



Country Guidance: Afghanistan

Guidance note and common analysis

The country guidance represents the common assessment of the situation in the country of origin by EU Member States.

June 2019



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This document updates the 'Country Guidance: Afghanistan' published in June 2018.

The country guidance represents the common assessment of the situation in the country of origin by senior policy officials from EU Member States, in accordance with current EU legislation and jurisprudence of the Court of Justice of the European Union (CJEU).

This guidance note does not 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 2019

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ISBN 978-92-9485-055-3

doi: 10.2847/464275

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Introduction

Why is this country guidance developed?

On 21 April 2016, 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.¹ 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 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 proposed by the European Commission.²

The country guidance is intended as a tool for policy-makers and decision-makers in the context of the Common European Asylum System (CEAS). It aims to assist in the examination of applications for international protection by applicants from Afghanistan, and to foster convergence in decision practices across Member States.

The first ‘Country Guidance: Afghanistan’ was published in June 2018, as a result of a pilot exercise. The current guidance updates and replaces the document from June 2018.

What is the scope of this update?

The current version of the guidance updates and replaces the ‘Country Guidance: Afghanistan’ (June 2018).

This update focuses on the sections [Article 15\(c\) QD](#), and [Internal protection alternative](#). Additionally, in light of up-to-date country of origin information, the assessment of the profile [Individuals of Hazara ethnicity](#) has been reviewed and updated.

Minor changes have also been introduced in other parts of the horizontal framework of the common analysis. These changes do not generally impact the assessment of the situation in Afghanistan as per the previous version of the guidance from June 2018.

Is this guidance binding?

The country guidance, developed by the Member States and published by EASO, is not binding. The guidance note, 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.

Who was involved in the development of this country guidance?

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.

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.

What is the applicable legal framework?

In terms of applicable legal framework, 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); where appropriate, the jurisprudence of the European Court of Human Rights (ECtHR) is also taken into account.

What guidance on qualification for international protection is taken into account?

The horizontal guidance framework applied in this analysis is based primarily on the '[EASO Practical Guide: Qualification for international protection](#)' and the '[EASO Practical Guide: Exclusion](#)'.⁴ It also takes into account relevant Judicial Analyses, published by EASO, and in particular those on 'Qualification for International Protection (Directive 2011/95/EU)', 'Article 15(c) Qualification Directive (2011/95/EU)', and on 'Exclusion: Articles 12 and 17 Qualification Directive (2011/95/EU)'.⁵

Relevant UNHCR guidelines, and in particular the UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, 30 August 2018, are also taken into account.^{6,7}

What country of origin information has been used?

The EASO Country Guidance documents should not be considered and should not be used or referenced as sources of country of origin information (COI). The information contained herein is based on EASO COI reports⁸ and, in some instances, other sources, as indicated. Unlike the Country Guidance, these represent COI sources and can be referenced accordingly.

This update is based on the following EASO COI reports:

- Security Situation (June 2019) [EN]
- Key socio-economic indicators. Focus on Kabul City, Mazar-e Sharif and Herat City (April 2019) [EN]

The country information analysed hereby also includes the following EASO COI reports:

- Security Situation - Update (May 2018) [EN]
- Networks (February 2018) [EN]
- Security Situation (December 2017) [EN]
- Individuals targeted by armed actors in the conflict (December 2017) [EN]
- Individuals targeted under societal and legal norms (December 2017) [EN]
- Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and Herat City (August 2017) [EN]

References within this document are to the respective sections of these COI reports. See [Annex II. Country of origin information references](#).

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.

⁴ EASO Practical Guides are available at <https://www.easo.europa.eu/practical-tools>.

⁵ Judicial analyses published by EASO are available at <https://www.easo.europa.eu/courts-and-tribunals>.

⁶ UNHCR Handbook and guidelines on procedures and criteria for determining refugee status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, as well as other guidance, policy documents and UNHCR ExCom and Standing Committee conclusions are available at <https://www.refworld.org/rsd.html>.

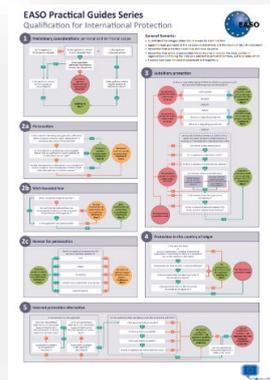
⁷ UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, 30 August 2018, available at: <https://www.refworld.org/docid/5b8900109.html>.

