



Country Guidance: Afghanistan

Guidance note and common analysis

June 2018



Country Guidance:

Afghanistan

Guidance note and common analysis

The present common analysis and guidance note are based on current EU legislation. It should be noted that Member States may introduce or retain more favourable standards for qualification of international protection, so far as those standards are compatible with the respective EU legislation.

This does not in any way release Member States from the obligation to individually, objectively and impartially examine each application for international protection.

Each decision should be taken on the basis of the individual circumstances of the applicant and the situation in Afghanistan at the moment of the decision, according to precise and up-to-date country information, obtained from various relevant sources (Article 10 of the Asylum Procedures Directive).

The analysis and guidance provided within this document are not exhaustive.

June 2018

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Introduction

On 21 April 2016¹, the Council of the European Union agreed on the creation of a senior-level policy network, involving all Member States and coordinated by EASO, with the task to carry out a joint assessment and interpretation of the situation in main countries of origin. The network supports EU-level policy development based on common country of origin information (COI), by jointly interpreting such information in light of the relevant provisions of the asylum acquis and taking into account the content of the EASO training material and practical guides where appropriate. The EASO Country Guidance Network was launched in June 2016, in accordance with the Council conclusions.

Within this framework, the Council further agreed to select Afghanistan for a pilot country guidance exercise.

The development of **common analysis** and **guidance notes** was also included as a key area in the new mandate of the European Union Agency for Asylum (EUAA) proposed by the European Commission.²

The two elements can be presented as follows:

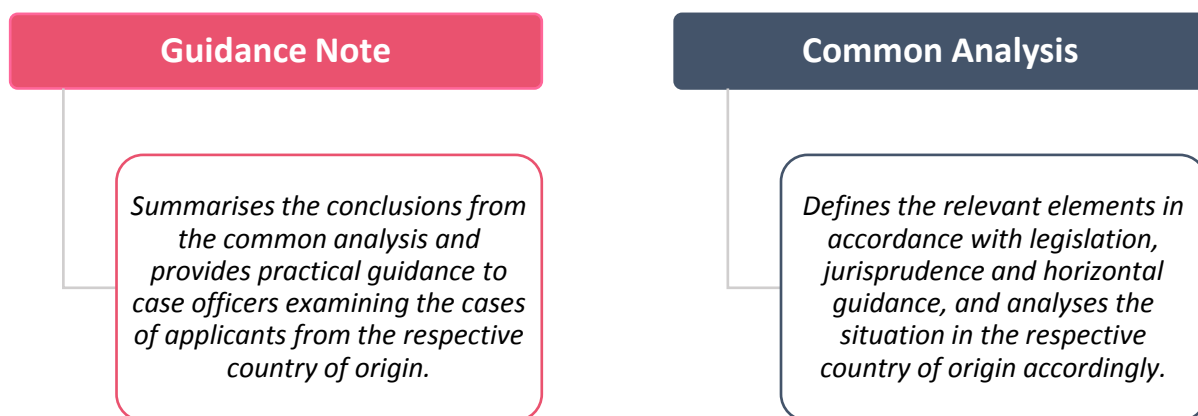


Figure 1. Country guidance elements

This document is the result of the joint assessment by the Country Guidance Network, whose work was supported by a Drafting Team of selected national experts and by EASO. The European Commission and UNHCR provided valuable input in this process.

The country guidance, accompanied by the common analysis, shall be taken into account by Member States when examining applications for international protection without prejudice to their competence for deciding on individual applications.

The common analysis and guidance note are based on the provisions of the Qualification Directive (QD)³ and the 1951 Geneva Convention Relating to the Status of Refugees, as well as jurisprudence of the Court of Justice of the European Union (CJEU) and, where appropriate, the European Court of Human Rights (ECtHR).

¹ Council of the European Union, Outcome of the 3461st Council meeting, 21 April 2016, 8065/16, available at <http://www.consilium.europa.eu/media/22682/st08065en16.pdf>.

² European Commission, Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, 4 May 2016, 2016/0131 (COD), available at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160504/easo_proposal_en.pdf.

³ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

They take into account the 'EASO Practical Guide: Qualification for international protection'⁴, the Judicial Analysis 'Qualification for International Protection (Directive 2011/95/EU)' and the Judicial Analysis 'Article 15(c) Qualification Directive (2011/95/EU)'⁵, as well as the 'UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan'.⁶ Furthermore, the chapter on internal protection alternative takes into account the 'UNHCR Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees'.⁷ The chapter on exclusion is based on the 'EASO Practical Guide: Exclusion'⁸ and the Judicial Analysis 'Exclusion: Articles 12 and 17 Qualification Directive (2011/95/EU)'.⁹

The country information analysed hereby includes, in particular, the following EASO reports: 'Afghanistan, Individuals targeted by armed actors in the conflict', 'Afghanistan, Recruitment by armed groups', 'Afghanistan, Individuals targeted under societal and legal norms', 'Afghanistan, Security Situation', December 2017, 'Afghanistan, Security Situation - Update', May 2018, 'Afghanistan, Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and Herat City' (*Key socio-economic indicators*), and 'Afghanistan, Networks'.¹⁰

⁴ EASO Practical Guide: Qualification for international protection, available at <https://www.easo.europa.eu/practical-tools>.

⁵ 'Article 15(c) Qualification Directive (2011/95/EU)' and 'Qualification for International Protection (Directive 2011/95/EU)', A Judicial Analysis produced by the International Association of Refugee Law Judges European Chapter (IARLJ-Europe) under contract to EASO, available at <https://www.easo.europa.eu/courts-and-tribunals>.

⁶ UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, 19 April 2016, HCR/EG/AFG/16/02, available at <http://www.refworld.org/docid/570f96564.html>.

⁷ UNHCR, Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees, 23 July 2003, HCR/GIP/03/04, available at <http://www.refworld.org/docid/3f2791a44.html>.

⁸ EASO Practical Guide: Exclusion, available at <https://www.easo.europa.eu/practical-tools>.

⁹ Exclusion: Articles 12 and 17 Qualification Directive (2011/95/EU), A Judicial Analysis produced by the International Association of Refugee Law Judges European Chapter (IARLJ-Europe) under contract to EASO, available at <https://www.easo.europa.eu/courts-and-tribunals>.

¹⁰ See [Annex II](#) for a detailed overview of COI used as a basis for this country guidance. EASO COI reports are available at <https://www.easo.europa.eu/information-analysis/country-origin-information/country-reports>.

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Guidance note: Afghanistan

- ▶ The Guidance Note summarises the conclusions of the common analysis and should be read in conjunction with it.

I. Actors of persecution or serious harm

Persecution or serious harm must always take the form of conduct on the part of a third party and cannot simply be the result of shortcomings due to the general situation in a country of origin.¹¹

According to [Article 6 QD](#), the following could be actors of persecution or serious harm:

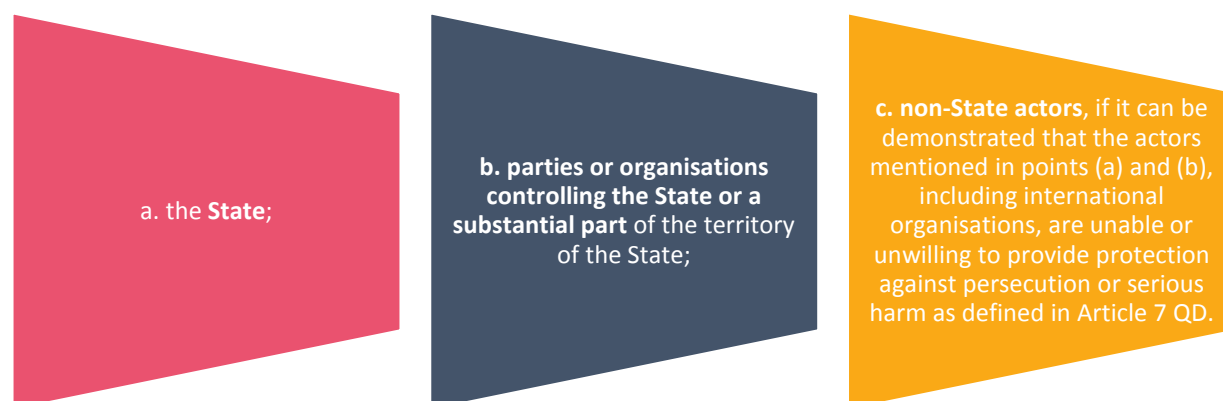


Figure 2. Actors of persecution or serious harm.

In Afghanistan, a wide range of different groups and persons can be considered as actors of persecution or serious harm, and a clear distinction between the different types of actors within the meaning of [Article 6 QD](#) might often be difficult to make.

The following are examples concerning some of the potential actors and their acts which may amount to persecution or serious harm. The list is non-exhaustive.

The Afghan State and pro-government elements	
Examples of potential actors of persecution or serious harm	Examples of potential acts of persecution or serious harm associated with these actors
■ Afghan National Security Forces (ANSF), mainly the National Directorate of Security (NDS) and some local police forces ■ Pro-government militias (PGMs) ■ powerful individuals (e.g. ministers, governors) ■ etc.	■ targeting and killing of individuals ■ intimidation and harassment of civilians ■ death penalty ■ illegal detention and torture of individuals suspected to be anti-government elements ■ etc.

Insurgent groups

¹¹ CJEU, *Mohamed M'Bodj v État belge*, C-542/13, Judgment of 18 December 2014, C-542/13, paras. 35-36.

Examples of potential actors of persecution or serious harm	Examples of potential acts of persecution or serious harm associated with these actors
■ Taliban (currently the only group that may be considered under Article 6(b) QD) ■ Islamic State Khorasan Province (ISKP) ■ Islamic Movement of Uzbekistan (IMU) ■ Islamic Jihad Union ■ Lashkar-e Tayyiba ■ Jaysh Muhammed ■ Fedai Mahaz ■ Mullah Dadullah Front ■ etc.	■ targeting and killing of individuals ■ intimidation and harassment of civilians ■ abductions ■ illegal parallel justice systems and extrajudicial punishments, including executions ■ etc.

Other non-State actors	
Examples of potential actors of persecution or serious harm	Examples of potential acts of persecution or serious harm associated with these actors
■ clans and tribes ■ (locally) powerful individuals ■ family members ■ criminal groups and individuals ■ etc.	■ harmful traditional practices (e.g. forced marriage and family violence against women) ■ honour-based violence ■ criminality, including for example kidnapping for ransom and extortions ■ violence related to land disputes and blood feuds ■ due process violations and violations related to punishments imposed by non-State judicial mechanisms (e.g. <i>jirgas</i> and <i>shuras</i>) ■ etc.

II. Refugee status

The ongoing armed conflict in Afghanistan has created a situation in which targeted violence and human rights abuses towards specific groups of people frequently occur.

All elements of the **definition of a refugee** in accordance with the QD should be fulfilled for the qualification of the applicant as a refugee:

Article 2(d) of the Qualification Directive Definitions
‘ refugee ’ means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 <i>[exclusion]</i> does not apply;

[Article 9 QD](#) outlines how ‘persecution’ should be assessed.

[Article 10 QD](#) provides further clarification on the different reasons for persecution. A link (nexus) between those reasons and the persecution or the absence of protection should be established in order for the applicant to qualify for refugee status.

Guidance on specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided below.

An **individual assessment** is required for every application. It should take into account the individual circumstances of the applicant and the relevant country of origin information. Factors to take into account in this assessment may include, for example:

- home area of the applicant and presence of the potential actor of persecution;
- nature of the applicant’s actions (whether or not they are perceived negatively and/or whether or not individuals engaged in such actions are seen as a priority target by the actor of persecution);
- visibility of the applicant and his or her actions (i.e. to what extent it is likely that the applicant is known to or could be identified by the potential actor of persecution), noting however that the applicant does not need to show that he or she is individually singled out by the persecutor;
- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals, network);
- additional elements, such as personal enmities, which may enhance the risk for the applicant.

The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant’s well-founded fear, unless there are good reasons to consider that such persecution will not be repeated ([Article 4\(4\) QD](#)).

Guidance on particular profiles with regard to qualification for refugee status

This section refers to some of the profiles of Afghan applicants, encountered in the caseload of EU Member States. It provides general conclusions on the profiles and guidance regarding additional circumstances to take into account in the individual assessment.

The tables below summarise the conclusions with regard to different profiles and sub-profiles and aim at providing a practical tool to case officers. The distinction between the three categories is based on the likelihood for an applicant to qualify for refugee status. However, it should be noted that the placement of a particular profile under a certain category is not conclusive as to the individual protection needs of the applicant and **each case should be examined individually**. While examples are provided with regard to sub-profiles at differentiated risk and circumstances which would normally increase or decrease the risk, these are non-exhaustive and to be taken into account in light of all circumstances in the individual case.

Moreover, an individual applicant could fall under more than one profile included in this guidance note and common analysis. The protection needs associated with all such circumstances should be fully examined.

Persons who belonged to a certain profile in the past (e.g. former members of the security forces) or family members of an individual falling under a certain profile may have protection needs similarly to those outlined for the respective profile. This is not explicitly mentioned in the tables below, however, it should be taken into account in the individual assessment.

For relevant information and analysis, follow the [links](#) to the sections on the respective profile within the common analysis. For ease of reference, the numbering of the profiles as per the common analysis is preserved herein.

Please note that some profiles are further split in sub-profiles and may appear in several categories.

The conclusions regarding each profile should be viewed without prejudice to the credibility assessment of the applicant's claims.

Based on available COI and analysis, it is concluded that individuals under the following profiles or sub-profiles would, in general, have a well-founded fear of persecution.

In these cases, nexus to a reason for persecution falling under the definition of a refugee (race, religion, nationality, membership of a particular social group or political opinion) is also, in general, substantiated.

Profiles / sub-profiles	Potential nexus
▶ (1) <u>Members of the security forces and pro-government militias</u>: individuals that are priority targets for insurgent groups (e.g. officers of the security services, members of Afghan Local Police (ALP), or local uprising militias)*	■ (imputed) political opinion
▶ (3) <u>Individuals working for foreign military troops or perceived as supporting them</u>: individuals that are priority targets for insurgent groups (e.g. interpreters and security guards)*	■ (imputed) political opinion

▶ (5) <u>Members of insurgent groups and civilians perceived as supporting them*</u>	■ (imputed) political opinion
▶ (14) <u>LGBT</u>	■ membership of a particular social group
▶ (16) <u>Individuals considered to have committed blasphemy and/or apostasy</u>	■ religion
▶ (17d) <u>Baha'i</u>	■ religion
▶ (18a) <u>Individuals involved in blood feuds</u> : men directly involved in a blood feud*	■ membership of a particular social group

* Please note that exclusion considerations could be relevant to this profile.

Based on available COI and analysis, it is concluded that individuals under the following profiles or sub-profiles may have a well-founded fear of persecution in relation to certain risk-enhancing circumstances.

The table below provides examples of circumstances which may be relevant to take into account in the individual risk assessment and indicates a potential nexus to a Convention reason for persecution (race, religion, nationality, membership of a particular social group or political opinion).

Profiles / sub-profiles	Examples of circumstances to take into account in the risk assessment	Potential nexus
▶ (1) <u>Members of the security forces and pro-government militias</u> : individuals that are not priority targets for insurgent groups*	■ area of work and visibility of the applicant ■ area of origin and presence of insurgent groups (in relation to insurgents' checkpoints) ■ period since leaving the forces ■ personal enmities ■ etc.	■ (imputed) political opinion
▶ (2) <u>Government officials, including judges, prosecutors and judicial staff; and those perceived as supporting the government*</u>	■ being linked to ministries at the forefront of the fight against insurgents (e.g. Ministry of Defence, Ministry of Interior Affairs, etc.) ■ high position within the government (e.g. judges, prosecutors, other judicial staff) ■ prominent position within the community ■ originating from contested areas or areas with insurgent presence ■ personal enmities ■ open statements against the Taliban	■ (imputed) political opinion

	etc.	
▶ (3) <u>Individuals working for foreign military troops or perceived as supporting them:</u> individuals that are not priority targets for insurgent groups*	- specific role and visibility of the applicant - being on the payroll of foreign troops - origin from a contested area or areas with insurgent presence - etc.	(imputed) political opinion
▶ (4) <u>Religious leaders</u>	- public expression of support for the government or condemnation of insurgents' actions - performing ceremonies for killed members of the security forces - etc.	(imputed) political opinion - religion
▶ (6) <u>Individuals at risk of forced recruitment</u>	- belonging to the age group of adolescents and young adults - military background - area of origin and the presence/influence of armed groups - increased intensity of the conflict - position of the clan in the conflict - poor socio-economic situation of the family - etc.	(imputed) political opinion
▶ (7) <u>Educational personnel</u>	- gender (i.e. female teachers) - origin from contested areas and areas under ISKP influence - the individual or the institution not following insurgent directives and/or curriculum - links to foreign sponsors - speaking out against the Taliban - etc.	(imputed) political opinion - religion
▶ (8) <u>Humanitarian workers and healthcare professionals</u>	- gender (i.e. women) - nature of activities (national/international NGO with activities related to polio vaccination, de-mining, promoting women's rights, etc.) - origin from contested areas	(imputed) political opinion

	- level of cooperation with armed groups - speaking out against a party in the conflict - etc.	
► (9) <u>Journalists, media workers and human rights defenders</u>	- nature of activities (e.g. journalists and media workers covering conflict-related topics and events, the political situation, corruption and human rights abuses would be at a particularly high risk) - visibility of activities and public profile - gender (additional/higher risk for women) - area of origin - etc.	(imputed) political opinion
► (10) <u>Children</u>	For child marriage: see '<i>Women – harmful traditional marriage practices</i>' below. For child labour (depending on the nature of the work and the age of the child): - poor socio-economic status of the child and his or her family, etc. For child recruitment: see '<i>Individuals at risk of forced recruitment by armed groups</i>' above. For violence against children: - gender (boys and girls may face different risks) - age and appearance (e.g. non-bearded boys could be targeted as <i>bacha bazi</i>) - perception of traditional gender roles in the family - poor socio-economic situation of the child and the family - etc. For access to education: in case of deliberate restrictions of access to education, in particular for girls. Having no support network in Afghanistan is an important risk-enhancing circumstance for children.	Depending on individual circumstances: (imputed) political opinion (e.g. girls attending school in Taliban-controlled area) - membership of a particular social group (e.g. (former) <i>bacha bazi</i>)
► (11) <u>Women</u>	For violence against women: - perception of traditional gender roles in the family - poor socio-economic situation	Depending on individual circumstances: (imputed) political opinion

- type of work and work environment (for women working outside the home)
- etc.
- (e.g. women in public roles)
- membership of a particular social group (e.g. women in Afghanistan who do not live according to traditional gender roles)

For harmful traditional marriage practices:

- young age (in particular, under 16)
- area of origin (particularly affecting rural areas)
- ethnicity (e.g. Pashtun)
- perception of traditional gender roles in the family
- poor socio-economic situation of the family
- local power/influence of the (potential) husband and his family or network
- etc.

Women in public roles:

- area of origin (particularly affecting rural areas)
- conservative environment
- visibility of the applicant (e.g. nature of the work, public statements perceived negatively by the actor of persecution)
- perception of traditional gender roles by the family or network
- etc.

Women perceived to have transgressed moral codes:

See 'Individuals perceived to have transgressed moral codes' below.

Women perceived as 'Westernised': See 'Individuals perceived as Westernised' below.

Having **no support network in Afghanistan** is an important risk-enhancing circumstance for women.

► (12) **Individuals perceived to have transgressed moral codes**

- gender (the risk is higher for women)
- area of origin (particularly affecting rural areas)
- conservative environment
- perception of traditional gender roles by the family
- power/influence of the actors involved
- etc.
- Depending on individual circumstances:
 - religion
 - (imputed) political opinion
 - membership of a particular social group

		(e.g. women transgressing moral codes)
▶ (13) <u>Individuals perceived as 'Westernised'</u>	- gender (the risk is higher for women; while for men it is generally minimal) - the behaviours adopted by the applicant - area of origin (particularly affecting rural areas) - conservative environment - perception of traditional gender roles by the family - age (it may be difficult for children to (re-)adjust to Afghanistan's social restrictions) - visibility of the applicant - etc.	Depending on individual circumstances: - religion (imputed) political opinion - membership of a particular social group (e.g. women perceived as 'Westernised')
▶ (15) <u>Persons living with disabilities</u>	- nature and visibility of the mental or physical disability - negative perception by the family - etc.	membership of a particular social group
▶ (17b) <u>Shia, including Ismaili</u>	- area of origin (areas where ISKP has operational presence) - participation in religious practices - political activism - etc.	religion
▶ (17c) <u>Hindus and Sikhs</u>	The individual assessment of whether or not discrimination could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.	religion
▶ (18a) <u>Individuals involved in blood feuds:</u> other than men directly involved in the blood feud *	- intensity of the blood feud - origin from areas where the rule of law is weak - etc.	membership of a particular social group

* Please note that exclusion considerations could be relevant to this profile.

Based on available COI and analysis, it is concluded that, in general, the following applicants would not have a well-founded fear of persecution for reason of race, religion, nationality, membership of a particular social group or political opinion, solely due to belonging to this profile or sub-profile.

However, in certain circumstances, such individuals could have a well-founded fear of persecution and could qualify for refugee status. The table below provides some examples of such circumstances where exceptions could apply.

Profiles / sub-profiles	Examples of circumstances to take into account in the risk assessment	Potential nexus
► (15) <u>Persons with severe medical issues</u>	In individual cases, if intentionally deprived of medical care, it could amount to persecution.	Depending on individual circumstances
► (17a) <u>Individuals of Hazara ethnicity</u>	See potential link to other profiles (e.g. Shia, individuals perceived as supporting the government , etc.): ■ area of origin and area of work (e.g. areas where ISKP has operational presence) ■ profession ■ participation in religious practices (see the profile of '<i>Shia, including Ismaili</i>') ■ political activism ■ etc.	Depending on individual circumstances: ■ religion (for Shia) ■ (imputed) political opinion
► (18b) <u>Individuals involved in land disputes</u> *	■ violent nature of the dispute ■ power/influence of the actors involved in the land dispute ■ area of origin with weak rule of law ■ etc.	In general, no nexus to a Convention reason. However, depending on the underlying reason or the circumstances of the land dispute, nexus could potentially be established.
► (19) <u>Individuals accused of ordinary crimes</u> *	■ area of origin of the applicant and the prevalent justice mechanism (parallel justice mechanisms by insurgent groups amount to persecution) ■ nature of the crime for which the applicant is prosecuted ■ envisaged punishment ■ etc.	In general, no nexus to a Convention ground.

► (20) <u>Afghans perceived as wealthy</u>	▪ visibility of the applicant ▪ means available to provide one's security (e.g. power position or influence, network, financial means) ▪ etc.	In general, no nexus to a Convention ground.
► (21) <u>Individuals who were born in Iran or Pakistan and/or who lived there for a long period of time</u>	In exceptional cases, the accumulation of measures could amount to persecution.	In general, no nexus to a Convention ground.

* Please note that exclusion considerations could be relevant to this profile.

III. Subsidiary protection

Article 15(a) QD: death penalty or execution

Death penalty is envisaged under both, the Afghan Penal Code and Islamic law.

In the areas under their control, insurgents impose punishments through parallel justice systems, based on a strict interpretation of *sharia*. This includes capital punishments, and instances of public executions by stoning and shooting, which would fall under the scope of [Article 15\(a\) QD](#).

In the cases of profiles listed above for which death penalty or execution may be a real risk (for example, [LGBT](#), [individuals considered to have committed blasphemy and/or apostasy](#), [members of insurgent groups and civilians perceived as supporting them](#), etc.), there would often be a nexus to a Convention ground, and those individuals would qualify for refugee status. In cases where there is no nexus to a Convention ground (for example, in some cases of [individuals accused of ordinary crimes](#)), the need for subsidiary protection under [Article 15\(a\) QD](#) should be examined.

Article 15(b) QD: torture or inhuman or degrading treatment or punishment

In the cases of profiles listed above, for which torture or inhuman or degrading treatment or punishment may be a real risk, there would often be a nexus to a Convention ground, and those individuals would qualify for refugee status. However, with reference to cases where there is no nexus to a Convention ground and the applicant would, therefore, not qualify for refugee status, the need for subsidiary protection under [Article 15\(b\) QD](#) should be examined.

When examining the need for protection under [Article 15\(b\) QD](#), the following considerations should be taken into account:

- **Health care unavailability and socio-economic conditions**: In themselves, the general unavailability of health care, education or other socio-economic elements (for example, difficulties in finding livelihood opportunities, housing, etc.) do not fall within the scope of inhuman or degrading treatment under [Article 15\(b\) QD](#), unless there is intentional conduct

on the part of a third party, such as the intentional deprivation of the applicant of appropriate health care.^{12,13}

- **Arbitrary arrests, illegal detention and prison conditions:** Arbitrary arrests and illegal detention centres run by different actors (linked to the State, to militias, to strongmen or to insurgent groups) are widespread in Afghanistan. In general, human rights are not respected in these illegal detention facilities and persons who face a real risk of being illegally detained by these actors may be in need of protection. Furthermore, it can be assessed that in cases where the prosecution or punishment is grossly unfair or disproportionate, or where a person is subjected to prison conditions which are not compatible with respect for human dignity, a situation of serious harm under [Article 15\(b\) QD](#) can occur. It should also be stressed that in official and unofficial detention centres, torture often takes place.

Profiles for which a real risk of serious harm under [Article 15\(b\) QD](#) may be substantiated depending on the individual circumstances in the case include, inter alia, [children](#), [individuals accused of ordinary crimes](#), [individuals involved in land disputes](#) and [Afghans perceived as wealthy](#), etc.

Article 15(c) QD: serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict

The necessary elements in order to apply [Article 15\(c\) QD](#) are:

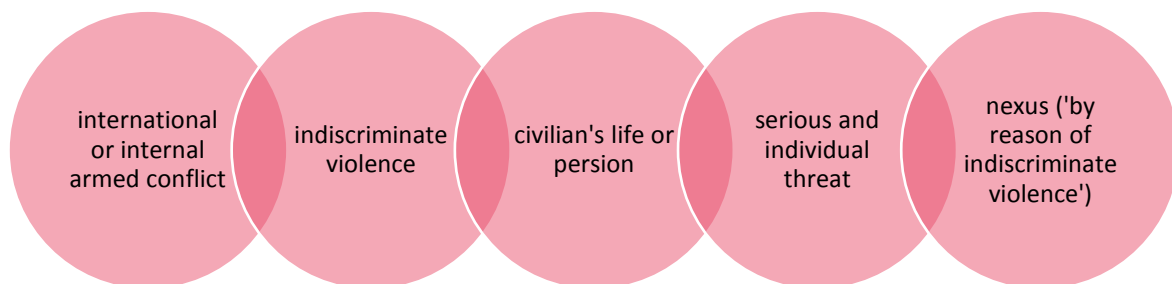


Figure 3. Article 15(c) QD: elements of the assessment.

The following can be concluded with regard to the applicability of [Article 15\(c\) QD](#) and its elements to the situation in Afghanistan:

- Armed conflict:** An internal armed conflict in the meaning of [Article 15\(c\) QD](#) takes place in the territory of Afghanistan except in the province of Panjshir, where no confrontations between armed groups and no civilian casualties were reported in the reference period.
- Indiscriminate violence:** Indiscriminate violence takes place to a different degree in different parts of the territory of Afghanistan. The map below illustrates the assessment at provincial level. This assessment is based on a holistic analysis, including quantitative and qualitative information for the reference period (generally, January 2017 – March 2018).

The actual situation of indiscriminate violence cannot be considered stable and up-to-date country of origin information should always inform the individual assessment.

¹² CJEU, *Mohamed M'Bodj v État belge*, case C-542/13, judgment of 18 December 2014, Grand Chamber, paras.35 and 36; CJEU, *MP v Secretary of State for the Home Department*, case C-353/16, judgment of 24 April 2018, para.59.

¹³ It should be noted that more favourable standards in this regard may be in place in some Member States.

The map below summarises and illustrates the assessment of indiscriminate violence per province in Afghanistan.

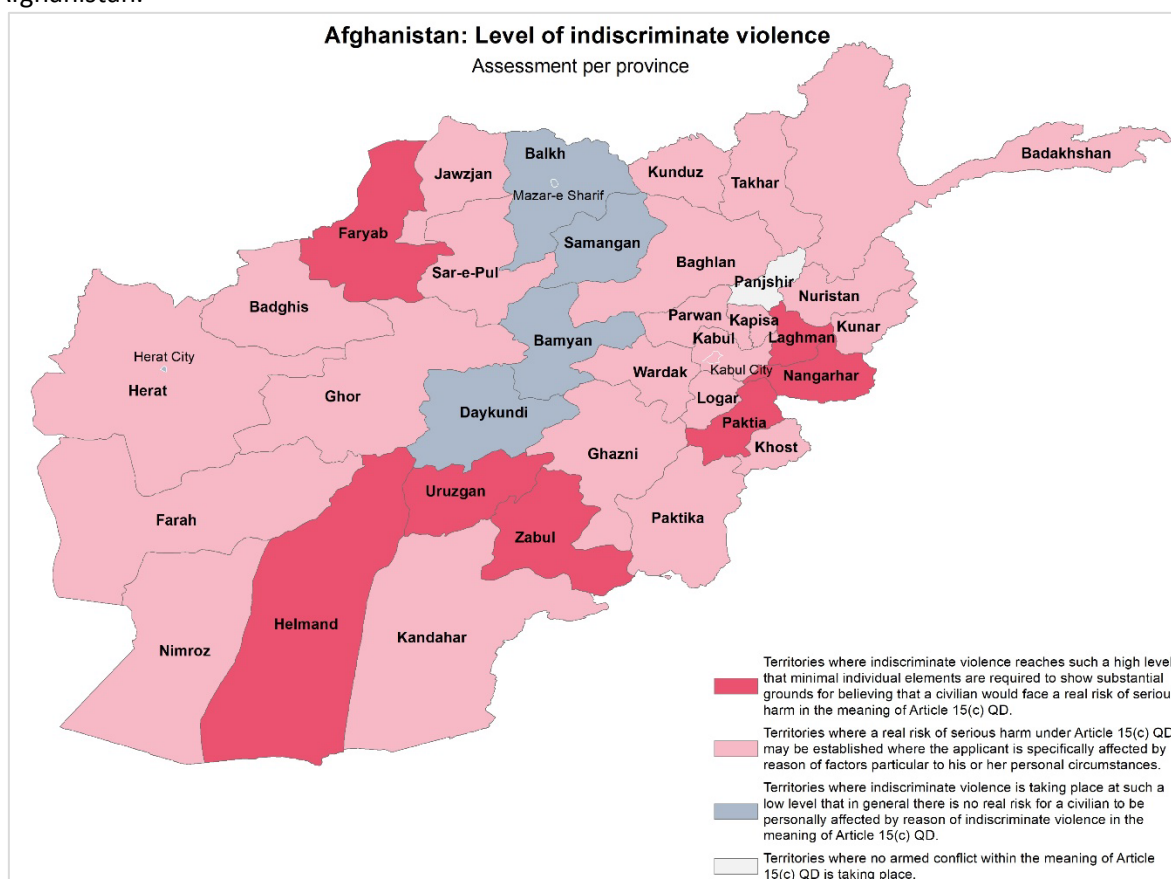


Figure 4. Afghanistan: Level of indiscriminate violence.

