



5. Subsidiary protection

COMMON ANALYSIS

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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 QR.

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The CJEU ruled in 2023 on **the importance of the personal circumstances when determining if an applicant is eligible for subsidiary protection, before identifying the type of serious harm**, notably ([17](#)):

‘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 Article 15 QR**.

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

The contents of this chapter include:

- [5.1. Article 15\(a\) QR: death penalty or execution](#)
- [5.2. Article 15\(b\) QR: torture or inhuman or degrading treatment or punishment](#)
- [5.3. Article 15\(c\) QR: indiscriminate violence in situations of armed conflict](#)

- [17](#)

CJEU, judgment of 9 November 2023, [X and Y v Staatssecretaris van Veiligheid en Justitie](#), C-125/22, Fourth Chamber, operative part (Court's ruling). Summary available in the [EUAA Case Law Database](#).

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