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4.1. Article 15(a) QD/QR: death penalty or execution

COMMON ANALYSIS
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Article 15(a) QD | Article 15(a) QR QR

As noted in the chapter Refugee status, some profiles of applicants from Iran may be at risk of death penalty or execution. In such cases, there would often be a nexus to a reason for persecution falling under the definition of a refugee (for example, Members and sympathisers of opposition parties and movements (perceived as) critical of the Iranian authorities, Protesters, Journalists and other media workers (perceived as) critical of the Iranian authorities, Individuals perceived to have transgressed Islamic norms or laws, Ethnic minorities, and Persons with diverse SOGIESC (also referred to as LGBTIQ persons), and those individuals would qualify for refugee status.

In cases where there is no nexus to a Convention ground, the need for subsidiary protection under Article 15(a) QD/QR should be examined.

The analysis below is based on the following EUAA COI report: Country Focus 2024, 3.4, 3.7, 3.9. Country Guidance should not be referred to as source of COI.

Iran is among the leading practitioners of the death penalty globally. Cruel and inhumane practices were reported among the methods employed in executions, such as hanging by cranes.

Death penalty is envisaged under the Iranian Penal code and can be imposed for offences, such as drug trafficking, financial corruption, vandalism, and peaceful exercise of freedom of expression. Offences punished by death-penalty are categorised under *hadd*, *qesas* (intentional or unintentional homicide) or *ta'zir* (drug-related offences). In the case of *qesas* punishments, members of the victim's family were encouraged to carry out executions themselves. Under *hadd*, a wide series of offences can lead to a death penalty sentence: sexual offences, such as incest, rape, sexual intercourse outside marriage/adultery (*zina*), sodomy or consensual homosexual penetrative sex (*livat*), and intercrural sex where the 'active party' is a non-Muslim and the 'passive party' is a Muslim (*tafkhiz*); offences against the State, such as 'war against God', (*moharebeh ba khoda*), corruption on Earth (*efsad fil-arz*) and rebellion (*baghy*), and offences against the religion such as insulting the prophet (*sabol-nabi*) and apostasy (*ertedad*);

repeated offences on the fourth occasion including theft, adultery, sodomy, lesbian sex (mosahegheh), intercrural sex, pimping, alcohol consumption, false accusation of sodomy or adultery (*qadf*) and the crimes of *moharebeh*, *efsad-filarz* and *baghy*.

Execution of minors is permissible beginning at 9 years old for girls and 13 for boys.

Since 2010, the Revolutionary Courts have handed down death sentences resulting in at least 4 541 executions. These courts, established in the aftermath of the 1979 revolution, hold the power to adjudicate all matters pertaining to national security, which encompasses political and press crimes. They also deal with crimes involving drugs and psychotropic substances, cases involving financial crimes, trafficking or counterfeiting of goods, economic offences, smuggling of cultural heritage or national assets abroad, illegal reproduction of audio-visual works, crimes related to public and private health institutions, bribery, embezzlement, fraud and gambling, etc. Cases potentially involving death penalty were generally assigned to judges executing the wishes of the security and intelligence agencies. Death sentences were pronounced despite confessions having been physically coerced. Complaints about torture were disregarded. Rights to a fair trial and due process were violated.

Other Criminal Courts handle criminal charges that carry the death penalty, such as murder and rape, as well as cases related to adultery and LGBTIQ persons.

More than 800 persons were executed in Iran in 2023, constituting a sharp increase in comparison with the previous years, partially due to the rise of executions linked to drug-related offences. Ethnic minorities, and especially the Baluches, were overrepresented in the total number of executions. Geographical disparities reportedly impact court sentences with persons in areas such as Kurdistan and Sistan and Baluchistan potentially facing death penalty while persons in Tehran would face imprisonment for the exact same offence.

If there is a reasonable degree of likelihood of death penalty or execution, subsidiary protection under Article 15(a) QD/QR shall be granted, unless the applicant is to be excluded in accordance with Article 17/QR 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/QR would be met, exclusion considerations should be examined (see Exclusion).

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