The graph below further illustrates the scale applied within this guidance note with regard to the different levels of indiscriminate violence and the respective degree of individual elements required in order to find that a real risk of serious harm is substantiated for the applicant:

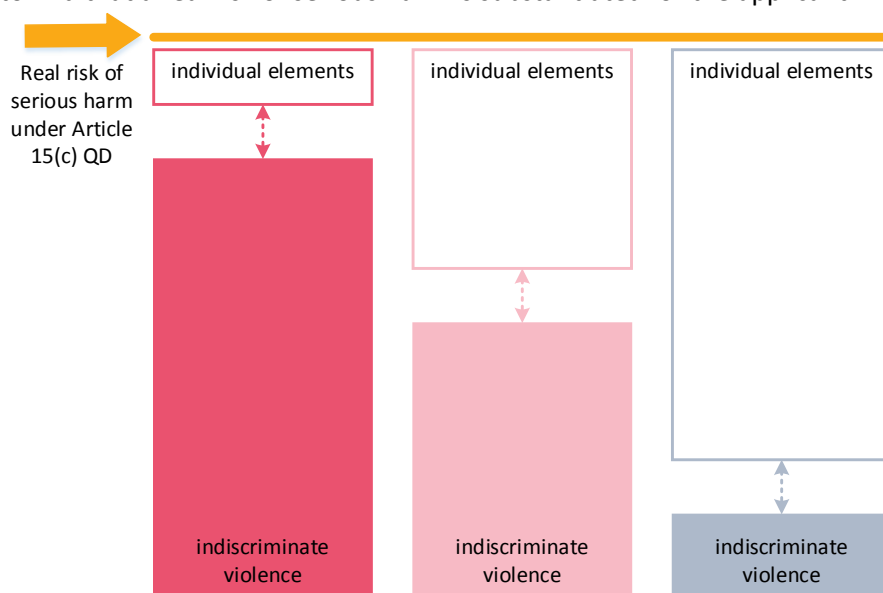


Figure 5. Indiscriminate violence and individual elements in establishing real risk of serious harm under Article 15(c) QD.

This scale is only illustrative and without prejudice to the fact that the assessment of indiscriminate violence is not identical for all territories included in a respective category.

For the purposes of the guidance note, the territories of Afghanistan are differentiated as follows:

Territories where the level of indiscriminate violence in the province reaches **such a high level that minimal individual elements are required** to show substantial grounds for believing that a civilian, returned to the province, would face a real risk of serious harm in the meaning of Article 15(c) QD (i.e. serious and individual threat to a civilian's life or person).

The areas are:

The provinces of Faryab, Helmand, Laghman, Nangarhar, Paktia, Uruzgan, and Zabul.

Territories where indiscriminate violence is taking place and real risk of serious harm under Article 15(c) QD may be established where the applicant is **specifically affected by reason of factors particular to his or her personal circumstances**.

The areas are:

The provinces of Badakhshan, Badghis, Baghlan, Farah, Ghazni, Ghor, Herat (except Herat city), Jawzjan, Kabul, Kandahar, Kapisa, Khost, Kunar, Kunduz, Logar, Nimroz, Nuristan, Paktika, Parwan, Sar-e-Pul, Takhar, and Wardak.

Territories where indiscriminate violence is taking place at **such a low level that in general there is no real risk** for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

The areas are:

The provinces of Balkh, Bamyan, Daykundi, and Samangan, as well as Herat city.

It should be noted that in many of the provinces, the conflict severity further varies between different districts (see additional information in this regard in the subsection [Indiscriminate violence assessment per province of Afghanistan](#) in the common analysis). The area of origin (district, city) of the applicant would constitute an important element to consider in the individual assessment. The higher the level of indiscriminate violence in the respective area, the less additional individual elements would be required in order to apply Article 15(c) QD.

- c. **Civilian:** Article 15(c) QD applies to a person who is not a member of any of the parties to the conflict and is not taking part in the hostilities, potentially including former combatants who have genuinely and permanently renounced armed activity. The applications by persons falling in the following profiles should be examined carefully. Based on an individual assessment, such applicants may be found not to qualify as civilians under Article 15(c) QD:
- Insurgents (anti-government elements), including armed opposition fighters, who are fighting against the Afghan government and its international allies;
 - PGMs, including different paramilitary initiatives which have been developed and formalised to support the Afghan government and to assist the formal armed forces of Afghanistan;
 - Afghan National Security Forces, including the Afghan National Army (ANA), parts of the Afghan National Police (ANP), the NDS, as well as the ALP.

It should be noted that actively taking part in hostilities is not limited to openly carrying arms, but could also include substantial logistical and/or administrative support to combatants.

The assessment should further take into account whether the person voluntarily takes part in the armed conflict; those who willingly participate in armed groups are unlikely to be considered civilians.

Threat to life or person: The risk of harm as per Article 15(c) QD is formulated as a ‘threat to a civilian’s life or person’ rather than as a (threat of) a specific act of violence. The assessment of the harm should be forward-looking.

- d. **Serious and individual threat:** Certain applicants may be considered **at enhanced risk of indiscriminate violence**, including its direct and indirect consequences due to, inter alia, age, gender, health condition and disabilities, lack of a family network, economic situation, and geographical proximity to areas which are targeted by violence.

This could include, for example:

- Civilians who are less able to avoid risks of indiscriminate violence by way of seeking temporary shelter from fighting or attacks (e.g. persons with disabilities or serious illnesses; those in an extremely dire economic situation).
- Civilians who lack the capacity to properly assess a situation and therefore expose themselves to risks related to indiscriminate violence (e.g. children – depending on their environment, family background, parents or guardians, and level of maturity; mentally disabled persons).
- Civilians who may be substantially and materially affected by violence because of their geographical proximity to a possible target (e.g. government buildings, police or military bases, places of worship).

- e. **Nexus:** The nexus ‘by reason of’ refers to the causal link between the indiscriminate violence and the harm (serious threat to a civilian’s life or person) and includes:

- Harm which is **directly** caused by the indiscriminate violence or by acts that emanate from the actors in the conflict, *and*
- Harm which is **indirectly** caused by the indiscriminate violence in a situation of armed conflict. Indirect effects are only considered to a certain extent **and as long as there is a demonstrable link** with the indiscriminate violence, for example: widespread criminal violence as a result of a complete breakdown of law and order, destruction of the necessary means to survive. Armed clashes and/or road blockages can also lead to food supply problems that cause famine or limited or no access to healthcare facilities in certain regions in Afghanistan.

IV. Actors of protection

[Article 7 QD](#) stipulates that protection can be provided by:

a. the **State**;

b. **parties or organisations controlling the State or a substantial part of the territory of the State**;

provided they are **willing and able** to offer protection, which must be:

effective and of a **non-temporary nature**.

Such protection is generally provided when the actors mentioned take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by **operating an effective legal system for the detection, prosecution and punishment** of acts constituting persecution or serious harm,

and when the applicant has **access to such protection**.

The State: The Afghan State has taken certain measures to improve its law enforcement and justice system and its presence and control are relatively stronger in the cities. However, these systems are still weak and, in general, unable to effectively detect, prosecute and punish acts that constitute persecution or serious harm. Therefore, the criteria under [Article 7 QD](#) would generally not be met.

Parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State: Many areas in Afghanistan are influenced by insurgent groups; however, the Taliban are the only insurgent group controlling substantial parts of the territory and controlling certain public services, such as health care and education, in those areas. The Taliban would not be considered an actor of protection under [Article 7 QD](#), due to the illegitimate nature of the parallel justice mechanism they operate and taking into account their aim to overthrow and replace the Afghan government, and their record of human rights violations.

In case protection needs have been established in the home area, and in the absence of an actor who can provide protection in the meaning of [Article 7 QD](#), the examination may continue with consideration of the applicability of internal protection alternative (IPA), if applicable in accordance with national legislation and practice.

V. Internal protection alternative

The necessary elements in order to apply [Article 8 QD](#) are:

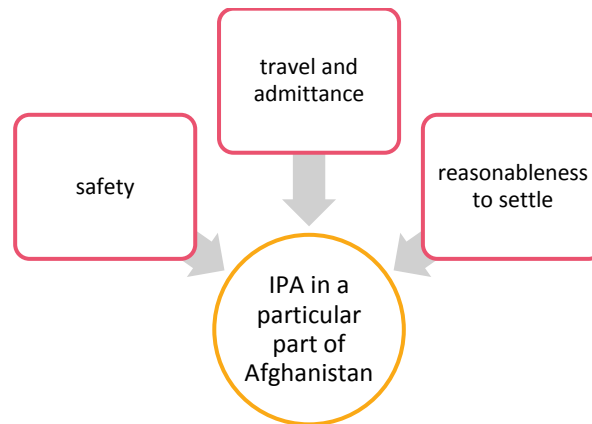


Figure 6. Internal protection alternative: elements of the assessment.

In relation to these elements, when assessing the applicability of internal protection alternative (IPA), the case officer should consider the general situation in the respective part of Afghanistan, as well as the individual circumstances of the applicant. The burden of proof lies with the determining authority, while the applicant remains under an obligation to cooperate. The applicant is also entitled to submit elements to indicate that IPA should not be applied to him or her.

a. Part of the country

This guidance regarding IPA focuses on the three **cities of Kabul, Herat and Mazar-e Sharif**. The selection of the three cities for this joint assessment does not prevent case officers from considering the application of IPA to other areas of Afghanistan, provided that all criteria are met.

When choosing a particular part of Afghanistan with regard to which to examine the applicability of IPA, where relevant, existing ties with the place, such as previous experience and/or existence of a support network could, for example, be taken into account.

b. Safety

The criterion of safety would be satisfied where there is no well-founded fear of persecution or real risk of serious harm, or where protection is available.

Absence of persecution or serious harm, including the initial persecution or serious harm and potential new forms of persecution or serious harm:

When assessing the requirement of safety with regard to the applicability of IPA in individual cases of applicants from Afghanistan, the following elements should be taken into account:

► **general security situation**

The security situation in the cities of Kabul, Herat and Mazar-e Sharif should be assessed in accordance with the analysis under the section on [Article 15\(c\) QD](#).

► **actor of persecution or serious harm and their reach:**

In case where the person fears persecution or serious harm by the **Afghan State**, there is a presumption that IPA would not be available.

When assessing the availability of IPA in case of persecution or serious harm by the **Taliban**, particular consideration should be given to the individual circumstances of the applicant, the capacity of the Taliban to track and target individuals in the cities, the way the applicant is perceived by the Taliban (see next point) and whether or not a personal enmity is at stake, etc.

For individuals who fear persecution or serious harm by **other armed groups**, the reach of the particular group should be assessed, e.g. the operational presence of ISKP in Kabul and Herat should be taken into account; in most cases IPA could be available.

In some cases, where the applicant faces persecution or serious harm for reasons related to the prevalent moral codes in Afghanistan and the actor of persecution or serious harm is **Afghan society** at large (e.g. LGBT, individuals considered to have committed blasphemy and/or apostasy), IPA would in general not be available.

For certain particularly vulnerable categories, such as women, children and persons with visible mental or physical disabilities, if the actor of persecution or serious harm is the **family** of the applicant, IPA would in general not be available.

► **whether or not the profile of the applicant is considered as a priority target and/or a threat by the actor of persecution or serious harm**

The profile of the applicant could make him or her a priority target, especially in the case of persecution or serious harm by the State or insurgent groups. This would increase the likelihood that the actor of persecution or serious harm would attempt to trace the applicant in the potential IPA location.

► **behaviour of the applicant**

The applicant cannot be expected to change his or her behaviour or to live in concealment in order to avoid persecution or serious harm.

► **personal enmity**

Some private disputes, including those based on honour and blood feuds, could strengthen the determination in the actor of persecution or serious harm to trace the applicant.

► **other risk-enhancing circumstances**

See the section [Guidance on commonly encountered profiles](#) above with regard to possible risk-enhancing circumstances for the different profiles.

Availability of protection against persecution or serious harm

Taking into consideration that the Afghan State is in general unable to provide protection which is effective, non-temporary and accessible, the applicability of IPA would depend on establishing the absence of persecution or serious harm in the area in question.

c. Travel and admittance

As a next step, the case officer should establish whether the applicant can:

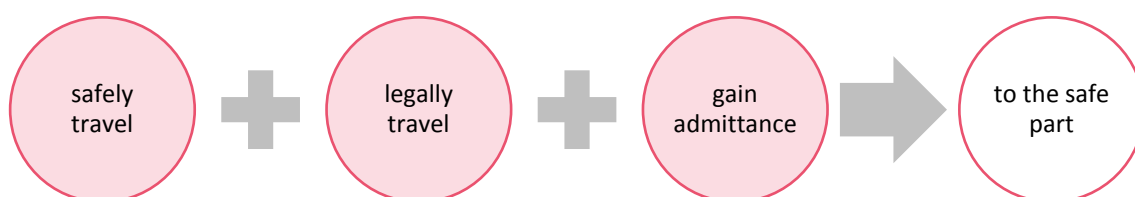


Figure 7. Travel and admittance as requirements for IPA.

- ✓ **Safely travel:** Based on available COI, travelling the roads from the airports to the cities of Kabul, Herat and Mazar-e Sharif during daylight hours is considered to be generally safe.
- ✓ **Legally travel:** There are no legal or administrative restrictions for Afghans to travel in Afghanistan, including into the cities of Kabul, Herat and Mazar-e Sharif.
- ✓ **Gain admittance to:** There are no legal or administrative restrictions or requirement for Afghans to be admitted in any part of the country, including the cities of Kabul, Herat and Mazar-e Sharif.

The **individual circumstances** of the applicant should also be taken into account in this context. Careful examination is required especially in cases of women who would be travelling without a male companion, as their travel within Afghanistan may be subject to severe restrictions.

d. Reasonableness to settle

According to [Article 8 QD](#), IPA can only apply if the applicant ‘**can reasonably be expected to settle**’ in the proposed area of internal protection.

✓ **general situation**

The following elements should be examined based on available country of origin information and in light of the following elements:

- the situation with regard to **food security**;
- the availability of **basic infrastructure**, such as:
 - shelter and housing;
 - basic health care;
 - hygiene, including water and sanitation;
 - basic education for children;
- the availability of **basic subsistence** that ensures access to food, hygiene and shelter, such as through employment, existing financial means, support by a network or humanitarian aid.

These should be seen as absolute criteria, and the assessment should not be in comparison with other areas in the country of origin or with the standards in Europe.

✓ **individual circumstances**

In addition to the general situation in the area of potential IPA, the assessment whether it is reasonable for the applicant to settle in that part of the country should take into account the individual circumstances of the applicant, such as **age, gender, health condition, local knowledge, social, educational and economic background, support network, religion, etc.** It should be noted that these factors are not absolute and they would often intersect in the case of the particular applicant, leading to different conclusions on the reasonableness of IPA.

The individual considerations could relate to certain vulnerabilities of the applicant as well as to available coping mechanisms, which would have an impact when determining to what extent it would be reasonable for the applicant to settle in a particular area.

Conclusions on reasonableness: commonly encountered profiles

The list below includes general conclusions with regard to some profiles which are commonly encountered in practice. For further guidance on elements which are to be assessed in this regard, see the common analysis section [Reasonableness to settle](#).

The individual circumstances of the applicant should always be taken into account.

In general, IPA in the cities of Kabul, Herat and Mazar-e Sharif could be considered reasonable for the following profiles, including where the applicant has no support network in the respective IPA area:

- ***Single able-bodied adult men***¹⁴

Although the situation related to settling in the three cities entails certain hardship, it can still be concluded that such applicants are able to ensure their basic subsistence, shelter and hygiene, taking into account the fact that their individual circumstances do not pose additional vulnerabilities.

- ***Married couples of working age without children***¹⁵

Although the situation related to settling in the three cities entails certain hardship, it can still be concluded that such applicants are able to ensure their basic subsistence, shelter and hygiene, taking into account the fact that their individual circumstances do not pose additional vulnerabilities. It should be examined whether in the situation of the couple sufficient basic subsistence can be ensured for both.

In general, IPA in Afghanistan may not be considered reasonable for the following profiles if they lack a support network in the respective IPA area:

- ***Single women***

As most women in Afghanistan would not have independent access to means of ensuring their basic subsistence, and as specific gender-based restrictions may be relevant, in general, IPA would not be reasonable for single women without support from a male member of their core or extended family in the respective part of Afghanistan.

- ***Unaccompanied children***

Due to their young age, children are particularly vulnerable and in general need to depend on other providers for their basic subsistence.

- ***Family with child(ren)***

Individual circumstances, such as the availability of sufficient financial means, should, however, be taken into account.

- ***Applicants with severe illnesses or disabilities***

Individual circumstances, such as the availability of sufficient financial means, should, however, be taken into account.

- ***Applicants who were born and/or lived outside Afghanistan for a very long period of time***

Considerations, such as the background of the applicant, including their educational and professional experience and connections, as well as whether they were able to live on their own outside Afghanistan, could also be relevant.

- ***Elderly***

Elderly people may face difficulties in accessing means of basic subsistence, in particular through employment. Therefore, IPA would in general not be reasonable for such applicants, in particular if they lack sufficient financial means or a support network in the respective part of Afghanistan.

¹⁴ See separate profile on applicants who were born and/or lived outside Afghanistan for a very long period of time.

¹⁵ *Ibid.*

VI. Exclusion

Given the serious consequences that exclusion may have for the individual, the exclusion grounds should be interpreted restrictively and applied with caution.

The examples in this chapter are non-exhaustive and non-conclusive. Each case should be examined on its own merits.

Applying the exclusion clauses where there are serious reasons to consider that the applicant has committed any of the relevant acts, is **mandatory**.

Exclusion should be applied in the following cases:

Grounds for exclusion			
Refugee status	■	crimes against peace, war crimes and crimes against humanity	Subsidiary protection
	■	serious non-political crimes outside the country of refuge prior to his or her admission as a refugee	
	■	acts contrary to the principles and purposes of the United Nations	
	■	crimes against peace, war crimes and crimes against humanity	
	■	serious crimes	
	■	acts contrary to the principles and purposes of the United Nations	
	■	danger to the community or to the security of the Member State in which the applicant is present	
	■	other crimes (under certain circumstances)	

It should be underlined that the determining authority has the burden of proof to establish the **elements of the respective exclusion grounds** and the **individual responsibility of the applicant**; while the applicant remains under an obligation to cooperate in establishing all facts and circumstances relevant to his or her application.

Several situations and different profiles in the context of Afghanistan are particularly relevant to examine with regard to exclusion, both in relation to armed conflict and to the general situation of human rights violations and criminality in Afghanistan.

Applicants can be excluded in relation to events that took place in the recent or in more distant past. Some (non-exhaustive) examples of past events which may be related to excludable acts in the context of Afghanistan include:

- The “Saur” Revolution of 1978, subsequent purges and the 1979 crackdown of the uprising;
- Soviet Union invasion (1979) and the armed conflict between the Afghan government (supported by Soviet troops) and the ‘mujahideen’ (e.g. secret services of the People’s Democratic Party of Afghanistan (PDPA) regime, commanders or fighters from the anti-Soviet jihad tanzeem) (1979 - 1992);
- Afghan “Civil War” (1992 - 1996);
- Taliban regime and conflict between the Taliban and the Northern Alliance (1996 - 2001);
- US-led military operation; and Taliban-led insurgency against the Afghan government (2001 - onwards);

- etc.

The following subsections provide guidance on the potential applicability of the exclusion grounds in the context of Afghanistan.

a. Crime against peace, war crime, or crime against humanity

[Article 12\(2\)\(a\) QD](#) and [Article 17\(1\)\(a\) QD](#) refer to specific serious violations of international law, as defined in the relevant international instruments.¹⁶

- ▶ **‘Crime against peace:** This ground is not found to be of particular relevance in the cases of applicants from Afghanistan.
- ▶ **War crimes are serious violations of international humanitarian law,** committed against a protected person or object (civilians, combatants placed out of combat, such as in detention or being wounded, or who have put down their arms, or civilian and cultural objects) or through the use of unlawful weapons or means of warfare. War crimes can be committed by combatants/fighters, as well as civilians, as long as there is a sufficient link to the armed conflict.

Reported violations of international humanitarian law by all parties in the current and in past conflicts in Afghanistan could amount to acts excludable as war crimes.

The nature of the armed conflict (international or non-international) is decisive in order to define the elements of a particular war crime. In this regard, the current armed conflict in Afghanistan is considered to be non-international. Armed conflicts in the past can be characterised as follows:

- armed conflict between PDPA government and armed opponents from the summer of 1979 until the Soviet invasion on 24 December 1979: non-international;
 - Soviet-Afghan War from December 1979 until February 1989: international;
 - armed conflict between ‘mujahideen’ forces and the government (1989-1996): non-international;
 - armed conflict between the Taliban and the United Front (1996-2001): non-international;
 - armed conflict of coalition led by the USA against the Taliban regime between October 2001 and June 2002: international;
 - Taliban-led insurgency against the Afghan government (June 2002 – ongoing): non-international.
- ▶ **Crimes against humanity** are fundamentally inhumane acts, committed as part of a **systematic or widespread attack against any civilian population**. Some (non-exhaustive) examples of inhumane acts which could reach this threshold when committed pursuant to or in furtherance of a State or organisational policy, include: murder, extermination, torture, rape, sexual slavery, enforced prostitution, political or religious persecution, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law.

¹⁶ The [Rome Statute of the International Criminal Court](#) is a particularly relevant instrument in this regard. See also the ‘Grave Breaches’ provisions of the 1949 Geneva Conventions and Additional Protocol I, common Article 3 and relevant provisions of Additional Protocol II, the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) and Statute of the International Criminal Tribunal for Rwanda (ICTR).

Even a single act could fall under this exclusion ground as long as there is a link to widespread or systematic attack against a civilian population and the act is committed by someone who had knowledge of the attack and the link of the act to the attack.

According to COI, insurgent groups, the State and pro-government militias, as well as civilians in Afghanistan, can be implicated in acts that would qualify as war crimes or crimes against humanity.

Involvement of Afghan nationals in the conflict in Syria, such as through the Fatemiyoun Division, could also be considered under this exclusion ground.

b. Serious (non-political) crimes

In the context of Afghanistan, widespread criminality and breakdown in law and order make the ground of ‘serious (non-political) crime’ particularly relevant. In addition to murder related to family and other private disputes, some examples of particularly relevant serious crimes may include drug trade and trafficking, trafficking in arms, human trafficking, illegal taxation, illegal extraction, trade or smuggling of minerals, gemstones, archaeological artefacts, etc.

Violence against women and children (for example, in relation to *bacha bazi*, in the context of child marriage, etc.), which is widespread in Afghanistan, could also potentially amount to a serious (non-political) crime.

Certain acts that are criminalised in Afghanistan, but would not be considered serious crimes according to international standards (e.g. in relation to sexual orientation or religious offences), would fall outside the scope of this provision. At the same time, acts that may not be considered serious crimes in Afghanistan could constitute excludable acts.

Particularly cruel actions, may be considered serious non-political crimes, due to being disproportionate to an alleged political objective. For example, actions commonly considered to be of ‘terrorist’ nature are likely to fall under this category.

In relation to exclusion from refugee status, a crime could fall under this ground if committed in Afghanistan or any third country (for example, while the applicant resided in Pakistan or Iran, or in countries of transit, etc.). In relation to subsidiary protection, serious crimes committed by Afghan applicants in the host country, would also lead to exclusion.

c. Acts contrary to the purposes and principles of the United Nations

This exclusion ground may apply to certain acts which constitute **serious and sustained human rights violations** and/or **acts specifically designated by the international community as contrary to the purposes and principles of the UN** (for example, terrorist acts in light of relevant UN Security Council resolutions). In order to apply this provision, the acts must have an international dimension, in the sense that they are capable of having a negative impact on international peace and security, or the friendly relations between States. However, there is no absolute requirement that the perpetrator hold a position of power in a State or a State-like entity in order to be excluded under this provision.

Relevant jurisprudence of the CJEU also views participation in the activities of a terrorist group under this provision.¹⁷

In the context of Afghanistan, (former) membership in armed groups such as ISKP, the Taliban or Hezb-e Islami, could trigger relevant considerations, in addition to the considerations under Article 12(2)(a)

¹⁷ CJEU, *Bundesrepublik Deutschland v. B and D*, C-57/09 and C-101/09, 9 November 2010; CJEU, *Commissaire général aux réfugiés et aux apatrides v. Mostafa Lounani*, C-573/15, 31 January 2017.

and Article 17(1)(a) QD. However, membership in an organisation implicated in terrorist acts would not in itself be sufficient to apply the respective exclusion ground.¹⁸

d. Danger to the community or the security of the Member State

In the examination of the application for international protection, the exclusion ground under Article 17(1)(d) QD is only applicable to persons otherwise eligible for subsidiary protection.

Unlike the other exclusion grounds, the application of this provision is based on a forward-looking **assessment of risk**. Nevertheless, the examination takes into account the past and/or current activities of the applicant, such as association with certain groups considered to represent a danger to the security of the Member States or criminal activities of the applicant.

¹⁸ CJEU, *B and D*, paras. 79-99.

Common analysis: Afghanistan

I. Actors of persecution or serious harm

Article 6 QD defines ‘actors of persecution or serious harm’ as follows:

Article 6 of the Qualification Directive Actors of persecution or serious harm
Actors of persecution or serious harm include: a) the State; b) parties or organisations controlling the State or a substantial part of the territory of the State; c) non-State actors, if it can be demonstrated that the actors mentioned in points (a) and (b), including international organisations, are unable or unwilling to provide protection against persecution or serious harm as defined in Article 7.

Generally, persecution or serious harm must always take the form of conduct on the part of a third party. It cannot simply be the result of shortcomings due to the general situation in a country of origin.¹⁹

The notion of **State** within the meaning of Article 6(a) QD should be broadly interpreted. It encompasses any organ exercising legislative, executive, judicial or any other functions and acting at any level, be it central, federal, regional, provincial or local. It could, for example, include the civil service, armed forces, security and police forces, etc. In some cases, private entities may also be given State powers and therefore be considered a State actor of persecution or serious harm.

Parties or organisations controlling the State or a substantial part of the territory of the State can refer to two possible scenarios:

- ▶ Parties or organisations amounting to **de facto State actors because they exercise elements of governmental authority**; or
- ▶ Parties or organisations **controlling a substantial part of the State’s territory in the context of an armed conflict**.

Non-State actors against whom protection is not effectively provided are also recognised as actors of persecution or serious harm in the meaning of Article 6 QD. Non-State actors could, for example, include individuals and groups, such as clans and tribes, guerrillas and paramilitaries, warlords, extremist religious groups or terrorists, criminals, political parties and family members, including members of the extended family, etc.

In Afghanistan, a wide range of different groups and individuals can be considered as actors of persecution or serious harm, and a clear distinction between the different types of actors within the meaning of Article 6 QD might often be difficult to make. International or foreign actors present in Afghanistan could also be considered as actors of persecution or serious harm in some instances.

The following subsections highlight the main actors of persecution and serious harm in Afghanistan in a non-exhaustive manner.

The Afghan State and pro-government elements

Afghan **State authorities** and their associates are accused of committing a wide range of human rights violations. There have been reports of illegal detention, ill-treatment and torture by the Afghan National Security Forces (ANSF), mainly by the National Directorate of Security (NDS) and some local police forces, pro-government militias (PGMs) and powerful individuals. Often torture is used in order to extract a confession. In this regard, targeting of civilians takes place, including based on family ties,

¹⁹ CJEU, *Mohamed M'Bodj v État belge*, C-542/13, Judgment of 18 December 2014, C-542/13, paras. 35-36.

kinship and tribal association [*Conflict targeting*, 2.2; *Key socio-economic indicators* 3.3.3, 3.4.4.3]. There have also been reports of extrajudicial killings of civilians, suspected to be anti-government elements, committed by the ANSF [*Conflict targeting*, 2.1]. Some Afghan Local Police (ALP) have been involved in extortion, threats and sexual abuse of civilians. [*Conflict targeting*, 2.6].

Different **State agents** such as ministers, governors and ANSF personnel are reported to have acted beyond the scope of their legal authority. Moreover, police and judicial authorities are susceptible to the influence of powerful individuals [*Conflict targeting*, 2; *Key socio-economic indicators*, 3.4.4.1, 3.5.3, 3.5.4].

Besides the ALP, an unknown number of **PGMs** are fighting on the side of the government against insurgents. They have been accused of targeted killings and threatening, intimidating and harassing civilians. It is reported that such human rights abuses occur in an atmosphere of impunity due to their links to local or national powerbrokers [*Conflict targeting*, 2.6].

The Afghan government does not control the whole territory of the State, some parts are under the control of insurgent groups, in particular the Taliban. However, the State is able to target individuals throughout the territory and it is particularly found to target individuals in areas where control is contested [*Conflict targeting*, 1.1.4.1, 2.4]. For further information regarding contested areas, see the section [Article 15\(c\) QD](#) below.

Insurgent groups

A number of armed insurgent groups are operating on the territory of Afghanistan, among which the **Taliban** is considered as the most powerful group. The Taliban have also established a formal structure; however, it is not clear to what extent this structure is adhered to by all Taliban groups and the Taliban are not considered a solidly united movement [*Conflict targeting*, 1.1.1 – 1.1.3].

