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Subsidiary protection

This chapter addresses the EU-regulated status of subsidiary protection in accordance with **Article 15 QD/QR**.

Article 10(2) of the recast Asylum Procedures Directive

When examining applications for international protection, the determining authority shall first determine whether the applicants qualify as refugees and, if not, determine whether the applicants are eligible for subsidiary protection.

And

Article 39(2) of the Asylum Procedure Regulation

When examining an application on the merits, the determining authority shall take a decision on whether the applicant qualifies as a refugee and, if not, it shall determine whether the applicant is eligible for subsidiary protection in accordance with Regulation (EU) 2024/1347.

The CJEU ruled in 2023 on the importance of the individual circumstances when determining if an applicant is eligible for subsidiary protection, before identifying the type of serious harm, notably ( ):

‘1. Article 15 of Directive 2011/95/EU (…) must be interpreted as meaning that in order to determine whether an applicant for international protection is eligible for subsidiary protection, the competent national authority must examine all the relevant factors, relating both to the individual position and personal circumstances of the applicant and to the general situation in the country of origin, before identifying the type of serious harm that those factors may potentially substantiate.’

Therefore, where refugee status is not granted, personal circumstances (e.g. age, gender, professional and economic background, home area, potential vulnerabilities) are still to be taken into account in the assessment of subsidiary protection according to Article 15 QD/QR.

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