⁸ EASO COI reports are available at <https://www.easo.europa.eu/information-analysis/country-origin-information/country-reports>.

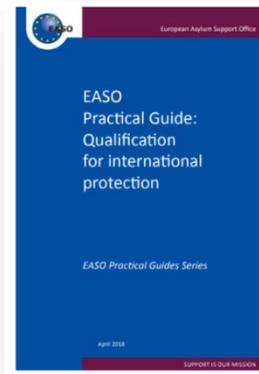
How does country guidance assist in the individual assessment of applications for international protection?

The guidance note and common analysis follow the steps of the examination of an individual application for international protection. This document looks into the relevant elements according the QD and provides a general assessment of the situation in the country of origin, along with guidance on relevant individual circumstances that should be taken into account.

Its approach is consistent with, and should be read in conjunction with, the more detailed horizontal guidance. For an outline and additional guidance on qualification for international protection and exclusion, see:



EASO Practical Guide: Qualification for international protection, Flowchart poster for practitioners⁹



EASO Practical Guide: Qualification for international protection¹⁰



EASO Practical Guide: Exclusion¹¹

⁹ 'EASO Practical Guide: Qualification for international protection', Flowchart for practitioners, available at <https://www.easo.europa.eu/sites/default/files/easo-flowchart-for-practicioners-qualification-for-international-protection-2018.pdf>.

¹⁰ 'EASO Practical Guide: Qualification for international protection', available at <https://www.easo.europa.eu/sites/default/files/easo-practical-guide-qualification-for-international-protection-2018.pdf>

¹¹ 'EASO Practical Guide: Exclusion', available at <https://www.easo.europa.eu/sites/default/files/EASO%20Practical%20Guide%20-%20Exclusion%20%28final%20for%20web%29.pdf>

How is this document structured?

The country guidance is structured into guidance note and common analysis:

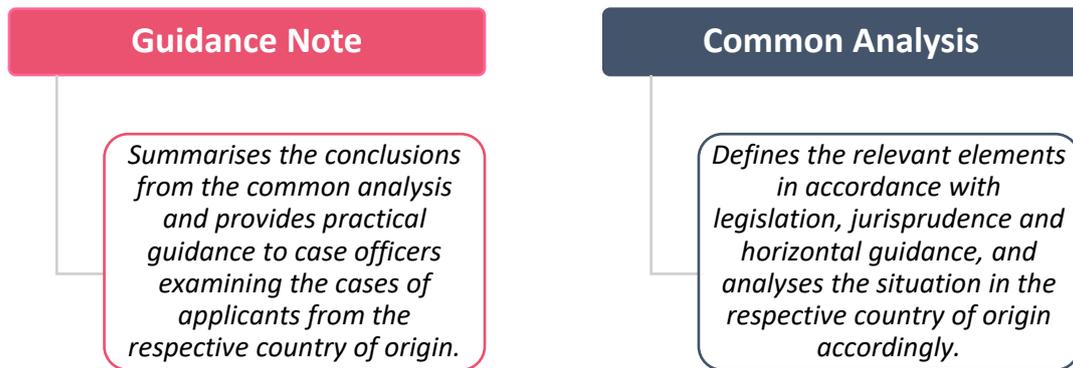


Figure 1. Country guidance elements

For additional information and to access other available country guidance, see <https://www.easo.europa.eu/country-guidance>

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

Risks to which a population of a country or a section of the population is generally exposed do not normally create in themselves an individual threat, which would qualify as serious harm ([Recital 35 QD](#)). Generally, persecution or serious harm must take the form of conduct on the part of a third party ([Article 6 QD](#)).

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 lists are 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
<ul style="list-style-type: none"> ▪ 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. 	<ul style="list-style-type: none"> ▪ 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	
Examples of potential actors of persecution or serious harm	Examples of potential acts of persecution or serious harm associated with these actors
<ul style="list-style-type: none"> ▪ 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. 	<ul style="list-style-type: none"> ▪ 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
<ul style="list-style-type: none"> ▪ clans and tribes ▪ (locally) powerful individuals ▪ family members ▪ criminal groups and individuals ▪ etc. 	<ul style="list-style-type: none"> ▪ 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
<p>'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;</p>

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

[Article 10 QD](#) provides further clarification on the different reasons for persecution (race, religion, nationality, political opinion or membership of a particular social group). 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 (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 be individually identified by the actor of persecution, as long as his or her fear of persecution is well-founded;
- 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;
- etc.

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

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 may 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. 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 [link](#) to the section 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.