Under the umbrella of the Taliban, various factions with more or less autonomy, and sometimes rivaling interests, can be identified. Regional differences in unity and cohesion are reported, whereby some local commanders in remote areas have little relationship with the central Taliban leadership. Analysts of the Taliban movement indicate deviations and fragmentation in horizontal and vertical terms [*Conflict targeting*, 1.1.1 – 1.1.3].

Besides the Taliban, a number of smaller groups operate in Afghanistan (for example, **Islamic Jihad Union**, **Lashkar-e Tayyiba**, **Jaysh Muhammed**, **Fedai Mahaz** and the **Mullah Dadullah Front**), with the **Islamic State Khorasan Province (ISKP)** and the **Islamic Movement of Uzbekistan (IMU)** as groups of more significance [*Conflict targeting*, 1.5; *Security situation (Dec 2017)*, 1.5.2].

Insurgent groups are responsible for a wide range of human rights violations. Their targets differ, often depending on the political or military objectives of the respective group.

Insurgent groups have also established illegal parallel justice systems in areas under their control. These parallel justice systems impose extrajudicial punishments in order to sanction crimes under the insurgent group's strict interpretation of *sharia*. The punishments refer to ordinary crimes as well as to transgressions of moral codes and include severe violations of rights such as public executions by stoning or shooting and other forms of corporal punishments [*Society-based targeting*, 1.6].

The reach of an insurgent group depends on its power position, including its networks or other cooperation mechanisms. For example, while the Taliban are mostly present in rural areas, it is also reported that they run a network of informants and conduct intelligence gathering in the cities. Information suggests that they will persecute certain individuals even in major cities, depending on the profile and their individual circumstances [*Conflict targeting*, 1.4.2, 1.4.3].

Depending on the regional situation and the position of the particular insurgent group, those could be considered either as parties or organisations controlling a substantial part of Afghanistan (currently, only potentially applicable to the Taliban) or as non-State actors. Their respective qualification under

Article 6 (b) or (c) QD would depend on whether or not they are found to control a substantial part of the territory of the Afghanistan, and should take into consideration the volatile situation of the conflict in Afghanistan.

Other non-State actors

Human rights violations, which could amount to persecution or serious harm, are also committed by other non-State actors, such as clans, tribes, (locally) powerful individuals, family members, criminal groups, etc.

Customs and customary law in the Afghan society can result in a number of traditional harmful practices, such as forced marriage and family violence against women, including the so-called ‘honour killings’ committed by family members [*Society-based targeting*, 3.4 - 3.7; see also the profiles of [women](#), [LGBT](#), [individuals perceived to have transgressed moral codes](#), etc.].

Non-State traditional justice, which is dominant in large parts of Afghanistan, involves different actors such as *jirgas* and *shuras*, including religious scholars, jurists, community elders and local powerbrokers, etc. Certain human rights violations are associated with such traditional justice mechanisms, including in relation to the absence of due process and the nature of the imposed punishments [*Society-based targeting*, 1.5, 6.4; *Conflict targeting* 2.6; *Key socio-economic indicators* 3.5.6].

Other human rights violations committed by non-State actors can be a consequence of land disputes between different actors, such as communities (including tribes and clans), ethnic groups or individuals, or can be a result of blood feuds or other forms of private disputes [*Society-based targeting*, 1.5, 6.4, 7; see also the profile of [individuals involved in blood feuds and land disputes](#)].

Criminal groups and individuals committing crimes can also be non-State actors of persecution or serious harm in accordance with Article 6(c) QD. It is reported, for example, that kidnapping for ransom and extortion have become an increasingly widespread form of criminality in major cities in Afghanistan in recent years [*Security situation (Dec 2017)*, 1.7; *Society-based targeting*, 8.5].

The reach of a specific non-State actor depends on the individual case. The assessment may include aspects such as their family, tribal or other networks for tracing and targeting the applicant. The individual power positions of the applicant and the actor of persecution or serious harm should be assessed, taking into consideration their social status, wealth, connections, gender, etc.

Finally, it should be noted that persecution or serious harm by non-State actors has to be assessed in light of the availability of protection according to Article 7 QD.

II. Refugee status

The ongoing armed conflict in Afghanistan has created a situation in which targeted violence and human rights abuses towards specific groups of people frequently occur.

According to Article 9(1) QD:

Article 9(1) of the Qualification Directive Acts of persecution
In order to be regarded as an act of persecution within the meaning of Article 1(A) of the Geneva Convention, an act must: a) be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in point (a).

In order for a person to qualify as a refugee, there must be a connection (**nexus**) between one or more of the specific **reasons for persecution** (race, religion, nationality, political opinion or membership of a particular social group), on the one hand, and the acts of persecution under Article 9(1) QD or the absence of protection against such acts (Article 9(3) QD), on the other.

The applicability of the respective reason(s) should be assessed in relation to Article 10 QD. Under the analysis on particular profiles below, this document refers to a nexus to a reason for persecution where such is found potentially relevant. However, it should be underlined that more and/or different grounds may apply depending on the actor of persecution and/or the individual circumstances of the applicant.

All elements of the definition of a refugee in accordance with the QD should be fulfilled for the qualification of the applicant as a refugee.

Common analysis on specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided below.

An **individual assessment** is required for every application. It should take into account the individual circumstances of the applicant and the relevant country of origin information. Factors to take into account in this assessment may include, for example:

- home area of the applicant and presence of the potential actor of persecution;
- nature of the applicant's actions (whether or not they are perceived negatively and/or whether or not individuals engaged in such actions are seen as a priority target by the actor of persecution);
- visibility of the applicant and his or her actions (i.e. to what extent it is likely that the applicant is known to or could be identified by the potential actor of persecution), noting however that the applicant does not need to show that he or she is individually singled out by the persecutor;
- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals, network);
- additional elements, such as personal enmities, which may enhance the risk for the applicant.

In some cases, even if the applicant no longer belongs to a certain profile (e.g. former members of security forces, former members of insurgent groups, former government officials, former journalists),

they may still be targeted and have a well-founded fear of persecution related to their past belonging to such a profile.

Family members, merely due to their relation to the refugee, may be at risk of persecution in such a manner that could be the basis for refugee status. It should also be noted that individuals belonging to the family of a person qualifying for international protection could have individual protection needs.

The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant's well-founded fear, unless there are good reasons to consider that such persecution will not be repeated (Article 4(4) QD).

In order to establish whether the applicant has a well-founded fear of persecution in his or her home area, the availability of protection in accordance with Article 7 QD should be explored (see the chapter [Actors of protection](#)). Where such protection is not available, the examination may continue with consideration of the applicability of internal protection alternative under Article 8 QD, if applicable according to national legislation and practice (see the chapter [Internal protection alternative](#)).

In some cases, where the applicant would otherwise qualify for international protection, exclusion grounds would be applicable (see the chapter [Exclusion](#)). The sections below make specific references to the relevance of exclusion considerations for certain profiles.

Where the applicant does not qualify for refugee status, the examination should proceed in order to determine his or her eligibility for subsidiary protection (see the chapter [Subsidiary protection](#)).

Analysis of particular profiles with regard to qualification for refugee status

This chapter refers to some of the profiles of Afghan applicants, encountered in the caseload of EU Member States. It represents a non-exhaustive list and the fact that a certain profile is included in it or not is without prejudice to the determination of their protection needs.

While the conclusions under this common analysis could provide general guidance, the protection needs of each applicant should be examined individually. The non-exhaustive examples with regard to sub-profiles at a differentiated risk and of circumstances which would normally increase or decrease the risk are to be taken into account in light of all circumstances in the individual case.

Moreover, an individual applicant could fall under more than one profile included in this common analysis. The protection needs associated with all such circumstances should be fully examined.

The considerations under each profile should, furthermore, be viewed without prejudice to the credibility assessment of the applicant's claims.

1. Members of the security forces and pro-government militias

This profile refers to members of the Afghan security forces (ANSF), including the Afghan National Army (ANA), the Afghan National Police (ANP) and the National Directorate of Security (NDS), as well as the Afghan Local Police (ALP), as well as members of pro-government militias (PGMs).

COI summary

ANSF personnel on duty or off-duty alike are a frequent target of insurgent attacks. Such attacks may occur at places where ANSF personnel gather, for example, at army bases or police stations or while lining up in front of banks. Targeting may also take place in the form of deliberate killings and abductions in rural or urban areas [*Conflict targeting*, 1.2.1, 1.5.1].

Top priority for targeted attacks by the Taliban is given to officers of the NDS, as well as to members of local uprising militias, ALP and others that the Taliban find ‘hard to defeat’ [*Conflict targeting* 1.2.1].

Moreover, it is reported that the Taliban filter through the passengers at their road checkpoints to detect and kill or kidnap security personnel [*Conflict targeting*, 1.1.5.2, 1.1.5.4 and 1.2.1].

Individuals under this profile are also seen as legitimate target by other insurgent groups, for example the ISKP [*Conflict targeting*, 1.5.1].

It should be noted that family members of security forces have also been targeted by insurgents [*Conflict targeting*, 1.1.5.2, 1.3.1 and 1.5.1]. Moreover, family members are often pressured to convince their relative to give up his or her position in the security forces [*Conflict targeting*, 1.3.1]. There are also reports of former members of the ANSF who have been targeted after having left the ANSF [*Conflict targeting*, 1.4.1].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing and abduction).

In the case of individuals that are priority targets for insurgent groups (e.g. officers of the security services, members of ALP, or local uprising militias), well-founded fear of persecution would in general be substantiated.

In the case of other individuals under this profile, the individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account circumstances such as area of work and visibility of the applicant, area of origin and presence of insurgent groups (in particular, in relation to insurgents’ checkpoints), period since leaving the forces, personal enmities, etc.

Family members of some individuals under this profile could also be at risk of treatment that would amount to persecution.

Nexus to a reason for persecution

Available information indicates that the persecution of this profile is for reasons of (imputed) political opinion.



Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

2. Government officials, including judges, prosecutors and judicial staff; and those perceived as supporting the government

This profile refers to governmental officials, such as governors, council members, civil servants, as well as members of the judiciary like judges, prosecutors and other judicial staff, etc. It includes officials and those working for the courts at central, as well as provincial and district level. It also refers to individuals perceived as supporting the government (for example, members of political groups, community elders, civilians perceived as spies, employees of foreign embassies and international organisations, etc.).

COI summary

Employees of ministries which are at the forefront of the fight against insurgents, for example the Ministry of Defence, the Ministry of Interior and the Ministry of Justice have regularly been targeted by the Taliban. Judges, prosecutors and other judicial staff are also significant targets for the Taliban. To a lesser degree, employees of other ministries not involved directly in the fight against insurgents, have also been targeted; personal enmity or open statements against the Taliban could be seen as relevant circumstances in this regard. Other targeting by insurgents focuses on local district or provincial government officials [*Conflict targeting*, 1.2.2].

Reports refer to abductions and parallel justice procedures for people suspected of working for the government or of being its supporters or spies [*Conflict targeting*, 1.2.2 and 1.5.1.1].

There are reports of members of political groups considered by the Taliban as their enemies being killed (e.g. Hezb-e Islami, Jamiaat-e Islami party). They could, for example, be targeted at locations where they gather, such as at funerals and mosques [*Conflict targeting*, 1.1.5.3 and 1.2.8].

There are also a number of reported attacks on community elders, who have been punished and killed by the Taliban because of a perceived support of the government [*Conflict targeting*, 1.2.7].

The ISKP also systematically targets elders of communities who are suspected of cooperation with the government or the Taliban [*Conflict targeting*, 1.5.1].

Parallel justice punishment of individuals accused of having family in the government is also documented [*Conflict targeting*, 1.1.5.2].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing, abduction, parallel justice procedures).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: being linked to ministries at the forefront of the fight against insurgents (e.g. Ministry of Defence, Ministry of Interior Affairs, etc.), high position within the government (e.g. judges, prosecutors, other judicial staff), prominent position within the community, originating from contested areas or areas with insurgent presence, personal enmities or open statements against the Taliban, etc.

Family members of some individuals under this profile could also be at risk of treatment that would amount to persecution.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

3. Individuals working for foreign military troops or perceived as supporting them

This profile includes individuals who are associated with the foreign troops present in Afghanistan, such as interpreters, security guards, civilian contractors, administrators and logistics personnel.

COI summary

Personnel working for foreign military troops, in particular interpreters and security guards, are seen as a top priority target by the Taliban. The Taliban have also forced local communities to banish certain families they considered allies of the international forces. Individuals not on the payroll of the foreign forces but doing general maintenance jobs, are not as systematically targeted, although attacks occur [*Conflict targeting*, 1.2.3].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Interpreters and security guards are regarded as a top priority target and in general, well-founded fear of persecution would be substantiated. For others under this profile, the individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: specific role and visibility of the applicant, being on the payroll of foreign troops, origin from a contested area or areas with insurgent presence, etc.

Family members of some individuals under this profile could also be at risk of treatment that could amount to persecution.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

4. Religious leaders

This profile refers to religious leaders, such as members of *Ulemas*, teachers in *madrassas*, imams and theologists of Islam.

COI summary

A high number of religious figures have been killed in recent years. Reportedly, targeting mostly happens in contested areas, but also in cities.

The reasons for targeting religious leaders are diverse but must be seen in the context of *Ulemas* being considered capable to delegitimise the insurgents' religious ideology. Non-exhaustive examples of targeting include:

- ▶ religious figures who have publicly expressed support for government views, including conducting funeral ceremonies for killed members of the security forces;
- ▶ religious figures who have publicly condemned civilian casualties caused by insurgents or have expressed criticism of certain insurgent tactics on religious grounds;
- ▶ religious figures who have publicly rejected the insurgents' ideology because they are following a more moderate or another form of Islam.

[*Conflict targeting*, 1.2.5, 1.5.1].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: public expression of support for the government or condemnation of insurgents' actions, performing ceremonies for killed members of the security forces, etc.

Nexus to a reason for persecution

Available information indicates that the persecution of this profile is for reasons of (imputed) political opinion and/or religion.

5. Members of insurgent groups and civilians perceived as supporting them

This profile refers to all insurgent groups in Afghanistan, as well as civilians perceived as supporting them. They include those who identify themselves as 'Taliban' as well as parties and organised armed groups, such as IMU, the Haqqani Network, Islamic Jihad Union, Lashkari Tayyiba, Jaysh Muhammed, groups identifying themselves as 'Daesh'/ISKP, and other armed groups pursuing political, ideological or economic objectives, including armed criminal groups directly engaged in hostile acts on behalf of a party to the conflict [*Conflict targeting*, 1.5].

This profile can be divided into two separate parts, depending on the actor of persecution or serious harm:

a. Targeting by the State

COI summary

Insurgent groups, as well as people suspected of supporting them, are reported to face the death penalty, extrajudicial killings, targeted attacks, torture, arbitrary arrests and illegal detention. There are also reports of incidents of extrajudicial killings and killings by ANSF abusing their position of power. Conflict-related detainees are often subjected to torture and ill-treatment. Convictions by Afghan courts are often based solely on confessions extracted through torture and ill-treatment, although the use of confessions extracted this way is strictly prohibited by the Criminal Procedure Code [*Conflict targeting*, 2.1, 2.2].

In 2016, the armed group Hezb-e Islami signed a peace agreement with the government and an amnesty was proposed for the insurgent group's activities over the past 14 years. However, it is reported that some Hezb-e Islami fighters have refused to lay down their arms for fear of retaliation and some group members are still operating in certain regions of Afghanistan [*Security situation (Dec 2017)*, 1.5.3].

Targeting of civilians by the government happens based on family ties, kinship and tribal association, in particular where a certain tribe is associated with insurgents' leadership (e.g. Ishaqzai). ALP and pro-government militias have mainly targeted and killed civilians because they are suspected of being related to or of helping the insurgents. Incidents in which the ANSF shot and killed or injured civilians believing them to be Anti-Government Elements are also reported [*Conflict targeting*, 2.1, 2.2.2, and 2.6].

Risk analysis

In itself, the prosecution of the criminal acts of the insurgents (e.g. killing, planning of attacks on civilians, abductions by insurgents, etc.) and targeting in accordance with the rules of international humanitarian law do not amount to persecution. However, the acts to which individuals under this profile could be exposed when the State acts beyond its legitimate powers or when imposing the death penalty would amount to persecution due to their severe nature (e.g. death penalty, extrajudicial killings, torture, arbitrary arrests).

For members of insurgent groups and civilians perceived as supporting them, well-founded fear of persecution by the State could in general be substantiated, especially for those at the forefront of engagements. In case an amnesty arrangement is in place for the group, for example in the context of the National Stability and Reconciliation Law, the well-founded fear should be assessed individually.

b. Targeting by other insurgent groups

COI summary

Some of the insurgent groups can be seen as enemies of the Taliban, especially members of the ISKP. In addition to violent clashes with the Taliban (e.g. fighting over control), there are also some reports of specific targeting as well as executions by the Taliban of members of such groups [*Conflict targeting*, 1.2.8]. They could, for example, be targeted at locations where they gather, such as at funerals and mosques [*Conflict targeting*, 1.1.5.3].

Similarly, other insurgent groups such as the ISKP are reported to target Taliban fighters [*Conflict targeting*, 1.5.1].

There are also reports of ISKP killing its own members due to infighting in the group [*Conflict targeting*, 1.5.1].

Risk analysis

Individuals under this profile could be exposed to acts by other insurgent groups that would amount to persecution (e.g. killings, executions).

For members of insurgent groups and civilians perceived as supporting them, well-founded fear of persecution by other insurgent groups could in general be substantiated, especially for those at the forefront of engagements.

Nexus to a reason for persecution

Available information indicates that the persecution of this profile is for reasons of (imputed) political opinion.

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

6. Individuals at risk of forced recruitment by armed groups

This profile includes persons who claim to be targeted by actors in the conflict in order to be recruited by force and against their will. Different armed groups resort to forced recruitment, including the Taliban, ISKP, as well as PGMs, etc.

COI summary

a. Forced recruitment by the Taliban

The Taliban have no shortage of volunteers/recruits and only make use of forced recruitment in exceptional cases. It is, for example, reported that the Taliban try to recruit persons with a military background, such as members of the ANSF. The Taliban also make use of forced recruitment in situations of acute pressure.

Pressure and coercion to join the Taliban are not always violent and would often be exercised through the family, clan or religious network, depending on the local circumstances.

It can be said that the consequences of not obeying are generally serious, including reports of threats against the family of the approached recruits, severe bodily harm and killings [*Recruitment by armed groups*, 1.5, 5.2.1.3, and 5.2.1.4].

Although the Taliban has an internal policy of not recruiting children, available information indicates that child recruitment, in particular of post-puberty boys, occurs [*Recruitment by armed groups*, 5.2]. Children may be brainwashed by insurgent groups in many different ways and can be indoctrinated in *madrassas*, including being taken to Pakistan for training [*Recruitment by armed groups*, 5.2.1.2].

b. Forced recruitment by ISKP

In areas with firm ISKP presence, pressure is put on communities to fully support and help ISKP. As far as recruitment is concerned, the focus lies on recruiting (former) Taliban fighters. Active recruitment of children also takes place in areas under ISKP control [*Recruitment by armed groups*, 2.1.4 and 5.2].

c. Forced recruitment by PGMs

It is reported that PGMs in some areas make use of direct coercion to join them, including coercion of children. This depends on the local commander and the dynamics of the local conflict [*Recruitment by armed groups*, 4.2].

Risk analysis

The consequences of refusal of (forced) recruitment could amount to persecution (e.g. severe bodily harm, killing).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: belonging to the age group of adolescents and young adults, military background, area of origin and the presence/influence of armed groups, increased intensity of the conflict, position of the clan in the conflict, poor socio-economic situation of the family, etc.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

7. Educational personnel

This profile includes people working in educational facilities, including government supported education, religious schools and private institutions. Students could also be affected by association.

COI summary

The current objective of the insurgents is not to close schools, but rather to put pressure and gain control over them. Taliban leadership regularly issues statements proclaiming a ban on attacks on education. On a local level, agreements between insurgents and educational facilities are often made. Targeting of individuals due to the mere fact that they work in educational facilities is not common in Afghanistan. However, some incidents take place. In these cases, this is related to the local dynamics of the conflict and its specific actors. Violent incidents targeting female teachers and female pupils are also reported [*Conflict targeting*, 1.2.4, 1.5.1 and 2.4].

Risk analysis

Educational personnel could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. kidnapping and/or killing by insurgent groups).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (i.e. female teachers), origin from contested areas and areas under ISKP influence, the individual or the institution not following insurgent directives and/or curriculum, links to foreign sponsors, speaking out against the Taliban, etc.

Nexus to a reason for persecution

Available information indicates that the persecution of this profile is for reasons of (imputed) political opinion. In some cases, religion could also be seen as a relevant ground, such as in the case of individuals persecuted for using a curriculum perceived as contravening the insurgents' interpretation of Islam.

8. Humanitarian workers and healthcare professionals

This profile includes healthcare workers and those working for national and international non-governmental organisations (NGOs).

COI summary

Incidents of targeting healthcare workers are reported, including threats, intimidation, harassment and abduction of health-care personnel, such as ambulance drivers for example. They often occur in cases where hospitals are accused to have treated (or to have refused to treat) wounded fighters. Clinics often bargain a deal with the insurgents in order to be able to operate in a certain area. It is reported that the situation for healthcare workers differs from area to area, depending to the degree of control versus contestation by insurgent groups.

In some cases, NGO workers were targeted by insurgents as a result of their activities being perceived as non-neutral or in violation of cultural or religious norms; for example, promoting women's rights. Other examples include targeting of people active in polio vaccination campaigns (sometimes considered as spies) or in de-mining programs (considered as an activity contrary to the military interests of the Taliban).

In addition, humanitarian workers, including healthcare professionals, are sometimes accused by State actors of maintaining contacts with insurgents and can, therefore, be targeted.

[*Conflict targeting*, 1.2.6 and 2.4].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. abduction, killing).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (i.e. women), nature of activities (national/international NGO with activities related to polio vaccination, de-mining, promoting women's rights, etc.), origin from contested areas, level of cooperation with armed groups, speaking out against a party in the conflict, etc.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

9. Journalists, media workers and human rights defenders

This profile refers to journalists, media workers and civil society representatives.

COI summary

Journalists, media workers, commentators and human rights defenders can be targeted by insurgent groups as well as by State actors, warlords and by organised crime. This is especially the case for those who report on human rights issues, critically cover the insurgents' activities, expose corruption or publicly express certain opinions. Journalists are often intimidated and threatened by parties in the conflict in order to cover their version of events. There are reports of killing, beating, intimidation, detention and mistreatment. Human rights defenders' work can also be considered dangerous all over Afghanistan because human rights are often seen as an alien, Western or a non-Islamic concept [*Conflict targeting*, 1.2.9, 1.5.1, and 2.3].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing, detention, beatings).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: nature of activities (e.g. journalists and media workers covering conflict-related topics and events, the political situation, corruption and human rights abuses would be at a particularly high risk), visibility of activities and public profile, gender (additional/higher risk for women), area of origin, etc.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

10. Children

This profile refers to Afghan nationals under the age of 18. In the following subsections, the focus is on certain child-specific circumstances of increased vulnerability and risks that Afghan children may be exposed to, including:

- a. child marriage
- b. child labour
- c. child recruitment (as a form of forced recruitment by armed groups)
- d. violence against children (including domestic violence and sexual abuse, including the practice of *bacha bazi*)
- e. education of children and girls in particular
- f. unaccompanied children without a support network in Afghanistan

The COI summaries and the risk analyses are presented below by subsection. The analysis of potential nexus in the case of children is provided at the end of the section.

COI summary and risk analysis

a. Child marriage

See the section on harmful traditional marriage practices under profile [Women](#).

b. Child labour

COI summary

According to the Afghan Labour Code, children under the age of 14 should not work, and below 18 years they should not be employed for more than 35 hours a week and cannot work in dangerous and harmful conditions. Afghanistan is also a part of the key conventions concerning child labour, including the International Labour Organisation Minimum Age Convention [*Key socio-economic indicators*, 4.3]. However, child labour remains a pervasive problem in Afghanistan [*Key socio-economic indicators*, 4.3.2].

There are no official overall numbers regarding the percentage of working children; however, some research shows that around 30% of all children in Afghanistan work, with reported regional variances. Boys are predominantly (but not exclusively) engaged in child labour, and the percentage of children working increases with age [*Key socio-economic indicators*, 4.3.2].

Children work in a broad variety of jobs from street works, including begging and brick-making, to domestic work, but can also be forced into drug smuggling and trafficking and commercial sexual exploitation. Children also often work to pay off their parents' debt [*Key socio-economic indicators*, 4.3.2].

Although the Afghan government has criminalised child recruitment by government forces, there are reports of child recruitment by the ANSF, most prevalent among the ALP. These are often linked to lack of oversight in the recruitment process, inadequate age-verification procedures and the prevalence of opportunities to falsify identity documents, but also to poor socio-economic conditions that result in families compelling their children to join the ANSF for financial reasons. [*Recruitment by armed groups*, 5; *Key socio-economic indicators*, 4.3.3].

Risk analysis

Not all forms of child labour would amount to persecution. An assessment should be made in light of the nature of the work and the age of the child. Work that is likely to harm the health, safety or morals

of children could be considered to reach the severity of persecution.²⁰ The impact of child labour on access to education should also be taken into account (see the subsection [Education of children and girls in particular](#)). Other risks, such as involvement in criminal activities and trafficking should also be considered.

Poor socio-economic status of the child and his or her family is a relevant risk-impacting circumstance in this regard.

c. Child recruitment

See the profile [Individuals at risk of forced recruitment by armed groups](#) and the subsection [Child labour](#).

d. Violence against children

COI summary

Child abuse is endemic in Afghan society. Children in Afghan families are often subjected to corporal punishment, including slapping, verbal abuse, punching, kicking, and hitting with thin sticks, electrical cables and shoes. Sexual abuse of children also remains a pervasive problem, with girls being most frequently abused in their families or communities [*Society-based targeting*, 5; *Key socio-economic indicators*, 4.1].

The practice of *bacha bazi* has resurfaced since the end of the Taliban ruling. Sources report that young boys, with 14 as an average age, are abducted and disappeared into the practice or can be traded in by their families in exchange for money. Boys involved in the practice may be subjected to violence and threats, and are raped and kept in sexual slavery. *Bacha bazi* is not perceived as homosexuality. Afghan police and military are considered as one of the main perpetrators and often operate with impunity. *Bacha bazi* boys have little to no support from the State and the perpetrators are seldom prosecuted in the context of a weak rule of law, corruption and official complicity with law enforcement perpetrators. Under the new provisions of the Penal Code, prosecution of victims of *bacha bazi* is outlawed; however instances of jailing boys that were dancing are reported [*Key socio-economic indicators*, 4.3.3; *Society-based targeting*, 5.1].

For violence against girls, see also [Women – gender-based violence](#).

Risk analysis

Sexual assault and rape amount to persecution. In case of other forms of violence, the assessment should take into account the severity and repetitiveness of the violence.

Not all children face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (boys and girls may face different risks), age and appearance (e.g. non-bearded boys could be targeted as *bacha bazi*), perception of traditional gender roles in the family, poor socio-economic situation of the child and the family, etc.

²⁰ International Labour Organization (ILO), *Minimum Age Convention*, C138, 26 June 1973, available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138; *Worst Forms of Child Labour Convention*, C182, 17 June 1999, available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182.

e. Education of children and girls in particular

COI summary

There are two major education systems in Afghanistan: government supported schools and *madrassas*, religious schools. Private institutions are also emerging.

Access to education has improved significantly in Afghanistan since 2001; however, with the large youth growth in Afghanistan and the volatile conflict situation, education opportunities remain insufficient. There is a lack of qualified teaching staff, in particular of female teachers, who tend to be concentrated in urban centres. According to reports, enrolment in school is at 45% for girls and 62% of boys in primary school, and at 27% for girls and 47% for boys in secondary school [*Key socio-economic indicators*, 2.5].

The Taliban regularly issue statements claiming to be in support of education and proclaiming an absolute ban on attacks on schools. Such attacks are no longer systematic, but still take place. The current objective of insurgents appears not to be school closures, but rather gaining control over them through the choice of curriculum, the recruitment of teachers, and regular inspections [*Conflict targeting*, 1.2.4.3; see also the profile [Educational personnel](#)].

There does not appear to be a clear direction from the Taliban leadership on how field commanders should deal with girls' schools. Deliberate restriction of access of women and girls to education and closure of girls' schools, however, still occurs, especially concerning girls beyond sixth grade (12 years) in areas under insurgent control. This seems dependent on local arrangements between local actors, such as insurgent groups, powerbrokers and local government officials. In general, in the cities of Kabul, Herat and Mazar-e-Sharif, educational facilities are present and access to schools is better. In the cities, lack of financial resources or lack of documentation (for IDPs and returnees), seem to be the major impediments to a child's education [*Key socio-economic indicators*, 2.5 and 4.4; *Conflict targeting*, 1.2.4].

Risk analysis

The general deficiencies in the educational system, and the limited opportunities for education cannot as such be considered persecution, as they are not the result of a third party's deliberate actions.²¹ However, in the case of deliberate restrictions on access to education, in particular for girls, this could amount to persecution.

f. Unaccompanied children without a support network in Afghanistan

This subsection concerns children who do not have a parent or other adult family member who can take care of them in Afghanistan.

COI summary

In general, it can be said that the Afghan orphanage system is insufficient, accommodating approximately 10% of the orphans in Afghanistan. There are 84 children's protection action network centres and 78 residential orphanages. The living conditions in the facilities are also poor, lacking running water, heating, education and recreational facilities. The Afghan State lacks money and means to support all orphans [*Key socio-economic indicators*, 4.3.1].

Children in orphanages reported mental, physical and sexual abuse, and were sometimes victims of human trafficking [*Key socio-economic indicators*, 4.3.1]. The shelters, furthermore, often lack the capacity to support traumatised minors [*Key socio-economic indicators*, 4.4.4].

²¹ CJEU, *M'Bodj*, paras. 35-36.

Children without a support network who fall outside the orphanage system will most likely have to fend for themselves. Street children often resort to negative coping mechanisms, such as street vending, garbage collecting, crime or drug abuse, and are vulnerable to trafficking and exploitation, including sexual exploitation [Key socio-economic indicators, 4.3.2, 4.3.3, and 4.4].

Risk analysis

The lack of a support network does not amount to persecution in itself. However, it considerably enhances the risk for such children to be exposed to acts which, due to their severity, repetitiveness or accumulation could amount to persecution.

