

1. Crimes against peace, war crimes and crimes against humanity

Articles 12(2)(a) and 17(1)(a) of the QR and the recast QD exclude applicants from refugee status and subsidiary protection for whom there are serious reasons to consider that they have committed a crime against peace, a war crime or a crime against humanity. This exclusion clause reflects the provisions of Article 1F(a) of the 1951 Refugee Convention.

Section 1.1 examines the exclusion ground relating to war crimes while Section 1.2 addresses crimes against humanity. Both sections first set out the applicable international legal framework used to define both crimes for the purposes of applying the exclusion clauses, drawing on instruments such as the Rome Statute, the Geneva Conventions, and the statutes and jurisprudence of international criminal tribunals. This is followed by an analysis of how national courts have assessed the contextual and material elements of such crimes in asylum proceedings. Both sections conclude with illustrative examples of national case law. This section does not delve into further detail regarding crime against peace, as this ground is rarely applied and relevant case law could not be identified for the purpose of this analysis.

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