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4.1. Article 15(a) QD/QR: death penalty or execution

COMMON ANALYSIS
Last update: June 2019
Minor updates added: November 2024

Article 15(a) QD

Article 15(a) QR

The analysis below is primarily based on the following EUAA COI report: Targeting 2019, 1.17; some information included in the Country Focus 2024 and the COI Update 2024 has also been added. Country Guidance should not be referred to as source of COI.

As noted in the chapter 3. Refugee status, some profiles of applicants from Iraq may be at risk of death penalty or execution. In such cases, there could be a nexus to a reason for persecution falling under the definition of a refugee (see for example 3.1. Persons perceived to be affiliated with ISIL), and those individuals would qualify for refugee status. In cases where there is no nexus to a Convention ground, the need for subsidiary protection under Article 15(a) QD/QR should be examined.

As reported in 2019, death penalty was envisaged under the Iraqi Penal Code and could be imposed for a variety of offences, such as crimes against internal or external security and state institutions, acts of terrorism, kidnapping, rape, drug trafficking leading to death, prostitution, ‘aggravated’ murder, trafficking in human beings leading to death. The definition of ‘terrorism’ crimes under the Anti-Terrorism Law is broad and susceptible to wide interpretation. According to sources of 2014, the death penalty was also provided under the Military Penal Code and the Iraqi Internal Security Forces Penal Code, for example, for offences relating to failures to perform one’s duties or surrendering military installations.

Executions of persons continued to be documented [Country Focus 2024, 1.1.3; COI Update 2024, 3.1].

As of 2019, the KRG had maintained the capital punishment, however, a de facto moratorium on executions was reportedly established since 2008. This was breached on two occasions in 2015 and 2016.

Previous reports also indicated that in areas under its control, ISIL committed executions and some of them may be considered as ‘punishment’, such as for refusal to join them or for transgressing the moral codes as set by ISIL and its strict interpretation of the *Sharia* law.



In some cases, the death penalty would have been imposed for a serious crime committed by the applicant, or for other acts falling within the exclusion grounds (Article 17 QD). Therefore, although the criteria of Article 15(a) QD/QR would be met, exclusion considerations should be examined (see 7. Exclusion).

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