Nexus to a reason for persecution

Available information indicates that in the case of children, the individual circumstances of the applicant need to be taken into account to determine whether or not a nexus to a reason for persecution can be substantiated.

In individual cases, a link could be established to (imputed) political opinion (for example, girls attending school in a Taliban-controlled area), or membership of a particular social group (for example, (former) *bacha bazi* could be considered a particular social group based on common background that cannot be changed and having a distinct identity linked to their stigmatisation by the surrounding society).

11. Women

The position of women and girls in Afghanistan is characterised by deeply engrained attitudes, strong cultural beliefs and societal structures that reinforce discrimination; gender-based human rights violations are common.

This profile refers to specific human rights violations Afghan women may be exposed to, particularly:

- a. gender-based violence
- b. harmful traditional marriage practices.

With regard to additional protection needs of Afghan women, particular consideration is given to the following risk-enhancing circumstance:

- c. lack of a male support network.

This profile also includes women with further risk-enhancing elements, such as:

- d. women in public roles
- e. women perceived as 'Westernised'
- f. women perceived to have transgressed moral codes.

The COI summaries and the risk analyses are presented below by subsection. The analysis of potential nexus in the case of women is provided at the end of the section.

COI summary and risk analysis

a. Gender-based violence

COI summary

Violence against women and girls is a pervasive problem in Afghanistan, regardless of the ethnic group.

Large segments of the Afghan society deem domestic violence, such as wife battery, acceptable; and while rape is punishable under law, marital rape is not addressed [*Society-based targeting*, 3.5]. Women who flee their husband and seek help from the government have been known to be returned by the police to their families or to be imprisoned for ‘moral crimes’ [*Society-based targeting*, 3.4, 3.6.4, and 3.8.4].

In some cases, women do reach shelters; however, shelter space is insufficient. The estimated number of such shelters varies between 14 and 29; and six of them are reportedly in Kabul. As these are located in the cities, it is very difficult for rural women to access them. The women that reside there are in an especially vulnerable situation, often having no male support network. Safe houses and shelters are viewed by society as places of immorality or associated with ‘Western ideas’, or blamed for breaking up families or social order [*Society-based targeting*, 3.5 and 3.8.5; *Key socio-economic indicators*, 3.8.5].

Sexual harassment in the work place, including in the security forces, and public harassment, including in urban areas, are common problems in Afghanistan [*Society-based targeting*, 3.2 and 3.3]. Acid attacks on women have been reported, including in Kabul and Herat. Reported reasons for violent assaults against women in public include, for example, rejecting marriage proposals, seeking divorce or going to school [*Society-based targeting*, 3.2, 3.4, and 3.5].

In general, women’s access to justice, courts and legal assistance for gender-based violence is limited [*Society-based targeting*, 3.8.1; *Key socio-economic indicators*, 3.8]. Women who do press charges are stigmatised and distrusted. If the perpetrator was not the husband, women victims of sexual violence, abuse or rape can be at risk of punishment for *zina* [*Society-based targeting*, 3.5, 3.8.1, and 3.8.4].

Risk analysis

Sexual assault and rape amount to persecution. In case of other forms of violence, the assessment should take into account the severity and repetitiveness of the violence.

Not all women face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: perception of traditional gender roles in the family, poor socio-economic situation, type of work and work environment (for women working outside the home), etc.

b. Harmful traditional marriage practices

COI summary

Marriage in Afghanistan operates on a spectrum from choice to force. Coerced marriage, especially of girls and women, is a frequent occurrence in Afghanistan [*Key Socio-economic indicators*, 4.1; *Society-based targeting*, 3.4].

Traditional marriage practices are common and can often create or lead to situations of forced marriage and violence against women. Such common practices include:

- betrothal as a child, especially under the Pashtunwali
- polygamy

- exchanging of unmarried daughters between families
 - *baad*, whereby girls are bartered to settle family debts or disputes, particularly among Pashtuns and in rural areas. *Baad* is prohibited by law, but this law is rarely implemented or enforced.
 - etc.
- [*Society-based targeting*, 3.4]

According to Afghan civil law, as well as Islamic law, consent is required in order to enter into marriage. Afghan civil law further stipulates that the minimum age is 16. However, this law is not effectively implemented in practice. People in Afghanistan have little opportunity to make their own choices with regard to marriage. Child marriage is a widespread practice, mainly occurring in rural areas. According to a survey conducted in 2015, 45% of Afghan women are married by the age of 18. [*Society-based targeting*, 3.4].

Refusal of marriage arrangements or proposals can lead to violence for the women and girls concerned and/or for their families and to blood feuds [*Society-based targeting*, 3.4 and 3.7].

Traditional marriage practices can also be linked to other forms of violence, such as battery and sexual abuse [*Society-based targeting*, 3.4 and 3.5].

Women seeking protection face a gender-biased and discriminatory justice system [*Key-socio-economic indicators*, 3.8].

Risk analysis

Traditional marriage practices in Afghanistan could amount to persecution, depending on the specific practice and the individual circumstances of the applicant. They could, furthermore, be linked to other forms of violence, such as gender-based and honour-based violence.

Not all women and girls would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: young age (in particular, under 16), area of origin (particularly affecting rural areas), ethnicity (e.g. Pashtun), perception of traditional gender roles in the family, poor socio-economic situation of the family, local power/influence of the (potential) husband and his family or network, etc.

c. Women in public roles

This subsection refers to women who are considered to have a public role in Afghanistan, such as a position in the government, law enforcement, education, health care, NGOs or media.

COI summary

For women, there are many societal and family restrictions [*Society-based targeting*, 3.1]. Most women in public roles face intimidation, threats, violence or killings. Women who work outside the home, in general, encounter frequent sexual harassment and abuse at the workplace [*Conflict targeting*, 1.1.5.3, 1.2.1.1, 1.2.4.4, 1.2.9.1, and 1.2.9.2; *Society-based targeting*, 3.3] and may be considered by society as transgressing moral codes and bringing dishonour to the family (e.g. women in law enforcement) and as being non-Afghan or western (e.g. women in journalism) [*Society-based targeting*, 3.3.2 and 3.3.3].

Women in public roles could be subjected to mistreatment by insurgent groups [*Conflict targeting*, 1.2.1.1, 1.2.9.1, and 1.2.9.2], by the woman's family or clan, as well as by society in general [*Society-based targeting*, 3.3].

Women seeking protection face a gender-biased and discriminatory justice system [*Key-socio-economic indicators*, 3.8].

Risk analysis

The acts to which women in public roles could be exposed are of such severe nature that they would amount to persecution (e.g. violence and killings).

Not all women under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: area of origin (particularly affecting rural areas), conservative environment, visibility of the applicant (e.g. nature of the work, public statements perceived negatively by the actor of persecution), perception of traditional gender roles by the family or network, etc.

d. Women perceived to have transgressed moral codes

See the profile [*Individuals perceived to have transgressed moral codes*](#).

e. Women perceived as ‘Westernised’

See the profile [*Individuals perceived as ‘Westernised’*](#).

f. Lack of a male support network

COI summary

The Afghan society is male-dominated. Women need a male family member to accompany them. Women who go outside alone or go to work are frequently subjected to sexual harassment in the streets. Unmarried women face the most restrictions, particularly in rural areas, among middle and lower classes, and among Pashtuns [*Key socio-economic indicators*, 5.5]. Living alone is, furthermore, associated with inappropriate behaviour and could potentially lead to accusations of ‘moral crimes’ [*Society-based targeting*, 3.8.6].

There are no recent statistics on divorce in Afghanistan, but it can be said that divorce is considered a taboo in most of Afghan society, particularly in rural communities. It is not frequently pursued and is more easily granted to men than to women. Divorced women are in a precarious situation where they may not be able to return to their father’s family home or may be seen as a burden to them. They also face negative societal attitudes and harassment [*Society-based targeting*, 3.8.3 and 3.8.6].

Risk analysis

The lack of a male support network does not amount to persecution in itself. However, it considerably enhances the risk for such women to be exposed to acts which, due to their severity, repetitiveness or accumulation could amount to persecution.

Nexus to a reason for persecution

Available information indicates that in the case of women, the individual circumstances of the applicant need to be taken into account to determine whether or not a nexus to a reason for persecution can be substantiated.

In individual cases, a link could be established to (imputed) political opinion (e.g. women in public roles) or to membership of a particular social group (e.g. women in Afghanistan who do not live according to traditional gender roles could be considered a particular social group based on a shared characteristic or belief that is so fundamental to identity or conscience that they should not be forced to renounce it and based on their distinct identity in the surrounding society).

12. Individuals perceived to have transgressed moral codes

This profile refers to individuals whose actions or status are perceived as transgressing moral codes and as shameful to family honour.

COI summary

Honour-based violence, especially but not exclusively against women, is a common occurrence in Afghanistan. The accusation of dishonour against a woman alone can bring perceived shame to the family. The Penal Code prescribes less severe punishments for killings done to defend honour [*Society-based targeting*, 3.7 and 7.2].

Zina is a moral crime perceived in Afghanistan as shameful and can be applied to women, as well as to men. This is a broad concept of all behaviour outside the norm: sex outside marriage, illicit sexual relations, adultery and pre-marital sex. [*Society-based targeting*, 3.6]. *Zina* can also be imputed to a woman in case of rape or sexual assault [*Society-based targeting*, 3.5]. It can lead to death threats and honour violence, including honour killings. *Zina* is punishable under both the Penal Code and *sharia*. Prosecution for *zina* affects women to a larger degree; punishment is also harsher for women [*Society-based targeting*, 3.6.1 and 3.6.6].

Individuals and couples found to have committed *zina* are commonly sentenced by government courts to imprisonment and corporal punishments are carried out [*Society-based targeting*, 3.6.4]. In rural areas, where the government has less or no control, there have been reports of extrajudicial punishments by insurgent groups, such as the Taliban, and local powerbrokers, including executions, lashings and beatings [*Society-based targeting*, 3.6.5].

Women seeking protection face a gender-biased and discriminatory justice system [*Key-socio-economic indicators*, 3.8]. Women who flee home are often brought back to their family by the police or are imprisoned for ‘moral crimes’. In detention, they face further sexual abuse or harassment by officials [*Society-based targeting*, 3.6.4 and 3.8.4].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. imprisonment, corporal punishment and killing).

The State could potentially be considered an actor of persecution. Persecution could also be by insurgent groups, as well as by the family and/or by society in general, as there is a low societal tolerance in Afghanistan for transgressing moral and honour codes.

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (the risk is higher for women), area of origin (particularly affecting rural areas), conservative environment, perception of traditional gender roles by the family, power/influence of the actors involved, etc.

Nexus to a reason for persecution

Available information indicates that for this profile, the individual circumstances of the applicant need to be taken into account to determine whether or not a nexus to a reason for persecution can be substantiated.

In individual cases, a link might be established to religion and/or (imputed) political opinion or to membership of a particular social group (for example, women transgressing moral codes could be considered a particular social group based on common background that cannot be changed, and having a distinct identity linked to their stigmatisation by the surrounding society).

13. Individuals perceived as ‘Westernised’

This profile refers to persons who are perceived as ‘Westernised’ due, for example, to their behaviour, appearance and expressed opinions, which are seen as non-Afghan. It may include those who return to Afghanistan after having spent time in western countries.

COI summary

Generally, it can be said that Afghans identifying with western values may be targeted by insurgent groups, since they can be perceived as un-Islamic, or pro-government, or can be considered spies [*Society-based targeting*, 8.2].

As far as society is concerned, a distinction should be made in terms of attitudes towards men, on the one hand, and women, on the other.

Afghan women and children who have become accustomed to the freedoms and independence in the West may have difficulties adjusting to Afghanistan’s social restrictions. Women can also be seen as ‘Westernised’ when they work outside the home or have higher education. Women perceived as ‘Westernised’ may be perceived as contravening cultural, social and religious norms and may be subjected to violence from their family, conservative elements in society and insurgents [*Society-based targeting*, 8.10].

With regard to men, societal attitudes towards ‘Westernised’ individuals are mixed. Very few cases of incidents related to ‘Westernisation’ are reported. [*Society-based targeting*, 8.6 and 8.8].

Segments of society, mostly in cities (e.g. Kabul city), are open to Western views, whereas other segments, mostly in rural or conservative environments, are opposed [*Society-based targeting*, 8.6].

Risk analysis

The acts to which individuals under this profile could be exposed could amount to persecution, in particular for women (e.g. violence by family members, conservative elements in society and insurgents).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (the risk is higher for women), the behaviours adopted by the applicant, area of origin (particularly affecting rural areas), conservative environment, perception of traditional gender roles by the family, age (it may be difficult for children to (re-)adjust to Afghanistan’s social restrictions), visibility of the applicant, etc.

In general, the risk of persecution for men perceived as ‘Westernised’ is minimal and dependent on the specific individual circumstances.

Nexus to a reason for persecution

Available information indicates that for this profile, the individual circumstances of the applicant need to be taken into account to determine whether or not a nexus to a reason for persecution can be substantiated.

In individual cases, a link might be established to religion and/or (imputed) political opinion or membership of a particular social group (for example, ‘Westernised’ women could be considered a particular social group based on a shared characteristic or belief that is so fundamental to identity or conscience that they should not be forced to renounce it, and based on their distinct identity in the surrounding society).

14. LGBT

This profile refers to persons who are perceived as not conforming to social norms because of their sexual orientation and/or gender identity.

COI summary

In Afghan society, sexuality is not a concept that is discussed. Therefore, little information can be obtained about LGBT individuals and their position in society [*Society-based targeting*, 4].

For issues related to the practice of *bacha bazi*, which is not considered homosexuality in Afghan society, please see the specific subsection [Violence against children](#).

Both in the Penal Code and in *sharia*, same-sex activity is punishable, including by death penalty. Although the Afghan State has not implemented the death penalty for consensual same-sex acts between adults in private, imprisonment and police harassment, including robbing and rape of gay men, is reported [*Society-based targeting*, 4.1].

Targeting and extrajudicial punishment by insurgent groups also takes place. In 2015, it was reported that the Taliban had sentenced two men and a teenager to execution for homosexuality [*Society-based targeting*, 4.1].

LGBT individuals also face a threat by their family and society. Same-sex practices remain hidden and are highly stigmatised if mentioned publicly. Identifying as having a sexual orientation or identity outside the expected norms of heterosexuality is a societal taboo and is seen as un-Islamic. Sources report discrimination, including in health services and employment, assaults, threats, rape, blackmail and arrest [*Society-based targeting*, 4.2].

Although Afghanistan has traditions of a ‘third gender’, where individuals identify outside categories of male and female, these people are not legally recognised and function only at the margins of society [*Society-based targeting*, 4.2.1].

Risk analysis

The acts to which LGBT individuals could be exposed are of such severe nature that they would amount to persecution (e.g. rape, execution, killings).

The State could be considered an actor of persecution. Persecution could also be by insurgent groups, as well as by their family and/or the society in general, as there is a low societal tolerance in Afghanistan for individuals with sexual or gender identities deviating from the ‘norm’.

It has to be noted that an applicant cannot be expected to conceal their sexual orientation or gender identity.²²

In the case of LGBT applicants, in general, well-founded fear of persecution would be substantiated.

Nexus to a reason for persecution

Available information indicates that the persecution of this profile is for reasons of membership of a particular social group, based on a shared characteristic or belief that is so fundamental to the identity of the applicant, that he or she should not be forced to renounce it; and based on their distinct identity in Afghanistan, because they are perceived as being different by the surrounding society.²³

²² CJEU, *Minister voor Immigratie en Asiel v X and Y and Z v Minister voor Immigratie en Asiel*, joined cases C-199/12 to C-201/12 judgment of 7 November 2013, paras. 70-76.

²³ CJEU, *X, Y and Z*, paras. 45-49.

15. Persons living with disabilities and persons with severe medical issues

This profile refers to people with disabilities, including mental disabilities, as well as those who have severe medical issues, including for example people with HIV, mental health issues, medical issues related to drug addiction, etc.

COI summary

The Afghan government lacks funds to operate and sustain its healthcare facilities; and hospitals, especially outside the cities, are in general unable to provide adequate care and common medications. Besides public healthcare facilities, there is also a widely used but very expensive private sector [*Key socio-economic indicators*, 2.6.2].

There is one dedicated mental health hospital in the country, and mental health clinics in all provinces. Yet, the country still suffers from lack of trained professionals [*Key socio-economic indicators*, 2.6.6].

In Afghanistan, people with mental and physical disabilities are often stigmatised. Their condition is at times considered to have been caused by an “offence against God”. Mistreatment of those people by society and/or by their families has occurred. Women, displaced persons and returned migrants with mental health issues are particularly vulnerable. There is also lack of appropriate infrastructure that covers the needs of people with disabilities. The existing structures are largely concentrated in a few urban centres [*UNHCR Eligibility Guidelines*, p.65;²⁴ *Key socio-economic indicators*, 2.6.5].

Risk analysis

The lack of personnel and adequate infrastructure to appropriately address the needs of people with (severe) medical issues would not meet the requirement that an actor of persecution or serious harm is identified in accordance with Article 6 QD, unless the third country national is intentionally deprived of health care.²⁵

In the case of persons living with mental and physical disabilities, the individual assessment whether or not discrimination and mistreatment by society and/or by the family could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: nature and visibility of the mental or physical disability, negative perception by the family, etc.

Nexus to a reason for persecution

Available information indicates that the persecution of persons living with noticeable mental or physical disabilities could be for reasons of membership of a particular social group, defined by an innate characteristic and distinct identity linked to their stigmatisation by the surrounding society.

16. Individuals considered to have committed blasphemy and/or apostasy

This profile covers persons who are considered to have abandoned or renounced the religious belief or principles of Islam (apostasy), as well as persons considered to have spoken sacrilegiously about God or sacred things (blasphemy). It includes individuals who have converted to a new faith, based on

²⁴ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, 19 April 2016, HCR/EG/AFG/16/02, available at <http://www.refworld.org/docid/570f96564.html>.

²⁵ CJEU, *M'Bodj*, paras. 35-36.

their genuine inner belief (converts), as well as those who lack belief or disbelieve in God (atheists). It can be noted that, often, the latter grounds would be invoked *sur place* (Article 5 QD).

COI summary

In Afghanistan, blasphemy is punishable by death or imprisonment of up to 20 years. Individuals who have committed blasphemy have three days to withdraw their behaviours or face the death penalty. Additionally, a 2004 law prohibits writings and published materials, which are considered offensive to Islam or other faiths [*Society-based targeting*, 2.1]. Some cases of imprisonment sentences on charges of blasphemy were reported [*Society-based targeting*, 2.2]. There is low societal tolerance in Afghanistan for criticism of Islam, the latter is seen contrary to the religion and can be prosecuted as blasphemy [*Society-based targeting*, 2.2 and 2.4].

Apostasy is also punishable by death, imprisonment or confiscation of property [*Society-based targeting*, 2.1]. Apostasy is a serious offence and although it is reportedly rarely prosecuted, this has occurred in past years [*Society-based targeting*, 2.2]. Children of apostates are still considered Muslims unless they reach adulthood without returning to Islam, in which case they may also be put to death [*Society-based targeting*, 2.1]. Individuals perceived as apostates face the risk of violent attacks, which may lead to death, without being taken before a court [*Society-based targeting*, 2.4].

The Taliban see those individuals who preach against them or contravene their interpretations of Islam as ‘apostates’ [*Society-based targeting*, 2.7].

According to the ISKP, Muslim allies of the West, but also those individuals who practice forms of “impure” Islam, which includes non-Sunnis and Sunnis who practice Sufism or mystical schools of Islam, can be defined as ‘apostates’ [*Society-based targeting*, 2.8].

Individuals who hold views that can be perceived as having fallen away from Islam, such as converts, atheists and secularists, cannot express their views or relationship to Islam openly, at the risk of sanctions or violence, including by their family. Such individuals must also appear outwardly Muslim and fulfil the behavioural religious and cultural expectations of their local environment, without this being a reflection of their inner conviction [*Society-based targeting*, 2.4].

In particular, conversion from Islam to another faith is considered as a serious offence under Islamic law. It is punishable by the death penalty, by beheading for men, and by life imprisonment for women. Under Islamic law, individuals will be given three days to recant the conversion or face punishment. They are also perceived with hostility by society [*Society-based targeting*, 2.1 and 2.3].

There is an increasing number of Afghan converts to Christianity, but there have only been a few converts visible in the past decade in Afghanistan. The State deals with them by asking them to recant or face expulsion from the country [*Society-based targeting*, 2.3].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. death penalty, killing, violent attacks).

When considering such applications, the case officer should take into account that it cannot reasonably be expected that an applicant will abstain from his or her religious practices.²⁶ Similarly, the applicant cannot be expected to appear Muslim when they have non-theistic or atheist views.

In the case of those considered apostates or blasphemers, in general, well-founded fear of persecution would be substantiated.

²⁶ CJEU, *Bundesrepublik Deutschland v Y and Z*, joined cases C-71/11 and C-99/11, judgment of 5 September 2012, para 80.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of religion.

17. Ethnic and religious minorities

In the context of Afghanistan, ethnicity and religion are often interlinked. This chapter focuses on some ethnic and/or religious minorities.

a. Individuals of Hazara ethnicity

This profile includes people who belong to the Hazara ethnicity. Mostly, persons of Hazara ethnicity are of [Shia religion](#) and the two profiles should be read in conjunction.

The majority of the Hazara population inhabits the Hazarajat. Hazara are also well represented in most cities, including Kabul.

The Hazara ethnicity can usually be recognised by their physical appearance.

COI summary

Since the fall of the Taliban regime, the Hazara have improved their position in society and the Afghan Constitution includes the Hazara as one of the people that comprise the nation of Afghanistan [*Conflict targeting*, 1.2.10.1]. There is no information of mistreatment by the State [*Conflict targeting*, 2.5].

Attacks on Hazara by insurgent groups have occurred, especially on places where Hazara/Shia gather, such as religious commemorations or political demonstrations. Such attacks could be related to their religion (see the profile on [Shia](#)). Among other reasons, the ISKP also reportedly targets the Hazara due to their perceived closeness and support for Iran and the fight against the Islamic State in Syria [*Conflict targeting*, 1.2.10.3].

There are instances of Hazara civilians being abducted or killed while travelling along the roads. In reported incidents where Hazara road passengers were singled out and killed or abducted, other reasons could often be identified, such as non-political communal disputes or the individual being an ANSF member, having a job in the government or the NGO sector, etc., linking these incidents to other profiles [*Conflict targeting*, 1.2.10.2].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing, abduction, sectarian attacks).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Being a Hazara in itself would normally not lead to a well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account circumstances, such as: area of origin and area of work (e.g. areas where ISKP has operational presence), profession, participation in religious practices, political activism, etc.

Nexus to a reason for persecution

Available information indicates that persecution for the sole reason of the individual's Hazara ethnicity (race/nationality) is not common in Afghanistan. Where the applicant is of [Shia religion](#), persecution could occur for reasons of religion. Depending on the individual circumstances, persecution may also be for reasons of (imputed) political opinion (e.g. links to the government, perceived support for Iran).

b. Shia, including Ismaili

This profile includes people who belong to the Shia religion. In Afghanistan, 10 to 15% of the population are Shia Muslim. The majority of these Shia are ethnic [Hazara](#) and the two profiles should be read in conjunction.

COI summary

The Shia community is disproportionately represented among civilian casualties in Kabul and Herat. There are reports of attacks against the Shia, especially on places where Shia gather, such as mosques, and during religious commemorations and political demonstration [*Conflict targeting*, 1.2.10.2].

In particular, ISKP has carried out attacks targeting the Shia Muslim communities in the cities. However, it should be noted that the territorial reach of the ISKP is limited [*Security situation (Dec 2017)*, 1.6.3; *Conflict targeting*, 1.2.10.3; 1.5.1.1].

Instances of discrimination against the Shia community are reported [*Conflict targeting*, 1.2.10.2 and 2.5].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. sectarian attacks). When the acts in question are (solely) discriminatory measures, the individual assessment of whether or not discrimination could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: area of origin (areas where ISKP has operational presence), participation in religious practices, political activism, etc.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of religion.

c. Hindus and Sikhs

This profile includes people who belong to the Hindu or Sikh religions. There are estimated to be about 900 individual Hindus and Sikhs in Afghanistan [*Society-based targeting*, 2.6].

COI summary

Under the Constitution and laws, Hindus and Sikhs are recognised and protected as equal citizens with Muslims. There is no information of mistreatment by the State or by insurgent groups. Members of these minority communities sometimes serve in the government.

Hindus and Sikhs have encountered societal discrimination, harassment and some reported instances of societal violence in Afghanistan [*Society-based targeting*, 2.6].

Risk analysis

The individual assessment of whether or not discrimination could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of religion.

d. Baha'i

This profile includes people who belong to the Baha'i religion.

COI summary

Sources indicate that the Baha'i faith is considered a form of blasphemy, based on a *fatwa* issued in 2007 by the General Directorate of Fatwa and Accounts, under the Supreme Court. Under the ruling, Baha'i practitioners and converts to the faith are viewed as 'infidels' or 'apostates'. However, there are no reports of Baha'i practitioners being charged for either crimes as of 2016 [*Society-based targeting*, 2.5].

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. death penalty, violent attacks).

In the case of the Baha'i (considered blasphemers or apostates), in general, well-founded fear of persecution would be substantiated.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of religion.

See also the profile above concerning [Individuals considered to have committed blasphemy and/or apostasy](#).

18. Individuals involved in blood feuds and land disputes

a. Blood feuds

Blood feuds for revenge-taking can be the result of personal violence or wrong-doing that is seen as being against honour, disputes involving land, or in the context of family conflicts and relationships [*Society-based targeting*, 7.1].

COI summary

Usually, blood feuds occur between non-State actors, for example within certain ethnic subgroups, and mostly in areas, where the government and the rule of law is weak or non-present [*Society-based targeting*, 7.1]. The influence of the tribal context of blood feuds is less strong in large cities, but this does not automatically mean that a person would escape a blood feud entirely by moving away [*Society-based targeting*, 7.7.4].

Such feuds can become extremely violent (e.g. killings) and can go on for generations [*Society-based targeting*, 7.3]. The societal and family obligations to carry out revenge are strong and it is difficult for someone to resist or escape a blood feud [*Society-based targeting*, 7.7.4]. Blood feuds arise mostly among Pashtuns, but it is also a practice across other ethnic groups in Afghanistan [*Society-based targeting*, 7.1].

Adult men are the most frequent target of blood feuds. Usually, revenge is carried out against the brothers or other immediate male relatives of the perpetrator [*Society-based targeting*, 7.6].

Women and children are usually excluded from being direct targets of revenge killings in blood feuds. However, there have been examples in the media of children and women reportedly killed in relation to a blood feud or retribution [*Society-based targeting*, 7.6].

In some instances, blood feuds could be avoided through seeking the forgiveness (*nanawatai*) of the injured party and requesting that they forego *badal* (by the individual offender approaching the offended party to ask forgiveness, or through a *jirga* with local tribal elders and *ulemas*); however, women are excluded from taking part in such fora [*Society-based targeting*, 7.7.1].

Risk analysis

Individuals under this profile could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. killing).

For men directly involved in a blood feud, in general, well-founded fear of persecution would be substantiated. For women, for children and for men who are farther removed from the feud, the individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: intensity of the blood feud, origin from areas where the rule of law is weak, etc.

Nexus to a reason for persecution

Family members involved in a blood feud could be considered as members of a particular social group defined by an innate characteristic (i.e. being a member of the family) and due to the fact that families are known and have a distinct identity in the surrounding society.

b. Land disputes

Land disputes are common in Afghanistan due to the fragmented regularisation/registration of land, large population movements and rapid urbanisation, the protracted conflict situation, and a weak rule of law [*Society-based targeting*, 6].

COI summary

Land disputes occur among individuals and families, and can sometimes involve powerful elites or insurgent groups. They occur all over the country, and among all ethnic groups. In rural areas, land conflicts can expand to include whole families, communities, ethnicities, tribes, or clans within one tribe [*Society-based targeting*, 6].

Land conflicts can quickly escalate and become violent, sometimes degenerating into small armed conflicts, as well as blood feuds. Approximately 70% of serious violent crimes such as murder are caused by disputes over land ownership. Cases of families and individuals involved in conflicts over land and property in different regions of Afghanistan that resulted in killings and casualties were reported [*Society-based targeting*, 6.1].

A weak rule of law leads to a possibility for powerful individuals to influence the administration in order to produce forged documents, and the judiciary to allow them to operate with impunity [*Society-based targeting*, 6.4.1, 6.4.2, and 7.7.3; *Key socio-economic indicators*, 3.5.4]. In dispute resolution, both formal and informal mechanisms display a bias towards the powerful, wealthy, men, elites and dominant ethnicities [*Society-based targeting*, 6.4.1 and 6.4.4].

Risk analysis

The loss of land itself would normally not amount to persecution. However, the violence that entails from land disputes, together with the lack of an effective legal system to prevent it, may result in severe violations of basic human rights which would amount to persecution (e.g. killing).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of

likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: violent nature of the dispute, power/influence of the actors involved in the land dispute, areas of origin with weak rule of law, etc.

Nexus to a reason for persecution

Available information indicates that in the case of violence related to land disputes, there is in general no nexus to a Convention reason for persecution. This is without prejudice to individual cases where nexus could be established based on additional circumstances (e.g. ethnicity, land dispute leading to a blood feud, etc.).

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

19. Individuals accused of ordinary crimes

This profile refers to people who are accused of ordinary crimes in Afghanistan, such as crimes against property, life, physical integrity, etc.

COI summary

In Afghanistan, there are multiple sources of law, both codified and unwritten. Courts apply provisions of the Afghan Constitution and other laws. However, in cases where there is no provision under the Constitution or the Penal Code, *Hanafi* jurisprudence and customary laws are applied. Corruption and lack of independence of the judiciary have been reported [*Security situation (Dec 2017)*, 1.7; *Society-based targeting*, 1; *Key socio-economic indicators*, 3.5].

The State justice system is accessible within city districts or at the centre of rural districts, whereas there is limited access in the peripheries of the cities and rural areas. In those areas, traditional justice mechanisms such as *jirgas* and *shuras* are widely used. Although corporal punishment is prohibited by law, it is used regularly in rural areas. Capital punishment is rarely carried out by the government, although instances of capital punishment for ordinary crimes have been reported [*Society-based targeting*, 1].

