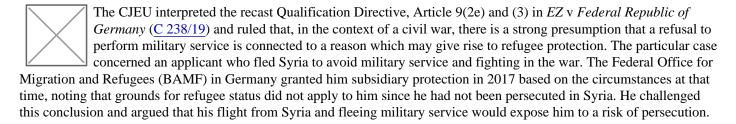


## 2.5.3 Assessment of prosecution or punishment for refusal to perform military service



The CJEU held that, where the country of origin does not provide a legal possibility to refuse military service, the recast Qualification Directive, Article 9(2e) does not preclude a refusal to perform military service in a conflict even if the refusal was not done formally through a procedure. Regarding the situation in April 2017, it should be assumed that, irrespective of the field of operation, military service will involve the commission of crimes if the military service is performed during a civil war which involves crimes committed systematically by the army. The court also noted that, in accordance with the recast Qualification Directive, there must be a connection between the grounds of persecution and the refusal to perform military service. According to the court, the existence of such a connection cannot be deemed to be established and an examination cannot be circumvented by the national authorities responsible for assessing the application for international protection. There was a strong presumption that the refusal of military service in the particular circumstances of the case submitted to the court relates to one of the five reasons included in the recast Qualification Directive, Article 10. The court added that the competent national authorities must ascertain, in light of all the circumstances, whether the connection was plausible.



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