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Guidance note

GUIDANCE NOTE
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The guidance note on Sudan is produced by the EUAA together with EU+ countries[4] in accordance with Article 11 of the EUAA Regulation[5]. It is based on and summarises the conclusions of the comprehensive common analysis. The aim of the guidance note and the common analysis is to assist EU+ countries in the examination of applications for international protection, thereby fostering convergence of asylum practices and decisions across the EU.

In view of the ongoing conflict, the situation in Sudan remains fluid, and changes in trends may be observed in the future. **It should be highlighted that in Sudan the widespread crackdown on media outlets, along with the recurring communication blackouts significantly impacted the reporting and the conflict media coverage throughout the country.** New events and developments that cause substantial changes, new trends or geographical shifts in the violence, may lead to a different assessment. The security situation in a given territory should always be assessed in light of the most up-to-date COI available.

The guidance note is part of the 'Country Guidance: Sudan' and should be read in conjunction with the common analysis.

In Sudan, a wide range of groups and individuals can be considered as actors of persecution or serious harm. These include the Sudanese authorities, the Sudanese Armed Forces (SAF), the Rapid Support Forces (RSF) and their respective allies. In addition, other armed groups are currently active in Sudan, notably the SLM-AW and the SPLM-N-al-Hilu. Beyond these named groups, various other armed actors may be involved in criminal activities and the actor may not always be identifiable. Such criminality may involve militias or criminal gangs. Other non-armed actors of persecution or serious harm may include family members and society at large. See Actors of persecution or serious harm.

Among the most commonly encountered profiles of applicants for international protection, the following would be **highly likely to qualify for refugee status**:

- Individuals belonging to non-Arab Darfuri groups residing in Darfur, in particular the Masalit, the Zaghawa and the Fur.
- Individuals who refused to join the RSF or escaped forced recruitment.
- Members of the Resistance committees (RCs) and Emergency Response Rooms (ERRs).
- Prominent political party members.

- Community leaders, human rights activists, and lawyers perceived as opponents.
- Journalists and other media workers perceived as critical.
- Humanitarian and healthcare workers.
- Women and girls from conflict-affected areas.
- Women and girls in relation to forced and child marriage.
- Girls who have not been subjected to FGM/C.
- Persons with diverse SOGIESC.

Further guidance is provided on the **risk-impacting circumstances** which may affect the probability of granting refugee status for the following profiles such as:

- Individuals belonging to non-Arab Darfuri groups residing outside Darfur.
- Nuba from the Kordofans.
- Arabs from Darfur and the Kordofans.
- Individuals not yet forcibly recruited by the RSF.
- Non prominent political party members and (perceived) political opponents.
- Civilians from areas associated with the opposing warring party.
- Women and girls from areas not affected by the conflict.
- Women who have not been subjected to FGM/C.
- Women and girls at risk of being (re)-trafficked.
- Children.

If an applicant is not considered eligible for refugee status, Member States should proceed to consider the granting of **subsidiary protection**. In Sudan, and in the context of the ongoing war, death penalties or executions, as well as torture or inhuman or degrading treatment or punishment, may be inflicted for reasons of (imputed) political opinion and/or belonging to a specific ethnic group, and those individuals would therefore qualify for refugee status. In cases where a link to a Convention ground cannot be established, the need for subsidiary protection under Article 15(a) and (b) QD/QR should be assessed.

If there is a reasonable degree of likelihood of death penalty or execution, and no nexus to a reason for persecution can be substantiated, subsidiary protection under Article 15(a) QD/QR shall be granted. The death penalty remains in force in Sudan, both in law and in practice. Furthermore, extrajudicial killings and executions by both warring parties were also reported.

Article 15(b) QD/QR relating to the risk of torture or inhuman or degrading treatment or punishment may be applicable in certain cases. For example, in the context of the ongoing war in Sudan when the healthcare, humanitarian and socio-economic conditions are the result of an intentional conduct of an actor, they may amount to torture, inhuman or degrading treatment or punishment. Also, Article 15(b) QD/QR may apply in cases involving arbitrary arrests and detentions, life-threatening conditions of detention, or exposure to violent crime and to the violence in relation to land expropriation.

With regard to subsidiary protection under Article 15(c) QD/QR and for the purposes of this document, the assessment of the level of indiscriminate violence in Sudan is made by (non-

administrative) regions, defined as follow: the **Khartoum region** comprises Khartoum state; the **Darfur region** comprises North Darfur, South Darfur, West Darfur, East Darfur and Central Darfur states; the **Kordofan region** comprises North Kordofan, South Kordofan and West Kordofan, including Abyei; the **Central region** comprises Al Jazirah, Sennar, Blue Nile and White Nile states; the **North region** comprises Northern and River Nile states; the **East region** comprises Gedaref, Kassala and Red Sea states.

Please find below the assessment contained in the common analysis:

- In **Khartoum, Darfur, Kordofan regions and Al Jazirah state** in the Central region, the degree of indiscriminate violence reaches such an exceptionally high level that substantial grounds are shown for believing that a civilian, returned to the relevant area, would, **solely on account of their presence there**, face a real risk of being subject to the serious threat referred to in Article 15(c) QD/QR.
- Indiscriminate violence in situations of armed conflict reaches **a high level** in the remaining states of the **Central Region**, namely Sennar, Blue Nile and White Nile. Accordingly, **a lower level of individual elements** is required to show substantial grounds for believing that a civilian, returned to the area, would face a real risk of serious harm.
- In the **North region**, indiscriminate violence is taking place, however **not at a high level**. Accordingly, a **higher level of individual elements** is required to show substantial grounds for believing that a civilian, returned to the area, would face a real risk of serious harm.
- In the **East region**, it is considered that there is in general **no real risk** of serious harm under Article 15(c) QD/QR.

The international protection needs of Sudanese applicants are further compounded by the general lack of protection in the country. Neither the Sudanese authorities and the SAF nor the RSF can be considered an **actor of protection** fulfilling the requirements of Article 7 QD/QR and no other relevant actors identified in the country. See Actors of protection.

Furthermore, it is assessed that, internal protection alternative would in general not be applicable to any part of Sudan in accordance with Article 8 QD/QR.

Additionally, exclusion considerations may be relevant in a number of cases concerning applicants from Sudan. Examples include (former) members of the SAF, the RSF and affiliated para-military groups and militias, as well as members of former insurgent armed groups in Darfur. Individuals involved in the commission of serious non-political crimes may also fall within the scope of exclusion under the applicable legal framework.

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  The assessment and guidance reflect the conclusions of the EUAA Country Guidance Network, which consists of EU Member States, Iceland, Norway and Switzerland. The guidance note has been endorsed by the EUAA Management Board.

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Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010.

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