In areas under their control, insurgents operate parallel justice mechanisms and impose harsh extrajudicial punishments, including beatings, lashing, public executions by shooting and stoning [*Society-based targeting*, 1.6].

Risk analysis

Prosecution for an ordinary crime by the State and through traditional justice mechanisms does not normally amount to persecution. However, violations of the due process of law and/or disproportionate or discriminatory punishments could amount to such severe violations of basic human rights. Being subjected to a parallel justice mechanism run by an insurgent group would amount to persecution.

The assessment of well-founded fear should take into account individual circumstances such as the area of origin of the applicant and the prevalent justice mechanisms, the nature of the crime for which he or she is prosecuted, the envisaged punishment, etc.

Nexus to a reason for persecution

Available information indicates that in the case of individuals accused of ordinary crimes, there is in general no nexus to a Convention reason for persecution. This is without prejudice to the assessment in cases where the prosecution is motivated by a Convention ground, or initiated or conducted on a discriminatory basis related to a Convention ground.

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

20. Afghans perceived as wealthy

This profile refers to individuals perceived by others to be wealthy, such as businessmen, money changers, returnees, etc.

COI summary

Kidnapping and extortion of Afghans perceived as wealthy and their family members, takes place throughout the country. Criminal gangs are considered an important problem in cities such as Kabul and Herat [*Security situation (Dec 2017)*, 1.7, 2.1, and 2.13].

Insurgents also increasingly target financially well-off Afghans, e.g. by kidnapping for ransom [*Conflict targeting*, 1.1.3 and 1.1.5.1].

Returnees could be perceived as wealthy by Afghan society. Some cases are reported in which returnees received threats or were extorted by criminals due to their perceived wealth [*Society-based targeting*, 8.5]

Risk analysis

Individuals under this profile could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. kidnapping).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account certain circumstances, such as: visibility of the applicant, means available to provide one's security (e.g. power position or influence, network, financial means), etc.

Family members, and especially children of individuals perceived as wealthy, could also be at risk of treatment that would amount to persecution.

Nexus to a reason for persecution

Available information indicates that in the case of individuals perceived as wealthy, there is in general no nexus to a Convention reason for persecution. This is without prejudice to individual cases where nexus could be established based on additional circumstances.

21. Individuals who were born in Iran or Pakistan and/or who lived there for a long period of time

This profile refers to Afghans who were born in or have spent a very long period as a refugee or a migrant in Iran or Pakistan.

COI summary

Not being accustomed to Afghan norms and expectations and having no support network in Afghanistan may lead to difficulties in finding job or shelter. Afghans who lived outside Afghanistan for a long period of time may also have a strong accent, which would be a further obstacle in finding a job.

Afghans who grew up in Iran and are perceived as 'Iranised' or 'not Afghan enough' may sometimes receive offensive comments.

[*Society-based targeting*, 8.7, *Key socio-economic indicators*, 2.8 and 3.7].

Risk analysis

In general, the treatment faced by individuals under this profile would not amount to persecution. In exceptional cases and based on additional individual circumstances, the accumulation of measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner, could amount to persecution.

Nexus to a reason for persecution

Available information indicates that in the case of individuals who were born in Iran or Pakistan and/or who lived there for a long period of time, there is in general no nexus to a Convention reason for persecution. This is without prejudice to individual cases where nexus could be established based on additional circumstances.

III. Subsidiary protection

Article 15(a) QD

As noted in the chapter above, some profiles of applicants from Afghanistan may be at risk of death penalty or execution. In such cases (for example, [LGBT](#), [individuals considered to have committed blasphemy and/or apostasy](#), [members of insurgent groups and civilians perceived as supporting them](#), etc.), there would often be a nexus to a Convention ground, and those individuals would qualify for refugee status. In cases where there is no nexus to a Convention ground (for example, in some cases of [individuals accused of ordinary crimes](#)), the need for subsidiary protection under Article 15(a) QD should be examined.

Under Article 15(a) QD, serious harm consists of **the death penalty or execution**.

The **death penalty** is as such, and under any circumstances, considered as a serious harm under Article 15(a) QD. The sentence does not need to have already been imposed. The mere existence of a real risk that on return a death penalty may be imposed on an applicant could be considered sufficient to substantiate the need of subsidiary protection.

As the addition of the term ‘**execution**’ suggests, Article 15(a) QD also encompasses the intentional killing of a person by non-State actors exercising some kind of authority. It may also include extrajudicial killings, but an element of intentional and formalised punishment needs to be present.

Death penalty is envisaged under both, the Afghan Penal Code and Islamic law. The new Penal Code is reported to significantly limit the number of crimes punishable by the death penalty. When the death penalty is imposed by the State, execution orders must go through all judicial instances and be signed by the Afghan president. Approximately 600 people were on death row for ‘ordinary crimes’ in May 2016 waiting for presidential sign-off on their executions. The death penalty is rarely carried out in practice [*Society-based targeting*, 1.4.1].

Insurgents, in the areas under their control, impose punishments through parallel justice systems, based on a strict interpretation of *sharia*. This includes instances of executions, including public executions by stoning and shooting [*Society-based targeting*, 1.6].

If there is a reasonable degree of likelihood of death penalty or execution, subsidiary protection under Article 15(a) QD shall be granted, unless the applicant is to be excluded in accordance with Article 17 QD.

 In some cases, the death penalty would have been imposed for a serious crime committed by the applicant, or for other acts falling within the exclusion grounds (Article 17 QD). Therefore, although the criteria of Article 15(a) QD would be met, exclusion considerations should be examined (see the chapter on [Exclusion](#) below).

Article 15(b) QD

As noted in the chapter on [Refugee status](#), some profiles of applicants from Afghanistan may be at risk of torture or inhuman or degrading treatment or punishment. In such cases, there would often be a nexus to a Convention ground, and those individuals would qualify for refugee status. However, with reference to cases where there is no nexus to a Convention ground, the need for subsidiary protection under Article 15(b) QD should be examined.

Under Article 15(b) QD, serious harm consists of **torture or inhuman or degrading treatment or punishment of an applicant in the country of origin**.

Article 15(b) QD corresponds in general to Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The jurisprudence of the European Court of Human Rights (ECtHR), therefore, provides relevant guidance in order to assess whether a treatment may qualify under Article 15(b) QD.

Torture is an aggravated and deliberate form of cruel, inhuman or degrading treatment to which a special stigma is attached.

According to relevant international instruments, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), torture is understood as:

- ✓ an **intentional act**
- ✓ that inflicts **severe pain or suffering**, whether **physical or mental**
- ✓ for such **purposes** as obtaining from the person subjected to torture or from a third person information or a confession, punishing the former for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind.

The distinction between torture and **inhuman or degrading treatment or punishment** is more a difference of degree than of nature. These terms cover a wide range of ill-treatment that reach a certain level of severity.

- **Inhuman:** refers to treatment or punishment which deliberately causes intense mental or physical suffering (which does not reach the threshold of torture).
- **Degrading:** refers to treatment or punishment which arouses in the victim feelings of fear, anguish and inferiority capable of humiliating or debasing them.

The assessment whether a treatment or punishment is inhuman or degrading further implies a subjective consideration by the person who suffers such treatment or punishment. No specific purpose on the part of the perpetrator (e.g. obtaining information or a confession, punishing, intimidating, etc.) is required in this regard.

When examining the need for protection under Article 15(b) QD, the following considerations should be taken into account:

- **Health care unavailability and socio-economic conditions:** It is important to note that serious harm must always take the form of conduct on the part of a third party and, therefore, has to be inflicted deliberately. In themselves, the general unavailability of health care, education or other socio-economic elements (for example, difficulties in finding livelihood opportunities, housing, etc.) do not fall within the scope of inhuman or degrading treatment under Article

15(b) QD, unless there is intentional conduct on the part of a third party, in particular the intentional deprivation of the applicant of appropriate health care.^{27,28}

It should be noted that more favourable standards in this regard may be in place in some Member States.

See also the profiles of [Persons living with disabilities and persons with severe medical issues](#), [Individuals who were born in Iran or Pakistan and/or who lived there for a long period of time](#).

- **Arbitrary arrests, illegal detention and prison conditions:** Special attention should be paid to the phenomena of arbitrary arrests and illegal detention, as well as to prison conditions. Arbitrary arrests and illegal detention centres run by different actors (linked to the State, to militias, to strongmen or to insurgent groups) are widespread in Afghanistan. In general, human rights are not respected in these illegal detention facilities and persons who face a real risk of being illegally detained by these actors may be in need of protection. Furthermore, it can be assessed that in cases where the prosecution or punishment is grossly unfair or disproportionate, or where subjecting a person to prison conditions which are not compatible with respect for human dignity, a situation of serious harm under Article 15(b) QD can occur. It should also be stressed that in official and unofficial detention centres, torture often takes place.

See also the profile of [Individuals accused of ordinary crimes](#).

Other profiles for which a real risk of serious harm under Article 15(b) QD may exist are, inter alia, [children](#), [individuals involved in land disputes](#) and [Afghans perceived as wealthy](#), etc.

 In some cases, those at risk of torture or inhuman or degrading treatment or punishment (for example, because of mistreatment in prisons) may also have committed or contributed to excludable acts as defined in Article 17 QD. Therefore, although the criteria of Article 15(b) QD would be met, exclusion considerations should be examined (see the chapter on [Exclusion](#) below).

²⁷ CJEU, *M'Bodj*, paras.35-36.

²⁸ Recent jurisprudence of the CJEU, furthermore, addresses the case of an applicant who has been tortured by the authorities of his country of origin and who no longer faces a risk of being tortured if returned to that country, but whose physical and psychological health could, if so returned, seriously deteriorate, leading to a serious risk of him committing suicide on account of the trauma resulting from the torture. In this case, the CJEU considers that Article 15(b) QD is applicable if there is a real risk of the applicant being intentionally deprived, in his or her country of origin, of appropriate care for the physical and mental after-effects of that torture (CJEU, *MP v Secretary of State for the Home Department*, case C-353/16, judgment of 24 April 2018, para.59).

Article 15(c) QD

Preliminary remarks

Reference period

The following assessment is based on the latest EASO COI reports on the security situation in Afghanistan [*Security situation (May 2018)*, *Security situation (Dec 2017)*]. The general reference period for this chapter is **January 2017 – March 2018** and events taking place after March 2018 are not taken into account in the common analysis. Certain information used within this chapter may refer to a different reference period (e.g. number of casualties per province is only available for January – December 2017); this is clarified within the text.

This guidance should be considered valid as long as current events and developments fall within the trends and patterns of violence described within the reference period of the mentioned COI report. 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 of a given territory should always be assessed in light of the most up-to-date COI available.

Legal framework

Article 15(c) QD defines the third type of harm that constitutes a ground for qualification for subsidiary protection. It covers a more general risk of harm and considers protection needs that may arise from armed conflict situations.

Under Article 15(c) QD, serious harm consists of **serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.**

In addition to the applicable EU legal instruments, this guidance builds on the most relevant European case law. Two judgments of the CJEU and one judgment of the ECtHR have been taken into account in particular:

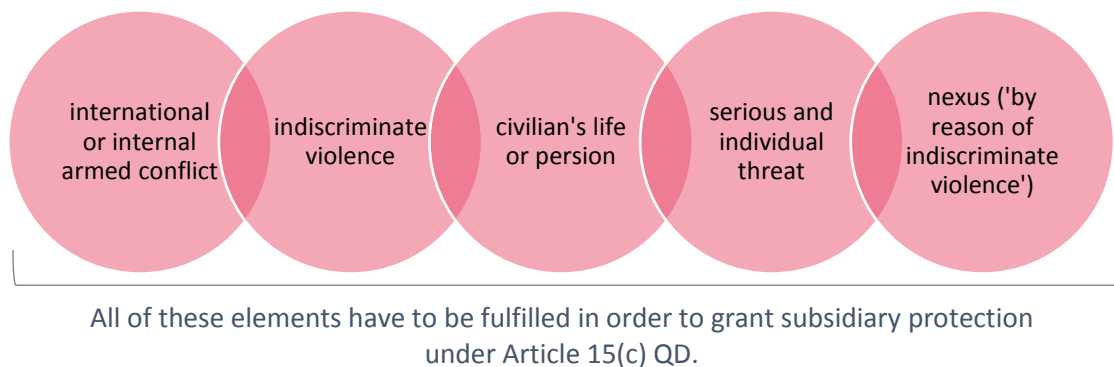
- ▶ **CJEU, *Elgafaji* judgment:**²⁹ The judgment is of importance with regard to the appreciation of the degree of indiscriminate violence and in particular with regard to the application of the 'sliding scale'. In this judgment, the CJEU further discusses the 'serious harm' under the provision of Article 15(c) QD in comparison to the other grounds for granting subsidiary protection and considers the relation between Article 15(c) QD and the ECHR, in particular Article 3 ECHR.
- ▶ **CJEU, *Diakité* judgment:**³⁰ The judgment is of particular importance for the interpretation of relevant concepts, such as 'internal armed conflict'.
- ▶ **ECtHR, *Sufi and Elmi* judgment:**³¹ It should be noted that ECtHR jurisprudence on Article 3 ECHR is not of direct applicability when discussing the scope and elements of Article 15(c) QD. However, the elements outlined in *Sufi and Elmi* with regard to the assessment of the security situation in a country and the degree of generalised violence have been consulted in order to design the indicators of indiscriminate violence for the purposes of this common analysis.

²⁹ CJEU, *Elgafaji v. Staatssecretaris van Justitie*, C-465/07, Judgment of the Court (Grand Chamber) of 17 February 2009.

³⁰ CJEU, *Aboubacar Diakité v. Commissaire général aux réfugiés et aux apatrides*, C-285/12, Judgment of the Court (Fourth Chamber) of 30 January 2014.

³¹ ECtHR, *Sufi and Elmi v. United Kingdom*, Applications nos. 8319/07 and 11449/07, Judgment of 28 June 2011.

The elements to examine under Article 15(c) QD are:



Common analysis and assessment of the factual preconditions for the possible application of Article 15(c) QD with regard to the situation in Afghanistan is provided below.

a. Armed conflict (international or internal)

A definition of an international or an internal armed conflict within the meaning of Article 15(c) QD is not provided by the Qualification Directive itself. In *Diakité*, the CJEU interprets the concept of ‘internal armed conflict’ under Article 15(c) QD and concludes that it must be given an interpretation, which is autonomous from international humanitarian law:

...internal armed conflict exists, for the purposes of applying that provision, if a State’s armed forces confront one or more armed groups or if two or more armed groups confront each other. It is not necessary for that conflict to be categorised as ‘armed conflict not of an international character’ under international humanitarian law;³²

In *Diakité*, the CJEU sets a low threshold to assess whether an armed conflict is taking place, noting that,

nor is it necessary to carry out, in addition to an appraisal of the level of violence present in the territory concerned, a separate assessment of the intensity of the armed confrontations, the level of organisation of the armed forces involved or the duration of the conflict.³³

Furthermore, in the context of Article 15(c) QD, differentiation between ‘international’ or ‘internal’ armed conflict is not necessary, as the provision is equally applicable in situations of international and internal armed conflict.

It should also be noted that an armed conflict can be taking place only in parts of the territory.

According to COI, confrontations between the pro-government forces and insurgent groups, as well as confrontations between different, insurgent groups take place across Afghanistan.

Given the interpretation of the concept of ‘internal armed conflict’ by the CJEU, and based on the COI, it can be concluded that an internal armed conflict, in the meaning of Article 15(c) QD, takes place in the territory of Afghanistan and the security situation in the country is volatile. During the reference period, there was one province in which a situation of ‘internal armed conflict’ in the meaning of Article 15(c) QD, as interpreted in the *Diakité* judgment, did not take place, i.e. Panjshir.³⁴

³² *Diakité*, para 35.

³³ *Ibid.*

³⁴ Panjshir/Panjsher: No confrontations between armed groups were reported during the reference period. No civilian casualties were documented by UNAMA in 2017 [Security situation (May 2018), 2.26].

With regard to the other provinces, the assessment has to proceed to examine whether the remaining criteria under Article 15(c) QD are also (cumulatively) met.

b. Indiscriminate violence

‘Indiscriminate violence’ refers to the source of the specific type of serious harm defined in Article 15(c) QD. The CJEU in *Elgafaji* notes that the term ‘indiscriminate’ implies that the violence,

*| may extend to people irrespective of their personal circumstances.*³⁵

Some acts of violence may be indiscriminate by their nature, for example: explosions, attacks and armed confrontations in areas that are inhabited or frequented by civilians (e.g. market places, public roads, healthcare facilities).

Based on *Elgafaji*, in situations where indiscriminate violence is taking place, the following differentiation can be made with regard to its level:

I. territories where the degree of indiscriminate violence reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, **solely on account of his or her presence** on the territory of that country or region, face a real risk of being subject to the serious threat referred to in Article 15(c) QD.

II. territories where indiscriminate violence takes place, however it does not reach such a high level, and with regard to which **additional individual elements would have to be substantiated**.

Within this category, the level of indiscriminate violence may vary from territories where the degree of indiscriminate violence is relatively high to territories where it is of such a low level that the likelihood for a civilian to be personally affected would be minimal.

In the first category, ‘mere presence’ would exceptionally be considered sufficient and no further individual elements would need to be substantiated.³⁶

With regard to the second category, *Elgafaji* provides guidance on how the serious and individual risk has to be assessed, an approach commonly referred to as the ‘sliding scale’:

*| (...) the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection.*³⁷

Risk-impacting elements related to the personal circumstances of the applicant should, therefore, be taken into account. See subsection [\(d\) Serious and individual threat](#).

³⁵ *Elgafaji*, para.34.

³⁶ *Elgafaji*, para.43.

³⁷ *Elgafaji*, para.39.

Indicators of indiscriminate violence

The common analysis below regarding the degree of indiscriminate violence taking place in the different provinces of Afghanistan combines quantitative and qualitative elements in a holistic and inclusive assessment.

The indicators applied are formulated in reference to the ECtHR judgment in *Sufi and Elmi*:

*(...) first, whether the parties to the conflict were either employing methods and tactics of warfare which increased the risk of civilian casualties or directly targeting civilians; secondly, whether the use of such methods and/or tactics was widespread among the parties to the conflict; thirdly, whether the fighting was localised or widespread; and finally, the number of civilians killed, injured and displaced as a result of the fighting.*³⁸

These indicators are further developed and adapted based on Member States' national practice, in order to be applied as a general approach to assessing the element of 'indiscriminate violence', irrespective of the country of origin in question.

The security situation per province is assessed by taking into account the following elements:

■ **Presence of actors in the conflict**

This indicator looks into the presence of actors in the conflict in the respective province, including the presence of insurgent groups and whether or not military operations are being conducted.

It is important to note that in the context of Afghanistan all actors in the conflict engage in activities which affect civilians. According to UNAMA reporting, anti-government elements (insurgent groups) are considered responsible for the majority of the recorded civilian casualties. In 2017, this represented 65% of all civilian casualties, with 42% of the civilian casualties attributed to the Taliban and 10% attributed to ISKP. Pro-government forces caused 20% of the recorded civilian casualties in 2017; the majority were attributed to the ANSF (16% of civilian casualties in 2017). 11% of casualties were due to unattributed cross-fire during ground engagements.³⁹

In the first quarter of 2018, the civilian casualties caused by pro-government forces decreased by 13%, while they still accounted for 18% of all civilian casualties during this period. 67% were attributed to anti-government elements (insurgent groups), and 11% were caused by fighting and were jointly attributed.⁴⁰

■ **Nature of methods and tactics**

Some methods and tactics are by their nature more indiscriminate than others and create a more substantial risk for civilians.

In particular, the following types of incidents are reported as leading causes for civilian casualties in Afghanistan in 2017 and in the period January - March 2018. The proportions below represent the percentage of civilian casualties by the respective type of incident in the first quarter of 2018, as reported by UNAMA:

³⁸ *Sufi and Elmi*, para.241.

³⁹ UNAMA, *Afghanistan: Protection of Civilians in Armed Conflict - Annual Report 2017*, February 2018, also reflected in EASO, *Security situation (May 2018)*.

⁴⁰ UNAMA, *Afghanistan: Quarterly Report on the Protection of Civilians in Armed Conflict: 1 January to 31 March 2018*, April 2018, also reflected in EASO, *Security situation (May 2018)*.

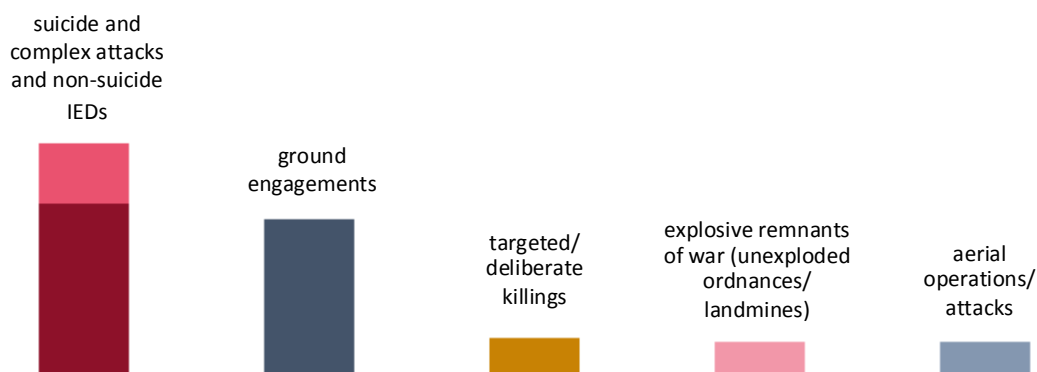


Figure 8. Leading causes of civilian casualties in Afghanistan (January - March 2018).⁴¹

- Use of **suicide and non-suicide improvised explosive devices (IEDs)** by anti-government elements accounted for 40% of the civilian casualties recorded in 2017; the majority of the civilian casualties caused by IEDs occurred in the context of **suicide and complex attacks**. In the first quarter of 2018, the majority of civilian casualties in Afghanistan were also caused by suicide and complex attacks (33%) together with non-suicide IEDs (12%).

IEDs are found particularly indiscriminate when used in public areas frequented by civilians.

- **Ground engagements** caused 33% of the civilian casualties recorded in 2017. A 15% decrease in the number of civilian casualties caused by ground engagement is noted in the first quarter of 2018, when they represented 30% of all civilian casualties.
- **Targeted/deliberate killings** caused 11% of the civilian casualties recorded in 2017. Their share decreased in the first quarter of 2018 to 7% of all civilian casualties.
- **Unexploded ordnances/landmines (explosive remnants of war)** caused 6% of the civilian casualties recorded in 2017 and 6% in the first quarter of 2018.
- **Aerial operations** caused 6% of the civilian casualties recorded in 2017 and 6% in the first quarter of 2018.

For each province, the common analysis refers to the three leading causes of civilian casualties in 2017 as reported by UNAMA.⁴²

■ Frequency of security incidents

The frequency of security incidents is a useful indicator to assist in the assessment of the risk of indiscriminate violence. As no recent comprehensive information on the number of security incidents per province is available at the time of completing this common analysis, no quantitative indicator could be derived in this regard. Nevertheless, the common analysis indirectly takes into account the number/frequency of security incidents by reference to the UNOCHA classification of districts in terms of 'conflict severity'.⁴³ The severity ranking adopted by UNOCHA is based on three indicators: security incidents, civilian casualties, and conflict-induced displacement per district. Data on the latter two is publicly available per province and has been used in this analysis as described below.

⁴¹ *Ibid.*

⁴² UNAMA, *Afghanistan: Protection of Civilians in Armed Conflict - Annual Report 2017*, February 2018, also reflected in EASO, *Security situation (May 2018)*.

⁴³ UNOCHA, *2018 Humanitarian Needs Overview: Afghanistan*, December 2017, p.9, also reflected in the EASO COI report, *Afghanistan, Security situation (May 2018)*.

■ Geographical scope

This element looks into how spread the violence is and whether it affects the whole of the province or certain parts of it. Particular considerations may be highlighted with regard to some cities, such as the cities of Kabul, Herat and Mazar-e Sharif. The information used in this indicator is obtained from the EASO COI report, *Security situation (May 2018)*, with reference to the UNOCHA conflict severity classification of districts.

Where conflict severity varies within a province, the area of origin (district, city) of the applicant would constitute an important element to consider in the assessment. The higher the level of indiscriminate violence in the respective area, the less additional individual elements would be required in order to apply Article 15(c) QD.

The individual assessment should also take into account the accessibility of a certain territory.

■ Civilian casualties

The number of civilian casualties, including civilians who were killed or injured, is a key indicator when assessing indiscriminate violence in the context of Article 15(c) QD. The most recent available data on civilian casualties per province is for the period January – December 2017.⁴⁴ The reported number of civilian casualties is further weighted by the population in the province⁴⁵ and presented as ‘**number of civilian casualties per 100,000 inhabitants**’. Numbers are rounded to the nearest whole number.

■ Displacement

This element refers to conflict-induced internal displacement from the province in question. In some cases, it is furthermore deemed relevant to note that internal displacement to the province or a city within the province is observed.

This indicator is a quantitative representation of the number of IDPs in the period January 2017 – March 2018, weighted by the population in the province.⁴⁶ It is presented as ‘**number of IDPs per 100,000 inhabitants**’. Numbers are rounded to the nearest whole number.

In addition to the indicators above, some examples of further impact of the armed conflict on the life of civilians are mentioned and taken into account in the assessment.

None of the indicators above would be sufficient by itself to assess the level of indiscriminate violence and the risk it creates for the civilian population in a particular area. Therefore, a holistic approach has been applied, taking into account all different elements.

It should, furthermore, be noted that the COI used as a basis for this assessment cannot be considered a complete representation of the extent of indiscriminate violence and its impact on the life of civilians. Concerns with regard to underreporting, especially pertinent to the quantitative indicators above, should be taken into account. Such concerns are particularly relevant with regard to areas which are most affected by the violence or under insurgent control.⁴⁷

Indiscriminate violence assessment per province of Afghanistan

This section provides an assessment of the risk of indiscriminate violence per province. The general reference period taken into account in this assessment is January 2017 – March 2018. The indicator

⁴⁴ UNAMA, *Afghanistan, Protection of Civilians in Armed Conflict - Annual report 2017*, February 2018, also reflected in the EASO COI report, *Afghanistan, Security situation (May 2018)*.

⁴⁵ Population figures are based on latest available information from the Central Statistics Organisation, Afghanistan, *Estimated Settled Population by Civil Division, Urban, Rural and Sex-2017-18*, available at <http://cso.gov.af/en/page/demography-and-socile-statistics/demograph-statistics/3897111> <accessed 30 April 2018>.

⁴⁶ *Ibid.*

⁴⁷ See *Security situation (May 2018)*, Introduction.

‘number of civilian casualties per 100,000 inhabitants’ is based on annual data regarding the number of civilian casualties, referring to January – December 2017.

The map below summarises and illustrates the assessment of indiscriminate violence per province.

It should be noted that in many of the provinces, the conflict severity further varies between different districts. This should be taken into account in the individual assessment of the application.

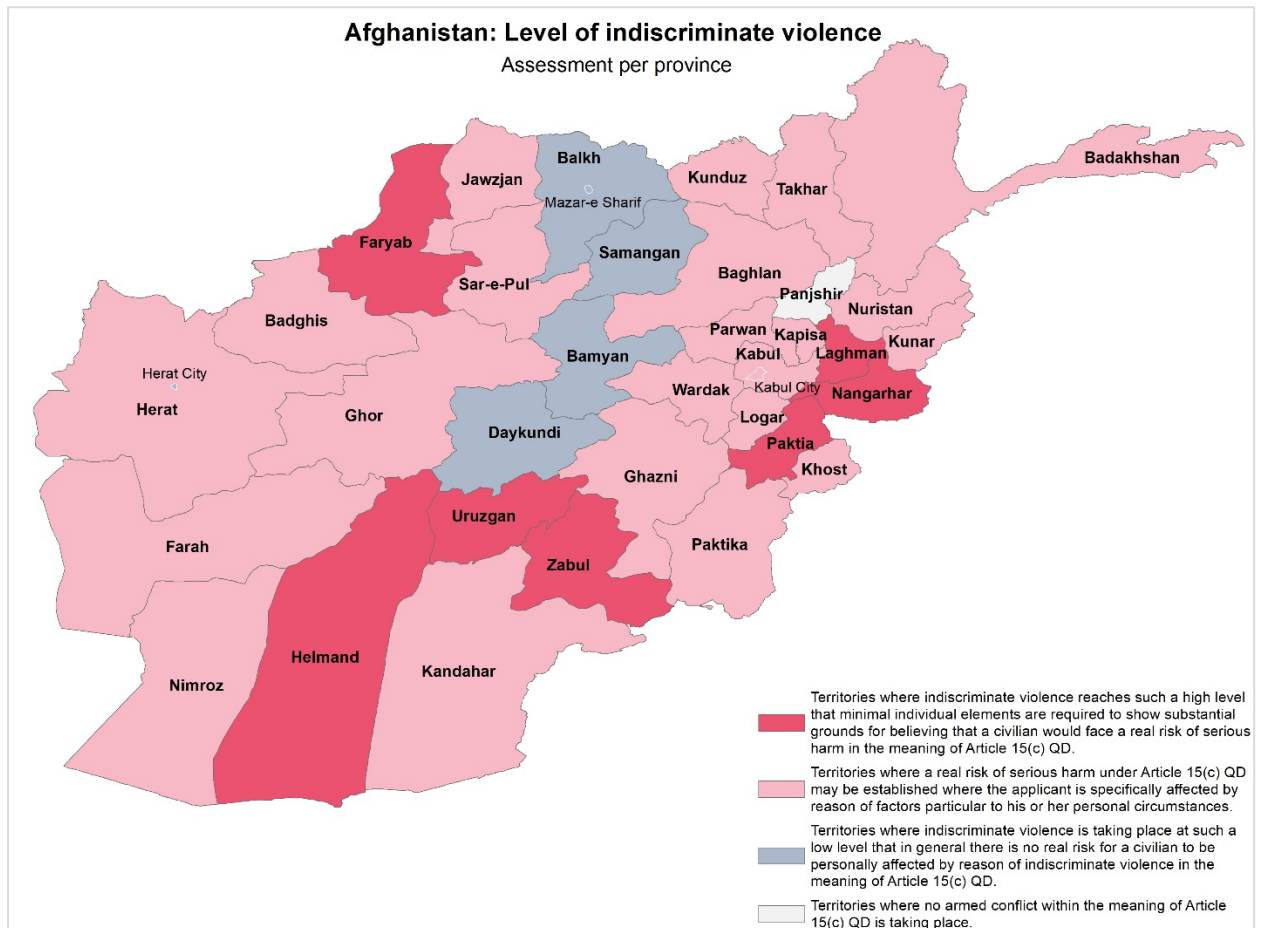


Figure 9. Afghanistan: Level of indiscriminate violence.