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) Members of the security forces and pro-government militias: 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) Individuals working for foreign military troops or perceived as supporting them: individuals that are priority targets for insurgent groups (e.g. interpreters and security guards) *	▪ (imputed) political opinion
▶ (5) Members of insurgent groups and civilians perceived as supporting them *	▪ (imputed) political opinion
▶ (14) LGBT	▪ membership of a particular social group
▶ (16) Individuals considered to have committed blasphemy and/or apostasy	▪ religion
▶ (17d) Baha'i	▪ religion
▶ (18a) Individuals involved in blood feuds: 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 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
<p>▶ (1) <u>Members of the security forces and pro-government militias</u>: individuals that are not priority targets for insurgent groups *</p>	<ul style="list-style-type: none"> ■ 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. 	<ul style="list-style-type: none"> ■ (imputed) political opinion
<p>▶ (2) <u>Government officials, including judges, prosecutors and judicial staff; and those perceived as supporting the government</u> *</p>	<ul style="list-style-type: none"> ■ 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 ■ etc. 	<ul style="list-style-type: none"> ■ (imputed) political opinion
<p>▶ (3) <u>Individuals working for foreign military troops or perceived as supporting them</u>: individuals that are not priority targets for insurgent groups*</p>	<ul style="list-style-type: none"> ■ 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. 	<ul style="list-style-type: none"> ■ (imputed) political opinion
<p>▶ (4) <u>Religious leaders</u></p>	<ul style="list-style-type: none"> ■ public expression of support for the government or condemnation of insurgents' actions ■ performing ceremonies for killed members of the security forces ■ etc. 	<ul style="list-style-type: none"> ■ (imputed) political opinion ■ religion

<p>▶ (6) <u>Individuals at risk of forced recruitment</u></p>	<ul style="list-style-type: none"> ■ 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. 	<ul style="list-style-type: none"> ■ (imputed) political opinion
<p>▶ (7) <u>Educational personnel</u></p>	<ul style="list-style-type: none"> ■ 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. 	<ul style="list-style-type: none"> ■ (imputed) political opinion ■ religion
<p>▶ (8) <u>Humanitarian workers and healthcare professionals</u></p>	<ul style="list-style-type: none"> ■ 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. 	<ul style="list-style-type: none"> ■ (imputed) political opinion
<p>▶ (9) <u>Journalists, media workers and human rights defenders</u></p>	<ul style="list-style-type: none"> ■ 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. 	<ul style="list-style-type: none"> ■ (imputed) political opinion
<p>▶ (10) <u>Children</u></p>	<p>For child marriage: see '<i>Women – harmful traditional marriage practices</i>' below.</p> <p>For child labour (depending on the nature of the work and the age of the child):</p>	<p>Depending on individual circumstances:</p>

- poor socio-economic status of the child and his or her family, etc.

For child recruitment: see '*Individuals at risk of forced recruitment by armed groups*' 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 *bacha bazi*)
- 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.

- (imputed) political opinion (e.g. girls attending school in Taliban-controlled area)
- membership of a particular social group (e.g. (former) *bacha bazi*)

► (11) **Women**

For violence against women:

- 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.

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)

Depending on individual circumstances:

- (imputed) political opinion (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)

- 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) **Individuals perceived as 'Westernised'**

- 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')

<p>▶ (15) <u>Persons living with disabilities</u></p>	<ul style="list-style-type: none"> ▪ nature and visibility of the mental or physical disability ▪ negative perception by the family ▪ etc. 	<ul style="list-style-type: none"> ▪ membership of a particular social group
<p>▶ (17a) <u>Individuals of Hazara ethnicity</u></p>	<p>Being a Hazara in itself would normally not lead to the level of risk required to establish well-founded fear of persecution. In most cases where a well-founded fear of persecution is substantiated, it would be related to circumstances falling under other profiles included in this guidance, such as the profiles on <i>Shia, including Ismaili, Members of the security forces and pro-government militias, Government officials, including judges, prosecutors and judicial staff; and those perceived as supporting the government</i>, etc.</p> <p>The individual assessment should also take into account risk-impacting circumstances, such as:</p> <ul style="list-style-type: none"> ▪ the area of origin and area of work (depending on the actor of persecution), ▪ profession ▪ political activism ▪ etc. 	<ul style="list-style-type: none"> ▪ (imputed) religion (see Shia, including Ismaili) ▪ (imputed) political opinion (e.g. links to the government, perceived support for Iran) ▪ race (ethnicity)
<p>▶ (17b) <u>Shia, including Ismaili</u></p>	<ul style="list-style-type: none"> ▪ area of origin (areas where ISKP has operational presence) ▪ participation in religious practices ▪ political activism ▪ etc. 	<ul style="list-style-type: none"> ▪ religion
<p>▶ (17c) <u>Hindus and Sikhs</u></p>	<p>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.</p>	<ul style="list-style-type: none"> ▪ religion
<p>▶ (18a) <u>Individuals involved in blood feuds: other than men directly involved in the blood feud</u> *</p>	<ul style="list-style-type: none"> ▪ intensity of the blood feud ▪ origin from areas where the rule of law is weak ▪ etc. 	<ul style="list-style-type: none"> ▪ 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>	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 individual is intentionally deprived of healthcare.	Depending on individual circumstances
▶ (18b) <u>Individuals involved in land disputes</u> *	<ul style="list-style-type: none"> ▪ 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> *	<ul style="list-style-type: none"> ▪ 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>	<ul style="list-style-type: none"> ▪ 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.
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** Please note that exclusion considerations could be relevant to this profile.*

