Please cite as: EUAA, 'Article 15(c) QD' in *Country Guidance: Explained*, Şubat 2023.

Article 15(c) QD

This section focuses on the application of the provision of Article 15(c) QD. Under Article 2(f) QD in conjunction with Article 15(c) QD, subsidiary protection is granted where ‘substantial grounds have been shown for believing that the person would face a real risk of suffering serious harm’ defined as ‘serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict’.

Each element of the provision is addressed in a separate subsection.

Figure 5. Elements in the assessment of Article 15(c) QD.

2023_CG_SYR_ART15c_elements.JPG

All of these elements have to be fulfilled in order to grant subsidiary protection under Article 15(c) QD.

The analysis under this section builds on the most relevant European case law. Three judgments of the CJEU and one judgment of the ECtHR are particularly taken into account.

CJEU, Diakité judgment

The judgment 7 is of importance for the interpretation of relevant concepts, and, in particular, of ‘internal armed conflict’.

In *Diakité*, the CJEU concludes that the concept of ‘internal armed conflict’ under Article 15(c) QD 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;

CJEU, *Diakité*, para.35

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.

CJEU, *Diakité*, para.35

CJEU, Elgafaji judgment

The judgment 8 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.

See **Indiscriminate violence**.

CJEU, CF and DN judgment

The judgment 9 is of particular importance for the interpretation of the concept of 'serious and individual threat to a civilian's life or person' in the context of an international or internal armed conflict under Article 15(c) QD. The CJEU found that,

In order to verify the level of the degree of indiscriminate violence of the armed conflict, for the purposes of determining whether there is a real risk of serious harm within the meaning of Article 15(c) of Directive 2011/95, it is necessary to carry out a comprehensive assessment, both quantitative and qualitative in nature, of all relevant facts characterising that conflict, based on the collection of objective, reliable and up-

to-date information including, in particular, the geographical scope of the situation of indiscriminate violence, the actual destination of the applicant in the event that he or she is returned to the relevant country or region, the intensity of the armed confrontations, the duration of the conflict, the level of organisation of the armed forces involved, the number of civilians killed, injured or displaced as a result of the fighting, and the nature of the methods or tactics of warfare employed by the parties to the conflict.

CJEU, *CF and DN*, para. 61(2)

In addition, the ECtHR judgment in Sufi and Elmi was consulted when developing the indicators for the assessment of the level of indiscriminate violence[10].

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The contents of this section include:

- Armed conflict
- Indiscriminate violence
- Serious and individual threat

For further general guidance on the application of Article 15(c) QD, including the remaining elements of the examination, see the section 'Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict', p. 30, of the EUAA **Practical guide: Qualification for international protection.**

- 7

  CJEU, *Aboubacar Diakité v Commissaire général aux réfugiés et aux apatrides*, C-285/12, judgment of 30 January 2014 (Diakité), available at https://curia.europa.eu/juris/liste.jsf?num=C-285/12 .

- 8

  CJEU, *Elgafaji v Staatssecretaris van Justitie*, C-465/07, Grand Chamber, judgment of 17 February 2009 *(Elgafaji),* available at http://curia.europa.eu/juris/liste.jsf?language=en&num=C-465/07.

- 9

  CJEU, *CF and DN v Bundesrepublik Deutschland*, C-901/19, Third Chamber, judgment of 10 June 2021 *(CF and DN),* available at https://curia.europa.eu/juris/liste.jsf?num=c-901/19.

- 10ECtHR, Sufi and Elmi v United Kingdom, Applications nos. 8319/07 and 11449/07, judgment of 28 June 2011 (Sufi and Elmi). See in particular, para.241, available at https://hudoc.echr.coe.int/eng?i=001-105434

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