5. Subsidiary protection

COMMON ANALYSIS
Last update: October 2026

This chapter addresses the EU-regulated status of subsidiary protection. Where the applicant has not been found to qualify as a refugee, they may be eligible for subsidiary protection in accordance with Article 15 QR.

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

‘Article 15 of Directive 2011/95/EU […] must be interpreted as meaning that in order to determine whether an applicant for international protection is eligible for subsidiary protection, **the competent national authority must examine all the relevant factors**, relating both to the individual position and personal circumstances of the applicant and to the general situation in the country of origin, **before identifying the type of serious harm** that those factors may potentially substantiate.’

Therefore, where refugee status is not granted, **personal circumstances** (e.g. age, gender, professional and economic background, home area, potential vulnerabilities) **are still to be taken into account in the assessment of Article 15 QR**.

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

The contents of this chapter include:

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

- 17

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

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