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5. Subsidiary protection

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This chapter addresses the EU-regulated status of subsidiary protection. Where the applicant has not been found to qualify as a refugee, they may be eligible for subsidiary protection in accordance with Article 15 QD/QR.

The CJEU ruled in 2023 on the importance of the individual circumstances to be taken into account while determining if an applicant is eligible for subsidiary protection, before identifying the type of serious harm, notably (14):

‘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, **established 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 Article 15 QD/QR**.

For further information on the **specific individual circumstances** which may be relevant to consider in the assessment of a **real risk of serious harm under Article 15 QD/QR**, see relevant sections below.

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  CJEU, X and Y v Staatssecretaris van Veiligheid en Justitie, C-125/22, Fourth Chamber, judgment of 9 November 2023, operative part (Court’s ruling), https://curia.europa.eu/juris/document/document.jsf?text=&docid=279488&pageIndex=0&doclan

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