For ease of reference, provinces are listed alphabetically.

Badakhshan

[Security situation (May 2018), 2.2; Security situation (Dec 2017), 2.2]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Badakhshan. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in some parts of Badakhshan. Military operations were being conducted in the province. The conflict severity was similarly low in most parts of the province, with the exception of the districts of Baharak, Jurm, Argo and Tagab, which were relatively more affected.

In 2017, there were 6 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide), and targeted/deliberate killings. Further impact on civilian life included, for example, closure of schools in certain districts, impeded access to health care, hindrance of vaccinations and the stopping humanitarian aid, food insecurity. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 1,529 IDPs per 100,000 inhabitants.

Badghis

[Security situation (May 2018), 2.3; Security situation (Dec 2017), 2.3]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Badghis. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in most parts of Badghis. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Ghormach,⁴⁸ Qadis, Bala Murghab, Muqur, Ab Kamari, and Qala-e Naw, being particularly affected.

In 2017, there were 26 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, targeted/deliberate killings and IEDs (non-suicide). Further impact on civilian life included, for example, the closure of healthcare facilities. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 7,034 IDPs per 100,000 inhabitants.

Baghlan

[Security situation (May 2018), 2.4; Security situation (Dec 2017), 2.4]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Baghlan. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

⁴⁸ However, the place of this district within the province of Badghis is disputed.

There was strong presence of insurgent groups, especially the Taliban, in some parts of Baghlan. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Pul-e Khumri, Baghlan-e Jadid (Baghlan-e Markazi), Dushi and Khenjan being particularly affected.

In 2017, there were 24 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, unexploded ordnances/landmines and targeted/deliberate killings. Further impact on civilian life included, for example, road closure, house destruction by air strikes, looting and extortion by illegal armed groups. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 3,049 IDPs per 100,000 inhabitants.

Balkh

[Security situation (May 2018), 2.5; Security situation (Dec 2017), 2.5]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Balkh, including its capital city of Mazar-e Sharif, at such a low level that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

There was limited presence of insurgent groups in some parts of Balkh, including several attacks by insurgents in Mazar-e Sharif. Military operations were being conducted regularly in the province. The conflict severity was similarly low in most parts of the province, except for the district of Chimtal which was more affected.

In 2017, there were 9 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading cause for civilian casualties were IEDs (non-suicide), ground engagements and unexploded ordnances/landmines. Further impact on civilian life included, for example: abuses by pro-government armed groups, difficulties in providing health care in some areas due to the presence of insurgents, hindrance of polio vaccination. Some conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 150 IDPs per 100,000 inhabitants. On the other hand, significant displacement to Balkh, and in particular to Mazar-e Sharif, was reported.

Bamyan

[Security situation (May 2018), 2.6; Security situation (Dec 2017), 2.6]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Bamyan, at such a low level that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

There was limited presence of insurgent groups in Bamyan. The conflict severity was similarly low in all parts of the province.

In 2017, only four injured civilians were reported (less than one civilian casualty per 100,000 inhabitants in the province). With regard to the nature of the methods and tactics, COI shows that the leading cause for civilian casualties were threats/intimidation/harassment, unexploded ordnances/landmines and ground engagements. No conflict-induced displacement from the province was reported.

Daikundi / Daykundi / Day Kundi

[Security situation (May 2018), 2.7; Security situation (Dec 2017), 2.7]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Daikundi, at such a low level that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

There was limited presence of insurgent groups in Daikundi. The conflict severity was similarly low in most parts of the province, except for the district of Gizab⁴⁹ which was more affected.

In 2017, there were 9 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were unexploded ordnances/landmines, ground engagements and targeted/deliberate killings. Some conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 237 IDPs per 100,000 inhabitants. There were also reports of growing numbers of IDPs to Daikundi.

Farah

[Security situation (May 2018), 2.8; Security situation (Dec 2017), 2.8]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Farah. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in almost all parts of Farah. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Farah and Bala Buluk, Khaki Safed, Pusht Rod and Qala Kah, being particularly affected.

In 2017, there were 64 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, targeted/deliberate killings and aerial attacks. Further impact on civilian life included, for example, a rising crime rate, temporary closure of schools and healthcare facilities, hindering vaccination for children, limited humanitarian capacities and in some instances food shortages. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 3,507 IDPs per 100,000 inhabitants.

⁴⁹ However, the place of this district within the province of Daikundi is disputed.

Faryab

[Security situation (May 2018), 2.9; Security situation (Dec 2017), 2.9]

Looking at the indicators, it can be concluded that the indiscriminate violence taking place in the province of Faryab reaches such a high level that minimal individual elements are required to show substantial grounds for believing that a civilian, returned to the province, would face a real risk of serious harm in the meaning of Article 15(c) QD.

There was strong presence of insurgent groups, especially the Taliban, in most parts of Faryab. Military operations were being conducted regularly in the province. The conflict severity was similarly high in almost all parts of the province of Faryab, with the exception of the Northern districts Qaramqol, Qorghon, Khan-e Char Bagh and Andkhoy, which were less affected.

In 2017, there were 62 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide) and targeted/deliberate killings. Further impact on civilian life included, for example, road closures, food insecurity, closure of healthcare facilities, and disruption of the provision of humanitarian aid. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 4,632 IDPs per 100,000 inhabitants.

Ghazni

[Security situation (May 2018), 2.10; Security situation (Dec 2017), 2.10]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Ghazni. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in some parts of Ghazni. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Andar, Dehyak, Ghazni district, including Ghazni city, Waghaz, Qarabagh, Giro, Muqur and Gelan and Ajrestan, being particularly affected.

In 2017, there were 28 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide) and targeted/deliberate killings. Further impact on civilian life included, for example, forced taxation by insurgents, limited availability of female doctors and insecurity on the roads, which hindered the transportation of patients to districts where female doctors were available. Some conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 138 IDPs per 100,000 inhabitants.

Ghor / Ghowr

[Security situation (May 2018), 2.11; Security situation (Dec 2017), 2.11]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Ghor. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was presence of insurgent groups, especially the Taliban, in some parts of Ghor. Military operations were being conducted in the province. The conflict severity was similarly high in most parts of the province.

In 2017, there were 5 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were IEDs (non-suicide), ground engagements, and unexploded ordnances/landmines. Further impact on civilian life included, for example, the strong presence of and infighting between illegal armed groups, restricted access of humanitarian actors to some parts of the province, impact on food security, hindrance of polio vaccinations. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 2,761 IDPs per 100,000 inhabitants.

Helmand

[Security situation (May 2018), 2.12; Security situation (Dec 2017), 2.12]

Looking at the indicators, it can be concluded that the indiscriminate violence taking place in the province of Helmand reaches such a high level that minimal individual elements are required to show substantial grounds for believing that a civilian, returned to the province, would face a real risk of serious harm in the meaning of Article 15(c) QD.

There was strong presence of insurgent groups, especially the Taliban, in almost all parts of Helmand. Military operations were being regularly conducted in the province. The conflict severity varied within the province, with the districts of Lashkargah, Nahr-e Saraj, Sangin, Nad-e Ali/Marja and Garmser being particularly affected.

In 2017, there were 104 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide), and suicide and complex attacks. Further impact on civilian life included, for example, damaging of public buildings and closure of schools, kindergartens, and healthcare facilities, as well as damaging of houses, hindrance of vaccinations, lack of access to sanitation facilities and clean water, closure of roads. Conflict-induced internal displacement took place from the province with 1,816 IDPs per 100,000 inhabitants.

Herat

[Security situation (May 2018), 2.13; Security situation (Dec 2017), 2.13]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Herat. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

For Herat city, it can be concluded that indiscriminate violence is taking place at such a low level, that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

There was presence of insurgent groups, especially the Taliban, in some parts of Herat province. Presence of insurgents in Herat city was limited. Military operations were being conducted in the province. The conflict severity varied within the province, with most parts, except the districts of Shindand and Adraskan, being relatively more affected.

In 2017, there were 25 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were IEDs (non-suicide), suicide and complex attacks, and targeted/deliberate killings. Further impact on civilian life included, for example, control of some schools by the Taliban, an incident of burning of a girls' public school, criminality. Some conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 363 IDPs per 100,000 inhabitants. Herat province, and in particular Herat city, is a destination for a significant number of IDPs and returnees.

Jawzjan / Jowzjan

[Security situation (May 2018), 2.14; Security situation (Dec 2017), 2.14]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Jawzjan. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups in some parts of Jawzjan, including the Taliban and ISKP who fought over territorial control. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Darzab and Qushtepa being particularly affected.

In 2017, there were 21 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, targeted/deliberate killings, and IEDs (non-suicide). Further impact on civilian life included, for example, reports of child recruitment by ISKP, closure of schools, food insecurity, complaints of lack of adequate shelter by IDPs in the province. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 1,723 IDPs per 100,000 inhabitants.

Kabul

[Security situation (May 2018), 2.1; Security situation (Dec 2017), 2.1, 2.15]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Kabul, including the capital city. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was presence of insurgent groups in some parts of Kabul province, including the Taliban and ISKP. Military operations were being conducted in the province. The severity of the conflict varied in the province of Kabul, with the Kabul city and the districts of Surobi and Paghman being relatively more affected.

In 2017, there were 39 civilian casualties per 100,000 inhabitants reported in Kabul province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were suicide and complex attacks, IEDs (non-suicide), and targeted/deliberate killings. In Kabul city, 42 civilian casualties per 100,000 inhabitants were caused by suicide and complex attacks. Such attacks were the leading cause of civilian casualties in the city, especially attacks on high profile facilities and other areas frequented by civilians. This included attacks against the Shia Muslim

community, almost all of which were claimed by the ISKP. The government was regularly conducting security operations in different parts of the capital. Further impact on civilian life included for example, high level of criminality and significant number of IDPs and returnees in Kabul city, putting further strain on the availability of services. Very limited conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 8 IDPs per 100,000 inhabitants. Kabul city is a main destination for IDPs and returnees.

Kandahar

[Security situation (May 2018), 2.15; Security situation (Dec 2017), 2.16]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Kandahar. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was presence of insurgent groups, especially the Taliban, in most parts of Kandahar. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Maywand, Shahwalikot, Nesh, Ghorak, Khakrez, Kandahar City (Dand), Daman, Arghistan and Miyanshin being particularly affected.

In 2017, there were 56 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were IEDs (non-suicide), ground engagements and unexploded ordnances/landmines. Further impact on civilian life included, for example, damaging of healthcare facilities and hindrance of polio vaccinations. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 1,034 IDPs per 100,000 inhabitants. The province, and especially Kandahar city, were also a destination for IDPs.

Kapisa

[Security situation (May 2018), 2.16; Security situation (Dec 2017), 2.17]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Kapisa. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in most parts of Kapisa. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Tagab and Nejrab being particularly affected.

In 2017, there were 22 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide), and targeted/deliberate killings. Further impact on civilian life included, for example, restrictions on the freedom of movement of women in Tagab district. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 3,005 IDPs per 100,000 inhabitants.

Khost

[Security situation (May 2018), 2.17; Security situation (Dec 2017), 2.18]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Khost. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was presence of insurgent groups, especially the Taliban, in most parts of Khost. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Sabari, Terzayi, Khost/Matun, Musakhel, Nadirshahkot, and Spera being relatively more affected.

In 2017, there were 30 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were IEDs (non-suicide), targeted/deliberate killings, and suicide and complex attacks. Further impact on civilian life included, for example, criminality and human rights abuses attributed to the Khost Protection Force (pro-government militia), which reportedly operated with impunity. Some conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 191 IDPs per 100,000 inhabitants.

Kunar

[Security situation (May 2018), 2.18; Security situation (Dec 2017), 2.19]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Kunar. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in some parts of Kunar. Military operations were being conducted regularly in the province. The conflict severity was similarly high in most parts of the province, with the districts of Nurgal, Asadabad, Narang, Chawkay being relatively less affected.

In 2017, there were 48 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, targeted/deliberate killings, and unexploded ordnances/landmines. Further impact on civilian life included, for example, hindrance of polio vaccination efforts, lack of adequate shelter for IDPs in the province, malnutrition (caused by natural disaster) exceeding emergency levels. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 4,129 IDPs per 100,000 inhabitants.

Kunduz

[Security situation (May 2018), 2.19; Security situation (Dec 2017), 2.20]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Kunduz. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in almost all parts of Kunduz. Military operations were being conducted regularly in the province. The conflict severity was similarly high throughout the province.

In 2017, there were 36 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that leading cause for civilian casualties were ground engagements, aerial attacks, and IEDs (non-suicide). Further impact on civilian life included, for example, child recruitment by insurgent groups, restriction of movement by the Taliban and pro-government militias. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 5,618 IDPs per 100,000 inhabitants.

Laghman

[Security situation (May 2018), 2.20; Security situation (Dec 2017), 2.21]

Looking at the indicators, it can be concluded that the indiscriminate violence taking place in the province of Laghman reaches such a high level that minimal individual elements are required to show substantial grounds for believing that a civilian, returned to the province, would face a real risk of serious harm in the meaning of Article 15(c) QD.

There was strong presence of insurgent groups, especially the Taliban, in some parts of Laghman. Clashes between the Taliban and ISKP were reported. Military operations were being conducted in the province. The conflict severity varied within the province with the districts of Mehterlam, Alisheng and Alingar, being particularly affected.

In 2017, there were 77 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide), and targeted/deliberate killings. Further impact on civilian life included, for example, temporarily closed healthcare facilities, impeded humanitarian access reportedly due to fighting and illegal checkpoints, large numbers of IDPs and returnees in the province and lack of adequate shelter. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 2,053 IDPs per 100,000 inhabitants.

Logar

[Security situation (May 2018), 2.21; Security situation (Dec 2017), 2.22]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Logar. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in most parts of Logar. Military operations were being conducted regularly in the province. The conflict severity varied within the province, with the central districts of Pul-e Alam, Baraki Barak and Charkh being particularly affected.

In 2017, there were 37 civilian casualties per 100,000 inhabitants. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, targeted/deliberate killings, and aerial attacks. Further impact on civilian life included, for example, Taliban checkpoints on the Kabul-Gardez highway, attempt by the Taliban to convey their religious views in schools in some remote districts of the province, reported attempt by the ISKP to recruit young men. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 782 IDPs per 100,000 inhabitants.

Nangarhar

[Security situation (May 2018), 2.22; Security situation (Dec 2017), 2.23]

Looking at the indicators, it can be concluded that the indiscriminate violence taking place in the province of Nangarhar reaches such a high level that minimal individual elements are required to show substantial grounds for believing that a civilian, returned to the province, would face a real risk of serious harm in the meaning of Article 15(c) QD.

There was strong presence of insurgent groups in some parts of Nangarhar, including the Taliban and ISKP who continued to fight over territorial control. Military operations were being conducted regularly in the province. The conflict severity varied within the province, with the districts of Achin, Deh Bala, Pachieragam, Khogiyani, Chaparhar, Hisarak, Surkhrod, Kot, Shinwar, Muhmand Dara, and Lalpur being particularly affected.

In 2017, there were 55 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide), and targeted/deliberate killings. Further impact on civilian life included, for example, increasing criminality, large numbers of IDPs and returnees, leading to overburdening of healthcare facilities and schools and lack of adequate shelter, negative impact on labour wages and increasing rent. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 8,182 IDPs per 100,000 inhabitants.

Nimroz

[Security situation (May 2018), 2.23; Security situation (Dec 2017), 2.24]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Nimroz. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in most parts of Nimroz. Military operations were being conducted in the province. The conflict severity was similarly low in most parts of the province, except for the district of Khashrod/Dularam which was more affected.

In 2017, there were 58 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, targeted/deliberate killings, and IEDs (non-suicide). Further impact on civilian life included, for example, abductions by insurgent groups, set-up of checkpoints on the roads, used to tax passengers and goods. Very limited conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 6 IDPs per 100,000 inhabitants. However, it should be noted that in the period 2012 - 2017 over 9% of the population of the province fled abroad, in addition to the 6% who became internally displaced during the same period.

Nuristan

[Security situation (May 2018), 2.24; Security situation (Dec 2017), 2.25]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Nuristan. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was presence of insurgent groups, especially the Taliban, in some parts of Nuristan. Military operations were being conducted in the province. The conflict severity was similarly low in most parts of the province, except for the districts of Kamdesh and Waygal, which were more affected.

In 2017, there were 27 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide), and targeted/deliberate killings. Further impact on civilian life included, for example, an incident of destruction of housing. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 489 IDPs per 100,000 inhabitants.

Paktia / Paktya

[Security situation (May 2018), 2.25; Security situation (Dec 2017), 2.27]

Looking at the indicators, it can be concluded that the indiscriminate violence taking place in the province of Paktia reaches such a high level that minimal individual elements are required to show substantial grounds for believing that a civilian, returned to the province, would face a real risk of serious harm in the meaning of Article 15(c) QD.

There was strong presence of insurgent groups, especially the Taliban, in some parts of Paktia. Military operations were being conducted in the province. The conflict severity varied within the province with the districts of Janikhel, Alikhel/Jaji, SayedKaram/Mirzaka, Shawak, Zurmat, and the provincial capital Gardez, being particularly affected.

In 2017, there were 86 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were suicide and complex attacks, targeted/deliberate killings, and ground engagements. Further impact on civilian life included, for example, reports of criminal behaviour by the ALP and the Khost Protection Force (pro-government militia), closure of roads, which led to incidents of robbery and hindered access to healthcare facilities, instances of occupation and/or looting of healthcare facilities by insurgents. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 1,668 IDPs per 100,000 inhabitants.

Paktika

[Security situation (May 2018), 2.26; Security situation (Dec 2017), 2.26]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Paktika. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in most parts of Paktika.

Military operations were being conducted regularly in the province. The conflict severity varied within the province, with the district of Urgun being particularly affected.

In 2017, there were 35 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were IEDs (non-suicide), targeted/ deliberate killings, and ground engagements. Further impact on civilian life included, for example, closure of roads by the Taliban, closure of a healthcare facility, polio vaccination campaigns being blocked by the Taliban, closure of schools, and seizure of residents' money coming from humanitarian actors. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 549 IDPs per 100,000 inhabitants.

Panjshir / Panjsher

[Security situation (May 2018), 2.27; Security situation (Dec 2017), 2.28]

For the province of Panjshir it was assessed that no (internal) armed conflict was taking place during the reference period.

See subsection [a. Armed conflict \(international or internal\)](#).

Parwan

[Security situation (May 2018), 2.28; Security situation (Dec 2017), 2.29]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Parwan. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgent groups, especially the Taliban, in some districts of Parwan. Military operations were being conducted in the province. The conflict severity varied within the province, with the district of Gorband/Sia Gird being particularly affected.

In 2017, there were 11 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were unexploded ordnances/landmines, followed by targeted/deliberate killings and ground engagements. Further impact on civilian life included, for example, a report of destruction of houses. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 965 IDPs per 100,000 inhabitants.

Samangan

[Security situation (May 2018), 2.29; Security situation (Dec 2017), 2.30]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Samangan at such a low level that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

There was limited presence of insurgent groups in some parts of Samangan. Military operations were being conducted regularly in the province. The conflict severity varied within the province, with the district of Dara-e-Suf-e-Payin being particularly affected.

In 2017, there were 9 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were unexploded ordnances/landmines, ground engagements, and IEDs (non-suicide). Further impact on civilian life included, for example, abusive behaviour by armed militias. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 957 IDPs per 100,000 inhabitants.

Sar-e-Pul / Sar e Pul / Sar-i-Pul

[Security situation (May 2018), 2.30; Security situation (Dec 2017), 2.31]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Sar-e-Pul. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was presence of insurgent groups, especially the Taliban, in some parts of Sar-e Pul. Military operations were being conducted in the province. The conflict severity varied within the province, with the districts of Sar-e Pul, Sayad and Sancharak being particularly affected.

In 2017, there were 19 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were targeted/deliberate killings, ground engagements, and unexploded ordnances/landmines. Further impact on civilian life included, for example, extortions taking place on certain roads, food insecurity due to severely constrained access to markets in certain regions. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 3,025 IDPs per 100,000 inhabitants.

Takhar

[Security situation (May 2018), 2.31; Security situation (Dec 2017), 2.32]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Takhar. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was presence of insurgent groups, especially the Taliban, in some parts of Takhar. Military operations were being conducted in the province. The conflict severity was similarly low in most districts of the province, with the exception of the districts of Darqad, Khwajabahawuddin, Khwajaghar and Eshkashem, which were relatively more affected.

In 2017, there were 10 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, unexploded ordnances/landmines, and aerial attacks. Further impact on civilian life included, for example, operation of parallel justice mechanisms, drugs trade and smuggling by insurgents, complaints of looting and killings by illegal armed groups. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 1,342 IDPs per 100,000 inhabitants.

Uruzgan

[Security situation (May 2018), 2.32; Security situation (Dec 2017), 2.33]

Looking at the indicators, it can be concluded that the indiscriminate violence taking place in the province of Uruzgan reaches such a high level that minimal individual elements are required to show substantial grounds for believing that a civilian, returned to the province, would face a real risk of serious harm in the meaning of Article 15(c) QD.

There was strong presence of insurgent groups, especially the Taliban, in almost all parts of Uruzgan. Military operations were being conducted regularly in the province. The conflict severity was similarly high in all districts of the province.

In 2017, there were 159 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide), and aerial attacks. Further impact on civilian life included, for example, closure of healthcare facilities and schools, road blockages, operation of parallel justice mechanisms, reconstruction projects being hindered by local strongmen. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 6,878 IDPs per 100,000 inhabitants.

Wardak

[Security situation (May 2018), 2.33; Security situation (Dec 2017), 2.34]

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of Wardak. A real risk of serious harm under Article 15(c) QD may be established where the applicant is specifically affected by reason of factors particular to his or her personal circumstances.

There was strong presence of insurgents, especially the Taliban, in most parts of Wardak. Military operations were being conducted in the province. The conflict severity varied within the province; with the districts of Saydabad and Jalrez being particularly affected, and the districts of Hisa-i Awal Bihsud and Markaz-e Bihsud being in the lowest conflict severity category.

In 2017, there were 13 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, targeted/deliberate killings, and aerial attacks. Further impact on civilian life included, for example, operation of parallel justice mechanisms and heavy fighting temporarily preventing humanitarian assistance from accessing certain districts. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 610 IDPs per 100,000 inhabitants. The capital of the province, Maidan Shar, was a destination for IDPs.

Zabul

[Security situation (May 2018), 2.34; Security situation (Dec 2017), 2.35]

Looking at the indicators, it can be concluded that the indiscriminate violence taking place in the province of Zabul reaches such a high level that minimal individual elements are required to show substantial grounds for believing that a civilian, returned to the province, would face a real risk of serious harm in the meaning of Article 15(c) QD.

There was presence of insurgent groups, especially the Taliban, in most parts of Zabul. Military

operations were being conducted in the province. The conflict severity varied within the province, with the districts of Shahjoy and Arghandab being particularly affected.

In 2017, there were 106 civilian casualties per 100,000 inhabitants recorded in the province. With regard to the nature of the methods and tactics, COI shows that the leading causes for civilian casualties were ground engagements, IEDs (non-suicide), and unexploded ordnances/landmines. Further impact on civilian life included, for example, closure of schools, incidents affecting healthcare facilities or healthcare professionals. Conflict-induced internal displacement took place from the province in the period January 2017 - March 2018, with 3,067 IDPs per 100,000 inhabitants.

c. Civilian's life or person

Qualification of a person as a 'civilian'

Being a civilian is a prerequisite to being able to benefit from protection under Article 15(c) QD, as the purpose of the provision is to protect only those who are not taking part in the conflict. This includes the potential application of Article 15(c) QD to former combatants who have genuinely and permanently renounced armed activity.

The Qualification Directive itself does not provide a definition of the term 'civilian'. In light of the interpretative guidance given by CJEU in *Diakité*, the term should be read by reference to its usual meaning in everyday language, whilst taking into account the context in which it occurs and the purposes of the rules of which it is a part. Therefore, the term 'civilian' could be considered to refer to a **person who is not a member of any of the parties in the conflict and is not taking part in the hostilities, including those who are no longer taking part in hostilities.**

In the context of Afghanistan, applications by persons falling under the following profiles should be examined carefully. Based on an individual assessment, such applicants may be found not to qualify as civilians under Article 15(c) QD:

- **Insurgents (anti-government elements):** armed opposition fighters, who are fighting against the Afghan government and its international allies. Examples of such groups of fighters are the Taliban, the Haqqani network and the Islamic Movement of Uzbekistan; armed groups pursuing political, ideological or economic objectives, including armed criminal groups directly engaged in hostile acts on behalf of a party to the conflict should also be considered outside the scope of subsidiary protection under Article 15(c) QD;
- **Pro-government militias:** including different paramilitary initiatives that have been developed and formalised to support the Afghan government and to assist the formal armed forces of Afghanistan.
- **Afghan National Security Forces:** including the ANA, parts of ANP,⁵⁰ NDS, as well as ALP.

It should be noted that actively taking part in hostilities is not limited to openly carrying arms, but could also include substantial logistical and/or administrative support to combatants.

The assessment should take into account whether the person voluntarily takes part in the armed conflict; those who willingly participate in armed groups are unlikely to be considered civilians.

It is important to underline that the assessment of protection needs is forward-looking. Therefore, the main issue at hand is whether the applicant will be a civilian or not upon return. The fact that the person took part in hostilities in the past would not necessarily mean that Article 15(c) QD would not be applicable to him or her.

⁵⁰ In Afghanistan, the Afghan National Police takes up an active combat role in the fight against insurgents. Therefore, (part of) ANP members are considered to fall outside the scope of Article 15(c) QD.

In case of doubt regarding the civilian status of a person, a protection-oriented approach should be taken, which is also in line with international humanitarian law, and the person should be considered a civilian.

Taking into account the nature of the conflict, it is likely that the non-civilian profiles above would be relevant to explore in terms of refugee status or subsidiary protection on other grounds (see in particular the profiles [Members of security forces and pro-government militias](#), [Members of insurgent groups and civilians perceived as supporting them](#)).

 Exclusion considerations may also apply (see the chapter on [Exclusion](#) below).

Qualification of the harm as a ‘threat to (a civilian’s) life or person’

Neither the Qualification Directive, nor the CJEU in its jurisprudence, have defined the terms ‘threat to (a civilian’s) life or person’.

The CJEU has held that Article 15(c) QD has an additional scope to Article 3 ECHR and, therefore, has to be interpreted independently, but with due regard to fundamental rights as they are guaranteed under the ECHR.⁵¹

By comparing the provisions of Article 15(a) and (b) QD, which indicate a particular type of harm, with the provision of Article 15(c) QD, the CJEU further concludes that the harm under the latter,

*(...) covers a more general risk of harm. Reference is made, more generally, to a ‘threat ... to a civilian’s life or person’ rather than to specific acts of violence. Furthermore, that threat is inherent in a general situation of ‘international or internal armed conflict’.*⁵²

Some of the commonly reported types of harm to civilians’ life or person in Afghanistan include killings, injuries, abductions, disabilities caused by landmines, famine caused by food insecurity, etc.

d. Serious and individual threat

CJEU in *Elgafaji* notes:

*While it is admittedly true that collective factors play a significant role in the application of Article 15(c) of the Directive, in that the person concerned belongs, like other people, to a circle of potential victims of indiscriminate violence in situations of international or internal armed conflict, it is nevertheless the case that that provision must be subject to a coherent interpretation in relation to the other two situations referred to in Article 15 of the Directive and must, therefore, be interpreted by close reference to that individualisation.*⁵³

However, the existence of a serious and individual threat to the life or person of an applicant for subsidiary protection is,

*(...) not subject to the condition that that applicant adduce evidence that he is specifically targeted by reason of factors particular to his personal circumstances.*⁵⁴

Furthermore,

- the existence of such a threat can exceptionally be considered to be established where the degree of indiscriminate violence characterising the armed conflict taking place (...) reaches

⁵¹ *Elgafaji*, para.28.

⁵² *Elgafaji*, paras. 33-34.

⁵³ *Elgafaji*, para.38.

⁵⁴ *Elgafaji*, para.43.

*such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of his presence on the territory of that country or region, face a real risk of being subject to that threat.*⁵⁵

For territories where the indiscriminate violence does not reach such a high level, **the more the applicant is able to show that he or she is specifically affected by reason of factors particular to his or her personal circumstances, the lower the level of indiscriminate violence required** for him or her to be eligible for subsidiary protection.⁵⁶

Certain applicants may be considered at **enhanced risk of indiscriminate violence**, including its direct and indirect consequences due to, inter alia: age, gender, health condition and disabilities, lack of a family network, economic situation, and geographical proximity to areas which are targeted by violence.

Profiles at enhanced risk of indiscriminate violence could include, for example:

- Civilians who are less able to avoid risks of indiscriminate violence by way of seeking temporary shelter from fighting or attacks (e.g. persons with disabilities or serious illnesses; those in an extremely dire economic situation).
- Civilians who lack the capacity to properly assess a situation and therefore expose themselves to risks related to indiscriminate violence (e.g. children – depending on their environment, family background, parents or guardians, and level of maturity; mentally disabled persons).
- Civilians who may be substantially and materially affected by violence because of their geographical proximity to a possible target (e.g. government buildings, police or military bases, places of worship).

This is a non-exhaustive list. It is also non-conclusive and individual elements would always need to be taken into account.

e. Nexus/‘by reason of’

Subsidiary protection under Article 15(c) QD is granted to any person in respect of whom substantial grounds have been shown for believing that he or she, if returned, would face a real risk of a serious and individual threat to his or her life or person **by reason of** indiscriminate violence.

The nexus ‘by reason of’ refers to the causal link between the indiscriminate violence and the harm (serious threat to a civilian’s life or person).