III. Subsidiary protection

1. 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, there would often be a nexus to a Convention ground (for example, [LGBT, individuals considered to have committed blasphemy and/or apostasy, members of insurgent groups and civilians perceived as supporting them](#), etc.), 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.

Please note that exclusion considerations could be relevant.

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

In the cases of applicants for whom 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:

- [Healthcare unavailability and socio-economic conditions](#): It is important to note that serious harm must take the form of conduct on the part of a third party ([Article 6 QD](#)). In themselves, the general unavailability of healthcare, 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 healthcare.
- [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.

3. 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.

In order to apply [Article 15\(c\) QD](#) the above elements should be established cumulatively.

The following is a summary of the relevant conclusions concerning the situation in Afghanistan:

- a. **Armed conflict:** Internal armed conflict within the meaning of [Article 15\(c\) QD](#) takes place in the territory of Afghanistan. During the reference period, there was one province in which a situation of 'internal armed conflict' within the meaning of [Article 15\(c\) QD](#), as interpreted in the *Diakité* judgment, did not take place, i.e. Panjshir.
- b. **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 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](#). For example:
 - **Insurgents / AGEs:** members of armed groups pursuing political, ideological or economic objectives, such as the Taliban, ISKP, IMU, the Haqqani Network, Al-Qaeda, Jundullah, as well as armed criminal groups directly engaged in hostile acts on behalf of a party to the conflict;
 - **ANSF:** including the ANA, parts of ANP,¹² NDS, as well as ALP;
 - **PGMs:** different paramilitary initiatives that have been developed and formalised to support the Afghan government and to assist the formal armed forces of Afghanistan, such as the Khost Protection Force;

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.

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.

- c. **Indiscriminate violence:** Indiscriminate violence takes place to a different degree in different parts of the territory of Afghanistan. The map below summarises and illustrates the assessment of indiscriminate violence per province. This assessment is based on a holistic analysis, including quantitative and qualitative information for the reference period (primarily,

¹² 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.

1 January 2018 – 28 February 2019). Up-to-date country of origin information should always inform the individual assessment.

