known Boko Haram targets, such as markets, schools, hospitals, religious buildings, IDP camps, military bases; those living in villages of farmers' or herders' communities in the LGAs particularly affected by the violence between herders and farmers).

- Civilians who are less able to avoid risks of indiscriminate violence by way of seeking temporary shelter from fighting or attacks (e.g. persons with disabilities or serious illnesses; elderly; children; those in an extremely dire economic situation).

This is a non-exhaustive list. It is also non-conclusive and individual elements would always need to be taken into account.

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[36] ***Elgafaji,*** **para.38.** [back to text]

[37] ***Elgafaji,*** **para.43.** [back to text]

[38] ***ibid.*** [back to text]

[39] ***Elgafaji,*** **para.39.** [back to text]

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