The interpretation of the causation ‘by reason of’ may not be limited to harm which is directly caused by the indiscriminate violence or by acts that emanate from the actors in the conflict. To a certain extent, it may also include the indirect effect of indiscriminate violence in situations of armed conflict. As long as there is a demonstrable link to the indiscriminate violence, such elements may be taken into account in the assessments, for example: widespread criminal violence as a result of a complete breakdown of law and order, destruction of the necessary means to survive. Armed clashes and/or road blockages can also lead to food supply problems that cause famine or to limited or no access to healthcare facilities in certain regions in Afghanistan.

⁵⁵ *Ibid.*

⁵⁶ *Elgafaji*, para.39.

IV. Actors of protection

Article 7 of the QD stipulates the requirements for actors of protection:

Article 7(1)(2) of the Qualification Directive Actors of protection
1. Protection against persecution or serious harm can only be provided by: a) The State; or b) Parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State; provided they are willing and able to offer protection in accordance with paragraph 2. 2. Protection against persecution or serious harm must be effective and of a non-temporary nature. Such protection is generally provided when the actors mentioned under points (a) and (b) of paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and when the applicant has access to such protection.

The State

The term ‘**State**’ (Article 7(1)(a) QD) encompasses any organ exercising legislative, executive, judicial or any other functions and acting at any level, be it central, federal, regional, provincial or local. Sometimes, private entities may also be given State powers and made responsible for providing protection under the control of the State.

In the period 2011 - 2014, the responsibility for security operations in Afghanistan gradually transitioned to the ANSF. The ANSF is composed of government security forces, including the ANA, the Afghan Air Force (AAF), the ANP, the ALP and the NDS [*Key socio-economic indicators*, 3.1-3.4].

The judiciary comprises the Supreme Court as well as Courts of Appeal and Primary Courts located in all 34 provinces. The primary courts deal with all matters of ordinary criminal, civil, and family jurisdiction. Within the capital city of each province, there are courts of appeal, which have jurisdiction over the primary courts and courts for juveniles, commercial, and family issues. The Supreme Court has no judicial or administrative authority over the executive and the legislative branches [*Key socio-economic indicators*, 3.5.1].

Despite the existence of a formal justice system, the primary means of settling disputes, in particular outside the major cities, remains through customary and informal systems. Such traditional systems also deal with criminal matters [*Society-based targeting*, 1.1 and 1.5].

In order to qualify as an actor of protection, the State has to be **able and willing** to protect persons under its jurisdiction.

The protection in the country of origin has to meet three cumulative conditions. It has to be **effective**, **non-temporary**, and **accessible** to the applicant.

It should also be kept in mind that effective protection is presumed not to be available where the State or agents of the State are the actors of persecution or serious harm (Recital 27 QD).

The capability of the Government in Afghanistan to protect human rights is undermined in many districts by the prevailing insecurity and the high number of attacks by insurgents [*Security situation (Dec 2017)*, 1.6, 1.7]. Afghan security forces have not been able to secure all of Afghanistan and have lost territory to the insurgents [*Security situation (Dec 2017)*, 1.9.3]. The effectiveness of Afghan forces remains dependent on international support to secure and retain control over territory and support operational capacity [*Key socio-economic indicators*, 3.2.2.2].

Under the Afghan Constitution, citizens have the right to a fair trial in an independent judicial system. However, due to the lack of capacity and problems of pervasive corruption and political threats, the right is rarely enforced [*Key socio-economic indicators*, 3.5.2].

Rural and unstable areas reportedly suffer from a generally weak formal justice system that is unable to effectively and reliably adjudicate civil and criminal disputes [*Security situation (Dec 2017)*, 1.7].

In urban centres, the formal justice system is stronger compared to rural areas, where the central government is weak and lacks presence [*Key socio-economic indicators*, 3.5.2]. High levels of corruption, extraordinary long process times; shortage of judges, administrative staff, and inadequately trained judiciary staff, challenges to effective governance, influence by powerful individuals and a climate of impunity are all reported by observers as factors that weaken the rule of law and undermine the ability of the State to provide protection from human rights violations [*Security situation (Dec 2017)*, 1.7; *Key socio-economic indicators*, 3.5.2 and 3.5.3].

Police presence is also stronger in the cities and police officers are required to follow guidelines such as the ANP Code of Conduct and Use of Force Policy. However, police response is characterised as unreliable and inconsistent, the police has a weak investigative capacity, lacking forensic training and technical knowledge. The police force is also accused of widespread corruption, patronage and abuse of power: individuals in the institutions may abuse their position of power and use extortion to supplement their low incomes. Arbitrary arrest and detention by the police continued to occur and torture is endemic in the police force. Inaction, incompetence, impunity and corruption result in underperformance: there is a reported rise in crime, including kidnappings, and widespread community violence, especially in the cities. An inability to prevent regular large-scale attacks with high casualty numbers, and targeted killings, is also observed [*Security situation (May 2018)*, 1.1, 2.1.2, 2.5.2, and 2.13.2; *Security situation (Dec 2017)*, 1.6.3, 1.6.4, and 1.7; *Key socio-economic indicators*, 3.4].

Family and domestic matters are typically kept private and the police do not get involved [*Key socio-economic indicators*, 3.4.4].

It can be concluded that the Afghan State has taken certain measures to improve its law enforcement and justice system and its presence and control are relatively stronger in the cities. However, these systems are still weak and, in general, unable to effectively detect, prosecute and punish acts that constitute persecution or serious harm. Therefore, the criteria under Article 7 QD would generally not be met.

Parties or organisations, including international organisations

In the context of Article 7 QD, it is necessary that those parties or organisations **control the State or a substantial part of the territory of the State**. In order to consider that parties or organisations control a region or a larger area within the territory of the State, it should be established that they exercise governmental functions. Furthermore, those parties or organisations have to be willing and able to provide protection against persecution or serious harm as defined in Article 7(2) QD.

Many areas in Afghanistan are influenced by insurgent groups; however, the Taliban are the only insurgent group controlling substantial parts of the territory.

In some areas, the Taliban's functions can be seen as a de facto shadow government, controlling certain public services, such as health care and education [*Conflict targeting*, 1.1.1]. They also operate a parallel justice system in the areas under their control [*Society-based targeting*, 1.6]. However, the lack of due process and the nature of the punishment would not qualify such a parallel justice mechanism as a legitimate form of protection.

Taking into account their aim to overthrow and replace the Afghan State, and their record of human rights violations, it can be concluded that the Taliban do not qualify as an actor of protection who is able to provide effective, non-temporary and accessible protection.

In case protection needs have been established in the home area, and in the absence of an actor who can provide protection in the meaning of Article 7 QD, the examination may continue with consideration of the applicability of IPA, if applicable in accordance with national legislation and practice.

V. Internal protection alternative

This chapter is developed with reference to Article 8 QD on internal protection:

Article 8 of the Qualification Directive Internal protection
1. As part of the assessment of the application for international protection, Member States may determine that an applicant is not in need of international protection if in a part of the country of origin, he or she: a) has no well-founded fear of being persecuted or is not at real risk of suffering serious harm; or b) has access to protection against persecution or serious harm as defined in Article 7; and he or she can safely and legally travel to and gain admittance to that part of the country and can reasonably be expected to settle there. 2. In examining whether an applicant has a well-founded fear of being persecuted or is at real risk of suffering serious harm, or has access to protection against persecution or serious harm in a part of the country of origin in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant in accordance with Article 4. To that end, Member States shall ensure that precise and up-to-date information is obtained from relevant sources, such as the United Nations High Commissioner for Refugees and the European Asylum Support Office.

It should be noted that the provision of Article 8 QD is an **optional** one. Therefore, the relevance of this chapter to the practice in Member States will depend on the transposition of Article 8 QD and/or the concept of internal protection alternative in national legislation.

In national legislation and practice, IPA may also be referred to as ‘internal flight alternative’, ‘internal relocation’, etc.

Preliminary remarks

IPA should only be examined after it has been established that the applicant has a well-founded fear of persecution or faces a real risk of serious harm and that the authorities or other relevant actors of protection are unable or unwilling to protect him or her in his or her home area.⁵⁷ If IPA applies, it can be determined that the applicant is not in need of international protection.

It should, however, be stressed that there is no requirement that the applicant has exhausted the possibilities to obtain protection in different parts of his or her country of origin before seeking international protection.

When assessing whether or not IPA applies, the burden of proof lies with the determining authority, while the applicant remains under an obligation to cooperate. The applicant is also entitled to submit elements to indicate that the IPA should not be applied to him or her.

⁵⁷ Protection needs are firstly assessed with regard to the applicant’s home area in the country of origin. The ‘home area’ in the country of origin is identified on the basis of the strength of the applicant’s connections with a particular area in that country. The home area may be the area of birth or upbringing or a different area where the applicant settled and lived, therefore having close connections to it.

The analysis of IPA should be part of the assessment of the future risk of being subjected to persecution or serious harm.

This chapter is structured following the elements of the legal provision of Article 8 QD:

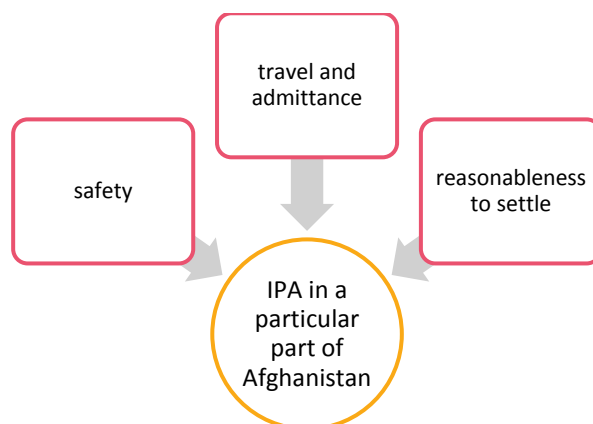


Figure 10. Internal protection alternative: elements of the assessment.

In relation to these elements, when assessing the applicability of IPA, the case officer should consider the general situation in the respective part of Afghanistan, as well as the individual circumstances of the applicant.

This chapter analyses and provides guidance on the applicability of IPA in parts of Afghanistan and in particular in the following three cities: **Kabul city, Herat city, and Mazar-e Sharif**.

Part of the country

The first step in the analysis of IPA is to identify a particular part of the country with regard to which the criteria of Article 8 QD would be examined in the individual case.

This analysis focuses on the three cities of Kabul, Herat, and Mazar-e Sharif for the following main reasons:

- **Accessibility:** the cities have functioning airports with domestic and/or international flights;
- **Security situation:** the level of indiscriminate violence in those cities does not reach such a high level that substantial grounds are shown for believing that a civilian would, solely on account of his or her presence, face a real risk of serious harm. Depending on an individual assessment, IPA could, therefore, be applied to those cities.

The selection of the three cities for this common analysis and guidance note does not prevent case officers from considering the application of IPA for other parts of Afghanistan, provided that all criteria described hereunder are met.

When choosing a particular part of Afghanistan with regard to which to examine the applicability of IPA, where relevant, existing ties with the place, such as previous experience and/or existence of a support network could, for example, be taken into account.

Safety

The criterion of safety would be satisfied where the following is established:

- **absence of persecution or serious harm, or**
- **availability of protection against persecution or serious harm**

These should be examined based on the general situation in the respective part of Afghanistan and the individual position and personal circumstances of the applicant, including elements such as background, gender, age, etc. (see Article 8(2) QD in reference to Article 4 QD).

Absence of persecution or serious harm

When assessing the requirement of safety with regard to the applicability of IPA in individual cases of applicants from Afghanistan, the following elements should be taken into account:

► **general security situation**

The general security situation in the cities of Kabul, Herat and Mazar-e Sharif should be assessed in accordance with the analysis under the section on [Article 15\(c\) QD](#).

► **actor of persecution or serious harm and their reach:**

In case where the person fears persecution or serious harm by the Afghan State, there is a presumption that IPA would not be available. In specific cases, where the reach of a certain State actor is clearly limited to a particular geographical area, the criterion of safety may be satisfied with regard to other parts of Afghanistan.

Individuals threatened by insurgents often relocate to the cities for their safety [*Conflict targeting*, 1.4.2].

When assessing the availability of IPA in case of persecution or serious harm by the Taliban, particular consideration should be given to the individual circumstances of the applicant, the capacity of the Taliban to track and target individuals in the cities, the way the applicant is perceived by the Taliban (see next point) and whether or not a personal enmity is at stake, etc. [*Conflict targeting*, 1.4.3].

For individuals who fear persecution or serious harm by other armed groups, the reach of the particular group should be assessed, e.g. the operational presence of ISKP in Kabul and Herat should be taken into account [*Conflict targeting*, 1.5.1.1]; in most cases IPA could be available.

In some cases, where the applicant faces persecution or serious harm for reasons related to the prevalent moral codes in Afghanistan and the actor of persecution or serious harm is Afghan society at large (e.g. LGBT, those considered apostates and/or blasphemers), IPA would in general not be available.

For certain particularly vulnerable categories, such as women, children and persons with visible mental or physical disabilities, if the actor of persecution or serious harm is the family of the applicant, IPA would in general not be available.

► **whether or not the profile of the applicant is considered as a priority target and/or a threat by the actor of persecution or serious harm**

The profile of the applicant could make him or her a priority target for the State or for insurgent groups, increasing the likelihood that the actor of persecution or serious harm would attempt to trace the applicant in the potential IPA location.

► **behaviour of the applicant**

The applicant cannot be expected to change his or her behaviour or to live in concealment in order to avoid persecution or serious harm.⁵⁸

⁵⁸ CJEU, *X, Y and Z*, paras. 70-76; CJEU, *Y and Z*, para. 80.

► **personal enmity**

Some private disputes, including those based on honour and blood feuds, could strengthen the determination in the actor of persecution or serious harm to trace the applicant.

► **other risk-enhancing circumstances**

The information under the section [Analysis of particular profiles with regard to qualification for refugee status](#) should be used to assist in this assessment.

The absence of persecution or serious harm has two aspects, both of which need to be substantiated in the examination:

✓ **absence of the initial persecution or serious harm**

With regard to protection needs related to refugee status, Article 15(a) QD and Article 15(b) QD, this should be examined in light of the elements above.

In the context of IPA concerning serious harm under Article 15(c) QD, it should be established that in the area considered under IPA the applicant would not face a real risk of such serious harm by reason of indiscriminate violence.

✓ **no potential new forms of persecution or serious harm**

Case officers should also establish that there are no potential new forms of persecution or serious harm in the area where IPA is considered for the applicant. The analysis under the chapters [Refugee status](#) and [Subsidiary protection](#) should be referred to in this regard.

This can be further supported, by way of analogy, by the CJEU findings in the case of *Abdulla*, where the Court, interpreting Article 11(1)(e) QD on cessation, concluded that not only should the original circumstances which justified the person's fear no longer exist, but the person should also have no other reason to fear being 'persecuted'.⁵⁹

Availability of protection against persecution or serious harm

Alternatively, case officers may determine that an applicant is not in need of international protection if access to protection against persecution or serious harm as defined in Article 7 QD is guaranteed in the area where IPA is considered. See the chapter on [Actors of protection](#) above. In the case of persecution by the State, a presumption of non-availability of State protection applies.

⁵⁹ CJEU, *Abdulla and Others v Bundesrepublik Deutschland*, joined cases C-175/08, C-176/08, C-178/08 and C-179/08 judgment of 2 March 2010, para. 76.

Travel and admittance

As a next step, case officers have to establish whether an applicant can:

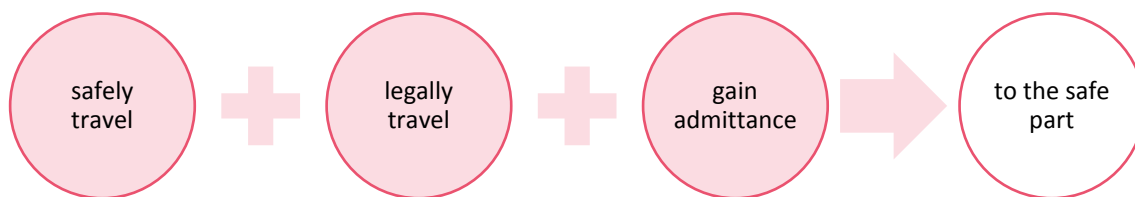


Figure 11. Travel and admittance as requirements for IPA.

These criteria under Article 8(1) QD reflect ECtHR jurisprudence, for example in the case of *Salah Sheekh*.⁶⁰

The respective elements are explained below, along with conclusions based on available information:

- ✓ **Safely travel** – there should be a safe route, which the applicant can practically travel through without undue difficulty, so that he or she can access the area of IPA without serious risks.

In this regard, the assessment of the travel route from the airport to the city is part of the safe travel⁶¹ criterion and has to be assessed carefully based on relevant COI [*Security situation (May 2018)*, 2.1, 2.5, and 2.13; *Security situation (Dec 2017)*, 2.1, 2.5, and 2.13; *Key socio-economic indicators*, 5.4].

- **Kabul city:** The international airport of Kabul (KIA) is part of the urban area of Kabul city.
- **Mazar-e Sharif:** The airport of Mazar-e Sharif (MZR) lies 9 km east of the city in the district of Marmul.
- **Herat:** The airport of Herat (HEA) lies 18.5 km south of the city in the district of Guzara.

Based on available COI, it is concluded that travelling the roads from the airport to the cities during daylight hours is considered to be generally safe.

- ✓ **Legally travel** – there should be no legal obstacles that prevent the applicant from travelling to the safe area;

Based on available COI, it is concluded that there are no legal or administrative restrictions for Afghans to travel in Afghanistan, including into the cities of Kabul, Herat and Mazar-e Sharif [*Key socio-economic indicators*. 5.1 and 5.2].

- ✓ **Gain admittance to** – the applicant should be allowed to access the safe area by the actor(s) who control it.

⁶⁰ECtHR, *Salah Sheekh v. The Netherlands*, Application no. 1948/04, Council of Europe: European Court of Human Rights, Judgment of 11 January 2007, para.141: 'The Court considers that as a precondition for relying on an internal flight alternative certain guarantees have to be in place: the person to be expelled must be able to travel to the area concerned, gain admittance and settle there, failing which an issue under Article 3 may arise, the more so if in the absence of such guarantees there is a possibility of the expellee ending up in a part of the country of origin where he or she may be subjected to ill-treatment.'

⁶¹ ECtHR, *Sufi and Elmi*, paras. 268, 269, 271.

Based on available COI, it is concluded that there are no legal or administrative restrictions or requirements for Afghans to be admitted in any part of the country, including the cities of Kabul, Herat and Mazar-e Sharif [Key socio-economic indicators. 5.1 and 5.2].

The individual circumstances of the applicant should also be taken into account when assessing whether he or she can safely and legally travel and gain admittance to a part of the country.

Careful examination is required especially in cases of women who would be travelling without a male companion, as their travelling within Afghanistan may be subject to severe restrictions. For example, women are not allowed to leave their homes without their husband's authorisation according to the Shia Personal Status Law, or due to limitations on freedom of movement related to social-cultural codes of honour and shame including the *Pashtunwali* for Pashtun. [Key socio-economic indicators, 5.5].

Reasonableness to settle

According to Article 8(1) QD, IPA can only apply if the applicant '**can reasonably be expected to settle**' in the proposed area of internal protection.

Neither the QD nor the case law of CJEU offer relevant criteria that may be relied upon when establishing whether it is reasonable for the person to settle in the IPA location.

This common analysis follows a rights-based approach in light of relevant jurisprudence of the ECtHR.

While acknowledging that the ECtHR jurisprudence is in the context of a different legal regime and addresses particular individual situations, the following principles could be derived from it and are found of relevance to the reasonableness test under Article 8 QD:

- The assessment should take into account '*the applicant's ability to cater for his most basic needs, such as food, hygiene and shelter, his vulnerability to ill-treatment and the prospect of his situation improving within a reasonable time-frame*'.⁶²
- '*Internal relocation inevitably involves certain hardship.*' In this regard, difficulties in '*finding proper jobs and housing*' would not be decisive if it could be found that the general living conditions for the applicant in the proposed area of IPA would not be '*unreasonable or in any way amount to treatment prohibited by Article 3*'.⁶³

In applying the reasonableness test, it should be established that the basic needs of the applicant would be guaranteed, such as food, shelter and hygiene. Additionally, due consideration has to be given, to the opportunity for the person to ensure his or her own and his or her family's subsistence, basic health care and basic education for children.

In the examination of the reasonableness of IPA, the following elements should be taken into account:

- the situation with regard to **food security**;
- the availability of **basic infrastructure**, such as:
 - shelter and housing;
 - basic health care;
 - hygiene, including water and sanitation;
 - basic education for children;

⁶² ECtHR, *Sufi and Elmi*, para.283.

⁶³ ECtHR, *A.A.M. v. Sweden*, para.73.

- the availability of **basic subsistence** that ensures access to food, hygiene and shelter, such as through employment, existing financial means, support by a network or humanitarian aid.

A case officer should assess the general circumstances in light of absolute criteria as described above, and not in comparison with standards in Europe or other areas in the country of origin.

These elements are assessed below in relation to the general situation in the cities of Kabul, Herat and Mazar-e Sharif, and taken into account in the conclusions regarding the applicability of IPA to certain profiles of applicants.

General situation

Based on available COI, the general situation with regard to the elements mentioned above is assessed as follows:

Food security: In general, there are no food shortages in the three cities. The main variable in access to food are the means of subsistence available to the applicant, which in the case of displaced persons can be a particular concern [*Key socio-economic indicators*, 2.4].

Housing and shelter: Housing and shelter are available. The majority of urban houses can be classified as slums. Access to adequate housing is a challenge for the majority of urban Afghans. In Kabul, there is an oversupply of high end-housing, which is however unaffordable for the majority of Kabul's residents. The high number of displaced people and the sudden spike in returns in the second half of 2016 has put an extra burden on the already overstretched absorption capacity of the cities. Displaced people mostly end up living in IDP-settlements and therefore indicate shelter as their primary need. The cities also provide the option of cheap lodging in 'tea houses' [*Key socio-economic indicators*, 2.3.5 and 2.7; *Networks*, 4.2].

Hygiene: Access to potable water is often a challenge, especially in the slums and IDP settlements in Kabul. In Mazar-e Sharif and Herat, most people do have access to improved sources of water as well as improved sanitation facilities [*Key socio-economic indicators*, 2.7.4 – 2.7.6].

Basic health care: Healthcare facilities are present in these cities; however, healthcare services are overstretched by the increase in displaced and returned persons. The lack of financial means is a major barrier to accessing health care [*Key socio-economic indicators*, 2.6].

Basic education for children: Education facilities are present in these cities. Access to education is particularly difficult for displaced and returnee children because the school capacity is overstretched and the lack of funds also keeps children away from school [*Key socio-economic indicators*, 2.5].

Means of basic subsistence: With regard to access to employment, given the current economic and security situation, there are high rates of unemployment and underemployment, especially for urban youth, and this trend has worsened in recent years. Additional competition on the labour market is the result of growing numbers of displaced people searching for work. Urban poverty is widespread and on the rise and in such situations, increasing numbers of people living in urban settings resort to negative coping mechanisms such as crime, child marriages, child labour, street begging and street vending and traditional support mechanisms are under strain, specifically in urban areas [*Key socio-economic indicators*, 2.2, 2.3, and 2.8].

A person's ability to navigate the above circumstances and situations will mostly depend on access to a support network or financial means.

Given the economic circumstances, now such dependency on connections through a network is even stronger than before [*Key socio-economic indicators*, 2.2 and 2.8]. In the context of Afghanistan, different types of networks can be identified, the ones of particular relevance being the relatives

(extended family), but also networks based on common background or common work or educational experience [*Key socio-economic indicators*, 2.8; *Networks*].

Where relevant, available reintegration assistance for forced returnees may also be taken into account as an additional factor, temporarily contributing to reintegration in Afghanistan.⁶⁴

Individual circumstances

In addition to the general situation in the area of potential IPA, the assessment whether it is reasonable for the applicant to settle in that part of the country should take into account the individual circumstances of the applicant, such as age, gender, health condition, social and educational background, family and social ties, language, etc.

The individual considerations could relate to certain vulnerabilities of the applicant as well as to available coping mechanisms which would have an impact on his or her personal circumstances and determine to what extent it would be reasonable for the applicant to settle in a particular area.

Please note that this is a non-exhaustive list:

- **Age:** Young age as well as elderly age could significantly limit the applicant's access to means of subsistence such as through employment, making him or her dependent on other providers. Therefore, this element should be seen in conjunction with the available support by family or a broader support network. Children also have additional needs and a right to basic education, which has to be ensured when applying the reasonableness test.
- **Gender:** Women and girls in Afghanistan may be subjected to discriminatory restrictions and may need the support of a male family member or *chaperone* in order to access different services and to exercise certain rights. Therefore, the gender of the applicant should be taken into account when considering reasonableness in conjunction with their family status and available support.
- **State of health (illness or disabilities):** Access to health care is strained in the three cities, making the health status of the applicant an important consideration when assessing the reasonableness of IPA for those who require medical treatment, also taking into account that their state of health may affect their ability to work and travel. For those with disabilities, access to basic subsistence such as through employment would be further limited.
- **Local knowledge:** Local knowledge, including linguistic knowledge, and the existence of certain social ties and connections either through relatives or through school education or professional experience would be a relevant consideration, as such ties and knowledge would assist an applicant in settling in the area and in particular in accessing basic means of subsistence and basic services.
- **Social, educational and economic background:** The background of the applicant, their level of education and available financial means can be taken into account when assessing the reasonableness of IPA and in particular the access of the applicant to means of basic subsistence.
- **Support network:** A support network can be the family network, not restricted to the core family, but also including the extended family, and/or a social network, in particular: friends, employers, classmates, members of the same clan, especially when there is a certain point of contact, etc., taking into account their ability to assist the person in accessing basic subsistence. Special consideration should be given in the case of individuals who lived abroad for a long period of time and who have no relatives in the three cities, as they may often lack the necessary support network.

⁶⁴ See for example 'Joint Way Forward on migration issues between Afghanistan and the EU', Part IV and its Annex, available at https://eeas.europa.eu/sites/eeas/files/eu_afghanistan_joint_way_forward_on_migration_issues.pdf

- **Religion:** Being part of a religious minority (e.g. Sikhs, Hindu or other religions) should be taken into account for IPA in the three cities, as members of those religious minorities may face discrimination due to religious belief, making it difficult for them to access basic means of subsistence such as through employment.

It should be noted that these factors would often intersect in the case of the particular applicant, leading to different conclusions on the reasonableness of IPA. In some cases, more than one element of vulnerability would confirm a conclusion that IPA is not reasonable for the particular applicant (e.g. unaccompanied child with no support network - see below), while in other cases, they would balance each other (e.g. IPA may be reasonable for a married couple with available financial means or a support network in one of the cities).

Conclusions on reasonableness: particular profiles encountered in practice

This subsection includes conclusions and relevant considerations, which should be taken into account when assessing the reasonableness of IPA for particular profiles of applicants.

In summary, it could be substantiated that IPA in the cities of Kabul, Herat and Mazar-e Sharif would be reasonable for single adult men and married couples without children, who have no additional vulnerabilities, even if they do not have a support network. In order to ensure their basic needs, such as food, shelter and hygiene, other profiles of applicants would in general need a support network in the area of potential IPA. However, additional individual circumstances may be relevant to take into account when assessing the reasonableness of IPA.

The table below highlights the individual considerations, which were key in reaching the general conclusions regarding the commonly encountered profiles. This is without prejudice to the need to fully assess all individual circumstances in the case at hand.

Single able-bodied men

**For applicants who were born and/or lived outside Afghanistan for a very long period of time see separate conclusion below.*

In general, IPA in the cities of Kabul, Herat and Mazar-e Sharif could be considered reasonable for a single able-bodied adult man who has previously lived in Afghanistan, including where he has no support network in the IPA area.

Although the situation related to settling in the three cities entails certain hardships, it can still be concluded that such applicants are able to ensure their basic subsistence, shelter and hygiene, taking into account the fact that their individual circumstances do not pose additional vulnerabilities.

The following can in particular be taken into account:

- **Age:** the applicant is of a working age, which would assist in his access to basic subsistence, in particular with regard to the opportunity to engage in employment.
- **Gender:** no additional vulnerabilities are attached to being male in Afghanistan.
- **Family status:** the applicant does not have additional responsibilities other than ensuring his own subsistence and no additional vulnerabilities are attached to being a single man.
- **State of health:** the applicant does not suffer from any serious health condition.

	▪ Social and economic background: additionally, the background of the applicant, including education, profession and available financial means could be taken into account, especially in case those would be relevant to the coping mechanisms the applicant would have for settling in the IPA area. ▪ Local knowledge: given the urban nature of the three areas considered for IPA, and the fact that their population is diverse, it can be presumed that an Afghan national who previously lived in Afghanistan would have sufficient local knowledge, which would enable him to reasonably settle in one of the three cities. ▪ Support network: while a support network would be of assistance in accessing the means to ensure one's subsistence, in the case of single men in the cities of Kabul, Herat and Mazar-e Sharif, this would not be a necessary prerequisite in order to apply IPA. ▪ Religion: The religion of the applicant should be taken into account.
Single women without a male support network	In general, IPA would not be reasonable for single women without support from a male member of their core or extended family in the respective part of Afghanistan. For single women, especially those without a male support network in Afghanistan, IPA should also be assessed carefully with regard to the requirement of safety, including safety of travel. The following elements are of importance when examining the criterion of reasonableness: ▪ Gender: in Afghanistan, most women would not have independent access means of ensuring their basic subsistence. Specific gender-related risk-enhancing circumstances may also be relevant. ▪ Family status / support network: in order to ensure their subsistence and access to basic services, women in Afghanistan would in general need to be assisted by a male member of the core or extended family.
Married couples of working age without children <i>*For applicants who were born and/or lived outside Afghanistan for a very long period of time see separate conclusion below.</i>	In general, IPA in the cities of Kabul, Herat and Mazar-e Sharif could be considered reasonable for married couples without children, including where they have no support network in the IPA area. The assessment should take into account the elements mentioned above with regard to single men. However, the individual assessment should further examine whether in the situation of the couple sufficient basic subsistence can be ensured for both.
Unaccompanied children	In general, IPA would not be reasonable for children without a support network in the respective part of Afghanistan.

The situation of unaccompanied children should also be taken into account when assessing the safety criterion for a potential IPA.