Afghanistan: Level of indiscriminate violence

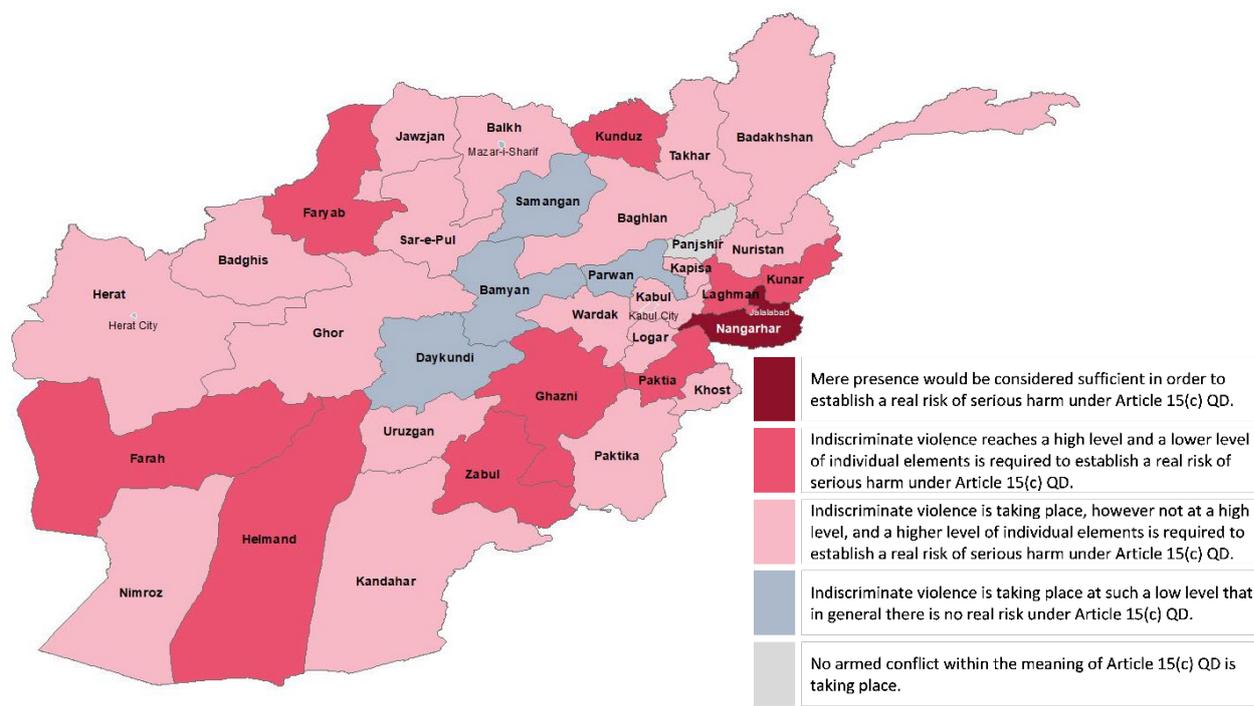


Figure 4. Level of indiscriminate violence in a situation of armed conflict in Afghanistan (based on data as of 28 February 2019).

For the purposes of the guidance note, the provinces of Afghanistan are categorised as follows:

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

This is assessed to be the case for the province of *Nangarhar*, except the provincial capital Jalalabad.

Provinces where 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD, however, indiscriminate violence reaches a high level, and, accordingly, a **lower level of individual elements** is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

This includes the following provinces:

Farah, Faryab, Ghazni, Helmand, Kunar, Kunduz, Laghman, Paktia/Paktia, Zabol, as well as *Jalalabad City*.

Provinces where indiscriminate violence is taking place, however not at a high level and, accordingly, a **higher level of individual elements** is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

This includes the following provinces:

Badakhshan, Badghis, Baghlan, Balkh (except the capital city Mazar-e Sharif), *Ghor, Herat* (except Herat City), *Jawzjan, Kabul* (including *Kabul City*), *Kandahar, Kapisa, Khost, Logar, Nimroz, Nuristan, Paktika, Sar-e-Pul, Takhar, Uruzgan, Wardak*.

Provinces 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 within 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.

This includes the provinces *Bamyan, Daikundi/Daykundi, Parwan* and *Samangan*, as well as *Herat City* and *Mazar-e Sharif*.

Provinces where **no armed conflict is taking place**. Therefore, there is no real risk of serious harm within the meaning of Article 15(c) QD.

This is assessed to be the case for the province of *Panjshir*.

- 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: geographical proximity to areas which are targeted by violence, age, gender, health condition and disabilities, lack of a social network, etc.

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

- 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 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 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. **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. Some of the commonly reported types of harm to a civilian’s life or person in Afghanistan include killings, injuries, abductions, disabilities caused by landmines, famine caused by food insecurity, etc.
- f. **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 to 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 healthcare 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:

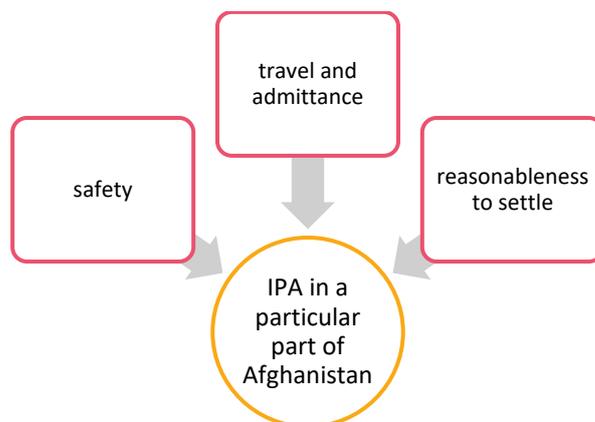


Figure 5. Internal protection alternative: elements of the assessment.

