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Accessibility

The applicant's access to protection in the country of origin has to be assessed in light of both legal and practical obstacles to protection. Such obstacles may relate to the personal situation of the applicant, to discrimination, to cultural barriers, to the position of the actor of persecution or serious harm, etc.

Where the state is the actor of persecution or serious harm, it can be presumed that protection is not accessible. This is linked to the requirement of willingness on the part of the state.
In order to find that protection is not accessible, it should be substantiated that:

- the applicant unsuccessfully sought protection from the competent authorities in the country of origin; or
- the applicant would not have obtained protection if he or she had requested it, such as in the case where protection is generally not available or where a request would be inconsequential or even dangerous.

However, exhaustion of domestic remedies in the country of origin is not a prerequisite to assert the lack of access to protection against persecution or serious harm. Due consideration has to be given to the personal circumstances of the applicant, in particular if he or she has experienced ill treatment by the actor of protection or the actor of protection has previously failed to protect the applicant from persecution or serious harm.

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