The following elements should in particular be taken into account when examining the criterion of reasonableness:

- **Age:** due to their young age, children in general need to depend on other providers for their basic subsistence. They are also particularly vulnerable, including to risks of child-specific persecution or serious harm, such as child marriages and child labour. In addition, they have specific rights and needs, which need to be ensured in accordance with international instruments, such as the Convention on the Rights of the Child.
- **Access to education:** the question of access to basic education should be assessed in relation to the general situation in the three cities as well as the individual circumstances of the child. In general, such access would be limited for unaccompanied children, however, their individual circumstances in terms of social background and available means of basic subsistence should be taken into account.
- **Support network:** the existence of a support network in the potential area of IPA, which would be able to ensure the subsistence of the child, as well as their access to education and basic health care, is crucial in the assessment of IPA for unaccompanied children.

Families with children

In general, IPA would not be reasonable for children in a family, if the family lacks sufficient financial means or a support network in the respective part of Afghanistan.

The situation of children should also be taken into account when assessing the safety criterion for a potential IPA.

The following elements should in particular be taken into account:

- **Age:** children in general need to depend on other providers for their basic subsistence. They are also particularly vulnerable, including to risks of child-specific persecution or serious harm, such as child marriages and child labour. In addition, they have specific rights and needs, which need to be ensured in accordance with international instruments, such as the Convention on the Rights of the Child. The age of the child may also have an impact in the individual assessment.
- **Access to education:** the question of access to basic education should be assessed in relation to the general situation in the three cities as well as the individual circumstances of the family and in particular the child.
- **Social and economic background / support network:** in order to ensure their subsistence and access to basic services, it is relevant to assess the social and economic background of the family and the possibility to receive assistance by a support network.

Applicants with severe illnesses or disabilities

In general, IPA would not be reasonable for applicants with severe illnesses or disabilities. Individual circumstances, such as sufficient financial means and/or a support network could, however, be taken into account.

The main elements to take into account include:

- **State of health:** depending on the health condition of the applicant, the limited accessibility of health care in the three cities may place the applicant at an enhanced risk. Additionally, severe illnesses and disabilities would hinder the applicant's ability to ensure his or her basic subsistence, in particular through means of employment.
- **Social and economic background / support network:** access to health care in the three cities largely depends on financial means of the person or the means accessible through a support network.

Applicants who were born and/or lived outside Afghanistan for a very long period of time

For applicants who were born and/or lived outside Afghanistan for a very long period of time, IPA may not be reasonable if they do not have a support network which would assist them in accessing means of basic subsistence.

The following elements should be taken into account in this assessment:

- **Support network:** a support network would be of particular importance in the assessment of the reasonableness of IPA for such applicants.
- **Local knowledge:** particular consideration should be given to whether the applicant has local knowledge and maintained any ties with Afghanistan. Afghan nationals who resided outside of the country over a prolonged period of time may lack essential local knowledge necessary for accessing basic subsistence means and basic services. The support network could also provide the applicant with such local knowledge.
- **Social and economic background:** the background of the applicant, including their educational and professional experience and connections, as well as whether they were able to live on their own outside Afghanistan, could be relevant considerations.

Elderly applicants

In general, IPA would not be reasonable for elderly people if they lack sufficient financial means or a support network in the respective part of Afghanistan.

The following elements are of particular importance in this assessment:

- **Age:** although there is no specific threshold for a person to be considered of elderly age, the assessment should take into account the applicant's age in terms of access to means of basic subsistence, in particular through employment.
 - **State of health:** Additionally, the state of health of an elderly applicant may cause difficulties in access to basic means of subsistence such as through employment.
 - **Social and economic background / support network:** In general, the vulnerabilities of an elderly applicant could make him or her dependent on a support network. The individual's social and economic situation should be taken into account in this regard.
-

VI. Exclusion

Preliminary remarks

Applying the exclusion clauses where there are serious reasons to consider that the applicant has committed any of the relevant acts, is **mandatory**.

If a person would otherwise qualify for **refugee status**, the following would constitute exclusion grounds, according to Article 12(2) QD:⁶⁵

Article 12(2) and (3) of the Qualification Directive Exclusion (refugee status)	
2.	A third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that: (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes; (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.
3.	Paragraph 2 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.

If the person would otherwise be eligible for **subsidiary protection**, the exclusion clauses under Article 12(2)(a) and (c) QD would apply in the same way (Article 17(1)(a) and (c) QD, respectively). The ground of ‘serious crime’ (Article 17(1)(b) QD), on the other hand, is broader than ‘serious non-political crime’ and has no geographical or temporal limitations. Furthermore, additional exclusion grounds are envisaged under Article 17(1)(d) QD and Article 17(3) QD. Article 17(3) QD contains an optional provision and its applicability would depend on the transposition of this provision in national legislation.⁶⁶

Article 17 of the Qualification Directive Exclusion (subsidiary protection)	
1.	A third-country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that: (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he or she has committed a serious crime; (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;

⁶⁵ Article 12(1) QD is not found of particular relevance in the context of Afghanistan. Therefore, it is not included within the scope of this country guidance and common analysis.

⁶⁶ Noting the optional nature of this exclusion ground, and its scope, which is not country-specific, no further analysis and guidance is provided on Article 17(3) QD.

- (d) he or she constitutes a **danger to the community or to the security** of the Member State in which he or she is present.
2. Paragraph 1 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.
3. Member States **may** exclude a third-country national or a stateless person from being eligible for subsidiary protection if he or she, **prior to his or her admission** to the Member State concerned, has committed **one or more crimes outside the scope of paragraph 1 which would be punishable by imprisonment**, had they been committed in the Member State concerned, and if he or she **left his or her country of origin solely in order to avoid sanctions resulting from those crimes**.

It should be underlined that the determining authority has the burden of proof to establish:

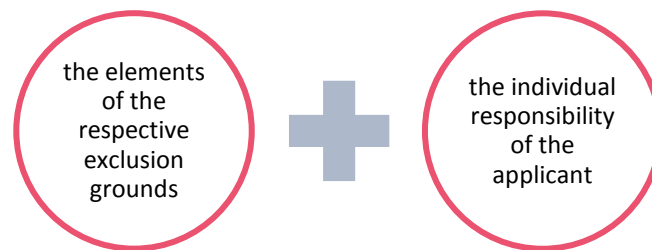


Figure 12. Elements in applying exclusion.

At the same time, the applicant has a duty to cooperate in establishing all facts and circumstances relevant to his or her application.

Given the serious consequences that exclusion may have for the individual, the exclusion grounds should be interpreted restrictively and applied with caution.

Several situations and different profiles in the context of Afghanistan should be seen as particularly relevant to examine with regard to exclusion. COI indicates that excludable acts are committed both in relation to the armed conflict, as well as in the context of general criminality and human rights abuses.

The Qualification Directive does not stipulate a time limit for the application of the exclusion grounds. Applicants can be excluded in relation to events that took place in recent and more distant past. Some (non-exhaustive) examples of past events which may be related to excludable acts include:

- The “Saur” Revolution of 1978, subsequent purges and the 1979 crackdown of the uprising;
- Soviet Union invasion (1979) and the armed conflict between the Afghan government (supported by Soviet troops) and the ‘mujahideen’ (e.g. secret services of the PDPA regime, commanders or fighters from the anti-Soviet jihad tanzeem) (1979 - 1992);
- Afghan “Civil War” (1992 - 1996);
- Taliban regime and conflict between the Taliban and the Northern Alliance (1996 – 2001);
- US-led military operation and Taliban-led insurgency against the Afghan government (2001 – onwards);
- etc.

In relation to potential exclusion considerations, see also the chapters [Actors of persecution or serious harm](#) and [Analysis of particular profiles with regard to qualification for refugee status](#).

The examples mentioned in this chapter are non-exhaustive and non-conclusive. Each case should be examined on its own merits.

Applicability of the exclusion grounds

The subsections below look into the different exclusion grounds applicable in accordance with the Qualification Directive.

a. Crime against peace, war crime, or crime against humanity

Article 12(2)(a) QD and Article 17(1)(a) QD refer to specific serious violations of international law, as defined in the relevant international instruments.

► **‘Crime against peace’** is related to the planning, preparation, initiation, waging or participation in a common plan or conspiracy related to a war of aggression. It is considered applicable only in the context of international armed conflict and would usually be committed by individuals in a high position of authority, representing a State or a State-like entity.

This ground is not found to be of particular relevance in the cases of applicants from Afghanistan.

In order to establish whether a **war crime** or a **crime against humanity** has been committed, the case officer should consult the relevant international instruments.⁶⁷

► **War crimes** are **serious violations of international humanitarian law**, committed against a protected person or object (civilians, combatants placed out of combat, such as in detention or being wounded, or who have put down their arms, or civilian and cultural objects) or through the use of unlawful weapons or means of warfare.

They can be committed by combatants/fighters, as well as civilians, as long as there is a sufficient link to the armed conflict. This means that the act must have been ‘closely’ related to the armed conflict, or that,

*The armed conflict need not have been causal to the commission of the crime, but the existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator’s ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed.*⁶⁸

It should be underlined that combatants that lawfully take part in hostilities are not committing war crimes, as long as they follow the rules provided for by international humanitarian law.

The nature of the armed conflict (international or non-international) is decisive in order to define the elements of particular war crimes.

The current armed conflict in Afghanistan is considered to be non-international.⁶⁹

Armed conflicts in the past can be characterised as follows:

⁶⁷ **War crimes** are listed, *inter alia*, under [Article 8 of the Rome Statute](#), under the ‘Grave Breaches’ provisions of the 1949 Geneva Conventions and Additional Protocol I, common Article 3 and relevant provisions of Additional Protocol II, the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Statute of the International Criminal Tribunal for Rwanda (ICTR). **Crimes against humanity** are defined in international instruments, *inter alia* [Article 7 of the Rome Statute](#).

⁶⁸ ICTY (Appeals Chamber), judgment of 12 June 2002, *Prosecutor v Kunarac et al.*, IT-96-23 and IT-96-23/1-A, para. 58.

⁶⁹ Note that the assessment under Article 12(2)(a) QD and Article 17(1)(a) QD refers to the relevant international instruments defining the terms. Therefore, the assessment of whether or not an armed conflict takes place, as well as its nature, is based on international humanitarian law and may differ from the assessment in the context of Article 15(c) QD as defined in the *Diakité* judgment of the CJEU.

- armed conflict between PDPA government and armed opponents from the summer of 1979 until the Soviet invasion on 24 December 1979: non-international;
- Soviet-Afghan War from December 1979 until February 1989: international;
- armed conflict between 'mujahideen' forces and the government (1989-1996): non-international;
- armed conflict between the Taliban and the United Front (1996-2001): non-international;
- armed conflict of coalition led by the USA against the Taliban regime between October 2001 and June 2002: international;
- Taliban-led insurgency against the Afghan government (June 2002 – ongoing): non-international.

Reported violations of international humanitarian law by all parties in the current and in past conflicts in Afghanistan could amount to war crimes. Some relevant (non-exhaustive) examples include:

- violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture of persons taking no direct part in hostilities;
- committing outrages upon personal dignity, in particular humiliating and degrading treatment of persons taking no direct part in hostilities;
- intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- killing or wounding treacherously a combatant adversary;
- the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognised as indispensable;
- conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
- etc.

► **Crimes against humanity** are fundamentally inhumane acts, committed as part of a **systematic or widespread attack against any civilian population**.⁷⁰ Some (non-exhaustive) examples of inhumane acts which could reach this threshold when committed pursuant to or in furtherance of a State or organisational policy, include: murder, extermination, torture, rape, sexual slavery, enforced prostitution, political or religious persecution, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law.

Crimes against humanity can be committed in peace time as well as during an armed conflict. Even a single act could fall under this exclusion ground as long as there is a link to a widespread or systematic attack against a civilian population and the act is committed by someone who had knowledge of the attack and the link of the act to the attack.

⁷⁰ For further guidance on relevant concepts, see the 'EASO Practical Guide: Exclusion'. Additionally, on 'widespread' and 'systematic', see for example, ICTY, *Prosecutor v. Dusko Tadic aka "Dule"* (Opinion and Judgment), IT-94-1-T, 7 May 1997, para. 648; ICTR, *The Prosecutor v. Jean-Paul Akayesu* (Trial Judgment), ICTR-96-4-T, 2 September 1998, para. 580; ICTY, *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic* (Appeal Judgment), IT-96-23 & IT-96-23/1-A, 12 June 2002, para. 94; on 'civilian population' see ICTY, *Prosecutor v. Dusko Tadic aka "Dule"* (Opinion and Judgment), IT-94-1-T, 7 May 1997, para. 648; ICTR, *The Prosecutor v. Jean-Paul Akayesu* (Trial Judgment), ICTR-96-4-T, 2 September 1998, para. 644.

Conclusion on the applicability of Article 12(2)(a) and Article 17(1)(a) QD:

According to COI, insurgent groups, the State and pro-government militias, as well as civilians in Afghanistan, can be implicated in acts that would qualify as war crimes or crimes against humanity.

It can be noted that, in November 2017, the Prosecutor of the International Criminal Court (ICC), requested authorisation from Pre-Trial Chamber III to initiate an investigation into alleged war crimes and crimes against humanity in relation to the armed conflict in Afghanistan since 1 May 2003. The preliminary examination focuses on crimes listed in the Rome Statute allegedly committed in the context of the armed conflict between pro-government forces and anti-government forces. It includes the **crimes against humanity** of murder, and imprisonment or other severe deprivation of physical liberty; and the **war crimes** of murder; cruel treatment; outrages upon personal dignity; the passing of sentences and carrying out of executions without proper judicial authority; intentional attacks against civilians, civilian objects and humanitarian assistance missions; and treacherously killing or wounding an enemy combatant. The preliminary examination also focuses on the existence and genuineness of national proceedings in relation to these crimes.⁷¹

Involvement of Afghan nationals in the conflict in Syria, such as through the Fatemiyoun Division, could also be considered under this exclusion ground.

b. Serious (non-political) crime

The commission of serious (non-political) crimes is a ground that could apply to applicants from all countries of origin, regardless of the general situation.

In order to determine whether the crime qualifies as **serious**, the following factors may be taken into account: the nature of the act, the actual harm inflicted, the form of procedure used to prosecute such a crime, the nature of the envisaged penalty, and whether most jurisdictions would consider it serious.

There is no requirement that the offence constitute a crime (or a serious crime) in both the country of origin and the country of application. Therefore, certain acts that are criminalised in Afghanistan, but would not be considered serious crimes according to international standards (e.g. in relation to sexual orientation or religious offences), fall outside the scope of this provision. At the same time, acts that may not be considered serious crimes in Afghanistan could be relevant exclusion grounds.

In order for an act to qualify as a **non-political** crime, it should be considered to have a predominantly non-political motivation or be disproportionate to a claimed political objective. Particularly cruel actions, may be considered serious non-political crimes, due to being disproportionate to an alleged political objective. For example, actions commonly considered to be of ‘terrorist’ nature are likely to fall under this category.⁷²

The exclusion ground for refugee status further stipulates that the act must have been committed **outside the country of refuge prior to the person’s admission as a refugee**.

Conclusion on the applicability of Article 12(2)(b) and Article 17(1)(b) QD:

In the context of Afghanistan, widespread criminality and breakdown in law and order make the ground of ‘serious (non-political) crime’ particularly relevant. In addition to murder related to family and other private disputes, some examples of particularly relevant serious crimes may include drug trade and trafficking, trafficking in arms, human trafficking, illegal taxation, illegal extraction, trade or smuggling of minerals, gemstones, archaeological artefacts, etc.

⁷¹ For further information, see <https://www.icc-cpi.int/afghanistan>.

⁷² See, for example, CJEU, *Bundesrepublik Deutschland v. B and D*, C-57/09 and C-101/09, 9 November 2010, para.81.

Violence against women and children (for example, in relation to *bacha bazi*, in the context of child marriage, etc.), which is widespread in Afghanistan, could also potentially amount to a serious (non-political) crime.

In some cases, the serious crimes could be linked to an armed conflict (e.g. if they are committed in order to finance the activities of armed groups) and they could also be examined under Article 12(2)(a) or Article 17(1)(a) QD.

In relation to exclusion from refugee status, a crime could fall under this ground if committed in Afghanistan or any third country (for example, while the applicant resided in Pakistan or Iran, or in countries of transit, etc.). In relation to subsidiary protection, serious crimes committed by Afghan applicants in the host country, would also lead to exclusion.

c. Acts contrary to the purposes and principles of the United Nations

The purposes and principles of the UN are set out in the [Preamble and Article 1 and 2 of the UN Charter](#). Accordingly, this exclusion ground may apply to certain acts which constitute **serious and sustained human rights violations** and/or **acts specifically designated by the international community as contrary to the purposes and principles of the UN** (for example, terrorist acts in light of relevant UN Security Council resolutions).⁷³ In order to apply this provision, the acts must have an international dimension, in the sense that they are capable of having a negative impact on international peace and security, or the friendly relations between States. However, there is no absolute requirement that the perpetrator hold a position of power in a State or a State-like entity in order to be excluded under this provision.

Relevant jurisprudence of the CJEU, including the *B and D* case⁷⁴ and the more recent *Lounani* case⁷⁵, views acts constituting participation in the activities of a terrorist group under this provision. This could cover a wide range of conduct, such as recruitment, organisation, transportation or equipment of individuals, for the purpose of, inter alia, the perpetration, planning or preparation of terrorist acts, etc.⁷⁶ However, it should be noted that the CJEU finds that membership in an organisation implicated in terrorist acts would not in itself be sufficient to apply the respective exclusion grounds.⁷⁷

Conclusion on the applicability of Article 12(2)(c) and 17(1)(c) QD:

In the context of Afghanistan, (former) membership in armed groups such as ISKP, the Taliban or Hezb-e Islami, could trigger relevant considerations, in addition to the considerations under Article 12(2)(a) and Article 17(1)(a) QD.

The application of exclusion would be conditional on an individual assessment of the specific facts in the context of the applicant's activities within that organisation. The position of the applicant within the organisation would constitute a relevant consideration and a high-ranking position could justify a (rebuttable) presumption of individual responsibility. Nevertheless, it remains necessary to examine all relevant circumstances before an exclusion decision can be made.

d. Danger to the community or the security of the Member State

In the examination of the application for international protection, the exclusion ground 'danger to the community or the security of the Member State' is only applicable to persons otherwise eligible for subsidiary protection.

⁷³ See, for example, the 2001 UN Security Council resolutions 1373 and 1377.

⁷⁴ CJEU, *Bundesrepublik Deutschland v. B and D*, C-57/09 and C-101/09, 9 November 2010.

⁷⁵ CJEU, *Commissaire général aux réfugiés et aux apatrides v. Mostafa Lounani*, C-573/15, 31 January 2017.

⁷⁶ CJEU, *Lounani*, para. 68.

⁷⁷ CJEU, *B and D*, paras. 79-99.

Unlike the other exclusion grounds, the application of this provision is based on a forward-looking **assessment of risk**. Nevertheless, the examination takes into account the past and/or current activities of the applicant, such as association with certain groups considered to represent a danger to the security of the Member State or criminal activities of the applicant.

Given the nature of this provision, its application would often require the involvement of other authorities, which may have access to relevant information.

Individual responsibility

The assessment of **individual responsibility** is based on the nature and extent of the applicant's involvement in the excludable act(s), as well as his or her state of mind in relation to these act(s). Different **forms of conduct** may lead to a finding of individual responsibility (for example, direct commission, inducing others, aiding and abetting, command responsibility, etc.), where the relevant **intent and knowledge** are established.

The applicable standard of proof is 'serious reasons for considering', which requires clear and reliable evidence, but is not as high as the standard for criminal responsibility ('beyond reasonable doubt').

The fact that the applicant was or is associated with a group or regime responsible for excludable acts(s) does not relieve the determining authority from demonstrating his or her individual responsibility.

However, depending on the nature, scale of the group or regime, the voluntary association with it and the position, rank, standing and influence of the applicant within the group, there may be sufficient evidence for both, the 'conduct' and the 'state of mind', requirements to be inferred. It remains necessary, however, that the decision-maker identify the relevant mode of individual responsibility and examine the facts in light of the respective criteria.

Furthermore, the examination should take into account potential **grounds negating the individual responsibility**, such as lack of mental capacity to comprehend and/or control one's conduct (e.g. due to age, mental disease or defect, involuntary intoxication), duress (e.g. the context of forced recruitment should be considered), self-defence or defence of others (or property, in the case of war crimes), superior orders in specific circumstances, etc.

Depending on national practice, the analysis may further proceed to take into account whether or not the possible exclusion of the applicant would meet the **purposes of the exclusion clauses**. Elements, such as the fact that an applicant has already served a sentence for the (otherwise) excludable act, or whether the act is subject to an amnesty or pardon, could potentially be taken into account. The more egregious the excludable acts, the less relevant such aspects would be when taking the decision.

In the context of Afghanistan, it should be noted that the amnesty envisaged under the National Stability and Reconciliation Law of Afghanistan and the amnesty provisions in the agreement with Hezb-e Islami / Gulbuddin Hekmatyar (HIG) from September 2016) would likely fail to meet the necessary requirements (i.e. being the expression of the democratic will of the citizens of Afghanistan and the individual having been held accountable in other ways). Those would, therefore, not prevent the exclusion of the applicant where individual responsibility for relevant excludable acts is established.

For further horizontal guidance on exclusion, see '*EASO Practical Guide: Exclusion*'.⁷⁸

⁷⁸ The '*EASO Practical Guide: Exclusion*' is available in different languages at <https://www.easo.europa.eu/practical-tools>.

Annex I. Abbreviations and glossary

AAF	Afghan Air Force
ALP	Afghan Local Police; a security initiative to include armed militias in the police force, under the auspices of the Ministry of the Interior.
ANA	Afghan National Army
ANP	Afghan National Police
ANSF	Afghan National Security Forces, including Afghan National Army (ANA), Afghan National Police (ANP) and National Directorate of Security (NDS)
Anti-government elements	All individuals and armed groups involved in armed conflict with, or armed opposition against, the Government of Afghanistan and/or international military forces. They include those who identify as ‘Taliban’ as well as individuals and non-State organised armed groups taking a direct part in hostilities and assuming a variety of labels including the Haqqani Network, Islamic Movement of Uzbekistan, Islamic Jihad Union, Lashkari Tayyiba, Jaysh Muhammed, groups identifying themselves as Islamic State/‘Daesh’ and other militia and armed groups pursuing political, ideological or economic objectives including armed criminal groups directly engaged in hostile acts on behalf of a party to the conflict (UNAMA, Annual report 2017).
APD (Asylum Procedures Directive)	Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection
<i>baad</i>	The practice of exchanging women/girls to resolve a dispute; Exchanging daughters between families for marriage to avoid bride price costs
<i>bacha bazi</i>	Dancing boys: boys or young men who are sexually exploited by men for entertainment. They are made to dance in female garb, and provide sexual favours. This practice is often associated with men in power.
CJEU	Court of Justice of the European Union
COI	Country of origin information
EASO	European Asylum Support Office
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), as amended by Protocols Nos. 11 and 14, 4 November 1950
ECtHR	European Court of Human Rights
EU	European Union
EU+	Used to relate to EU Member States, Norway and Switzerland
EUAA	European Union Agency for Asylum
<i>fatwa</i>	A ruling or opinion given by the head of religious community in Islam
ground engagement	Ground engagements include kinetic ground operations, stand-off attacks, crossfire and armed clashes between parties to the conflict. Ground engagements include attacks or operations in which small arms, heavy weapons and/or area weapons systems, i.e. mortars and rockets are fired. (UNAMA, Annual report 2017)
<i>Hanafi</i>	Sunni jurisprudence in use in Afghanistan; one of the four schools of Sunni jurisprudence.
HIV	Human immunodeficiency virus
IED	Improvised Explosive Device. A bomb constructed and deployed in ways other than in conventional military action. (UNAMA, Annual report 2017)
ILO	International Labour Organisation
IMU	Islamic Movement of Uzbekistan
ISKP	Islamic State Khorasan Province

<i>jirga</i>	A council or assembly of tribal elders held for dispute resolution; jirgamar refers to elders whose profession is dispute settlement
LGBT	Lesbian, Gay, Bisexual, Trans
<i>madrassa</i>	Islamic religious school
NDS	National Directorate of Security, Afghanistan's intelligence service
NGO	Non-governmental organisation
PDPA	People's Democratic Party of Afghanistan
PGM	Pro-government militia
QD (Qualification Directive)	Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted
<i>sharia</i>	The religious law of Islam; Islamic canonical law
<i>shura</i>	A decision-making community council; often formed for non-State dispute settlement; made up of a group of people with community authority (elders) to discuss and find solutions to a problem
<i>Targeted/ deliberate killing</i>	Intentional, premeditated and deliberate use of lethal force by States or their agents acting under colour of law or by an organised armed group, party to an armed conflict against a specific individual who is not in the perpetrator's physical custody. (UNAMA, Annual report 2017)
<i>Ulema</i>	Body of Muslim scholars who are recognised as having specialist knowledge of Islamic law and theology
UNAMA	United Nations Assistance Mission in Afghanistan
UNHCR	United Nations High Commissioner for Refugees
US	United States of America
<i>zina</i>	The crime of adultery; perceived to be deeply shameful and against honour

Annex II. Country of origin information references

The main COI sources used in the common analysis are the following EASO COI reports:

Conflict targeting	EASO Country of Origin Information Report: Afghanistan, Individuals targeted by armed actors in the conflict (December 2017) Available at: https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan_targeting_conflict.pdf
Key socio-economic indicators	EASO Country of Origin Information Report: Afghanistan, Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and Herat City (August 2017) Available at: https://coi.easo.europa.eu/administration/easo/PLib/EASO_COI_Afghanistan_IPA_August2017.pdf
Networks	EASO Country of Origin Information Report: Afghanistan, Networks (February 2018) Available at: https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan_Networks.pdf
Recruitment by armed groups	EASO Country of Origin Information Report: Afghanistan, Recruitment by armed groups (September 2016) Available at: https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan_recruitment.pdf
Security situation (Dec 2017)	EASO Country of Origin Information Report: Afghanistan, Security situation (December 2017) Available at: https://coi.easo.europa.eu/administration/easo/PLib/EASO_Afghanistan_security_situation_2017.pdf
Security situation (May 2018)	EASO Country of Origin Information Report: Afghanistan, Security Situation - Update (May 2018) Available at: https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan-security_situation_2018.pdf
Society-based targeting	EASO Country of Origin Information Report: Afghanistan, Individuals targeted under societal and legal norms (December 2017) Available at: https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan_targeting_society.pdf

Annex III. Relevant case law

Case law referenced in the common analysis	
Actors of persecution or serious harm	■ CJEU, Mohamed M'Bodj v État belge, case C-542/13, judgment of 18 December 2014, Grand Chamber (<i>M'Bodj</i>)
Reasons for persecution - religion	■ CJEU, Bundesrepublik Deutschland v Y and Z, joined cases C-71/11 and C-99/11, Judgment of 5 September 2012, Grand Chamber, <i>Y and Z</i>, ECLI:EU:C:2012:518 (<i>Y and Z</i>)
Reasons for persecution – membership of a particular social group	■ CJEU, Minister voor Immigratie en Asiel v X and Y and Z v Minister voor Immigratie en Asiel, joined cases C-199/12 to C-201/12 Judgment of 7 November 2013, ECLI:EU:C:2013:720 (<i>X, Y and Z</i>)
Article 15(b) QD	■ CJEU, MP v Secretary of State for the Home Department, case C-353/16, judgment of 24 April 2018 (<i>MP</i>) ■ CJEU, <i>M'Bodj</i>
Indiscriminate violence in relation to armed conflict (Article 15(c) QD)	■ CJEU, Aboubacar Diakité v. Commissaire général aux réfugiés et aux apatrides, C-285/12, Judgment of the Court (Fourth Chamber) of 30 January 2014 (<i>Diakité</i>) ■ CJEU, Elgafaji v. Staatssecretaris van Justitie, C-465/07, Judgment of the Court (Grand Chamber) of 17 February 2009 (<i>Elgafaji</i>) ■ ECtHR, Sufi and Elmi v. United Kingdom, Applications nos. 8319/07 and 11449/07, Judgment of 28 June 2011 (<i>Sufi and Elmi</i>)
Internal protection alternative	■ CJEU, <i>X, Y and Z</i> ■ CJEU, <i>Y and Z</i> ■ CJEU, Abdulla and Others v Bundesrepublik Deutschland, Joined Cases C-175/08, C-176/08, C-178/08 and C-179/08, Judgment of 2 March 2010, ECLI:EU:C:2010:105 (<i>Abdulla</i>) ■ ECtHR, A.A.M. v Sweden, Application no. 68519/10, Judgment of 3 April 2014 (<i>A.A.M v Sweden</i>)

	■ ECtHR, <i>Salah Sheekh v the Netherlands</i>, Application no. 1948/04, Judgment of 11 January 2007 (<i>Salah Sheekh</i>)
Exclusion	■ CJEU, <i>Commissaire général aux réfugiés et aux apatrides v Mostafa Lounani</i>, Case C-573/14, Judgment of the Court (Grand Chamber) of 31 January 2017, ECLI:EU:C:2017:71 (<i>Lounani</i>) ■ CJEU, <i>Bundesrepublik Deutschland v B and D</i>, Joined Cases C-57/09 and C-101/09, Judgment of 9 November 2010, EU:C:2010:661 (<i>B and D</i>) ■ ICTY (Appeals Chamber), <i>Prosecutor v Kunarac et al.</i>, IT-96-23 and IT-96-23/1-A, Judgment of 12 June 2002 ■ ICTY, <i>Prosecutor v. Dusko Tadic aka "Dule" (Opinion and Judgment)</i>, IT-94-1-T, Judgment of 7 May 1997 ■ ICTR, <i>The Prosecutor v. Jean-Paul Akayesu (Trial Judgment)</i>, ICTR-96-4-T, Judgment of 2 September 1998

For additional information on relevant case law see:

EASO Practical Guides:

Available at: <https://www.easo.europa.eu/practical-tools>

- EASO Practical Guide: Qualification for international protection
- EASO Practical Guide: Exclusion

Judicial analyses:

Available at: <https://www.easo.europa.eu/courts-and-tribunals>

- Judicial Analysis 'Qualification for International Protection (Directive 2011/95/EU)
- Judicial Analysis 'Article 15(c) Qualification Directive (2011/95/EU)
- Judicial Analysis 'Exclusion: Articles 12 and 17 Qualification Directive (2011/95/EU)

Annex IV. Versions and updates

The current version of the guidance note and the common analysis were produced in June 2018.

An annual update is envisaged.