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:

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**

In light of the assessment of indiscriminate violence under [Article 15\(c\) QD](#), it can be concluded that the general security situation in the cities of Kabul, Herat and Mazar-e Sharif does not preclude the consideration of the three cities as IPA. However, a careful examination of the safety requirement with regard to IPA should take place, particularly when assessing the availability of IPA to Kabul.

▶ **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 safety 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 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 and their ability to track and target individuals in the cities should be assessed; in most cases IPA could be available. The operational presence of ISKP in Kabul and Herat should be taken into account in the individual assessment.

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. LGBTI persons, 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, 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.

▶ **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.

▶ **behaviour of the applicant**

The applicant cannot be expected to change his or her behaviour or to live in concealment, for example in relation to his or her sexual orientation or religion, in order to avoid persecution or serious harm.

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:

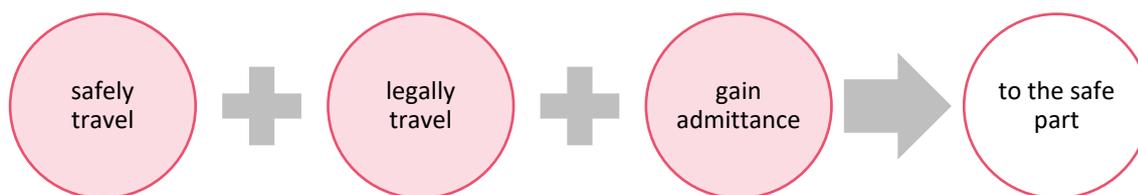


Figure 6. Travel and admittance as requirements for IPA.

- ✓ **Safely travel:** Based on available COI, it is concluded that in general, a person can access the cities of Kabul, Herat and Mazar-e Sharif without serious risk.
- ✓ **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 social 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:

- the situation with regard to food security;
- the availability of basic infrastructure, such as:
 - shelter and housing;
 - basic healthcare;
 - hygiene, including water and sanitation;
- 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.

The general situation in the area in consideration should be examined in light of the criteria described above, and not in comparison with standards in Europe or other areas in the country of origin.

Based on available COI, it is concluded that the general circumstances prevailing in the cities of Kabul, Herat and Mazar-e Sharif, assessed in relation to the factors above, do not preclude the reasonableness to settle in the cities. The assessment should take into account the individual circumstances of the applicant. A person’s ability to navigate the above circumstances will mostly depend on access to a support network or financial means.

✓ **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
- state of health
- ethnicity and linguistic background
- religion
- documentation
- local knowledge
- professional and educational background and financial means
- support network
- etc.

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. 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.

For further guidance on the impact of these factors on the reasonableness of IPA for a particular applicant, see [*Individual circumstances*](#).

Conclusions on reasonableness: commonly encountered profiles

The list below includes general conclusions with regard to some profiles, which are commonly encountered in practice.

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

Single able-bodied men	<p>Although the situation related to settling in the cities of Kabul, Herat and Mazar-e Sharif entails certain hardships, IPA may be reasonable for single able-bodied men, taking into account their individual circumstances. The following can in particular be taken into account: age, gender, family status, state of health, professional and educational background and financial means, local knowledge, support network, etc.</p> <p><i>*For applicants who were born and/or lived outside Afghanistan for a very long period of time see separate conclusion below.</i></p>
Married couples of working age without children	<p>Although the situation related to settling in the cities of Kabul, Herat and Mazar-e Sharif entails certain hardships, IPA may be reasonable for married couples of working age without children, taking into account their individual circumstances. The following can in particular be taken into account: age, gender, family status, state of health, professional and educational background and financial means, local knowledge, support network, etc.</p> <p>The individual assessment should further examine whether in the situation of the couple sufficient basic subsistence can be ensured for both.</p> <p><i>*For applicants who were born and/or lived outside Afghanistan for a very long period of time see separate conclusion below.</i></p>
Single women without a male support network	<p>In Afghanistan, most women would not have independent access to means of ensuring their basic subsistence and basic services. 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.</p>
Unaccompanied children	<p>Due to their young age, children need to depend on other providers for their basic subsistence. The best interests of the child shall be a primary consideration. The question of access to basic education should be assessed in relation to the general situation in the respective city, as well as the individual circumstances of the child.</p> <p>In general, IPA would not be reasonable for children without a support network in the respective part of Afghanistan.</p>
Families with children	<p>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. The best interests of the child shall be a primary consideration. The question of access to basic education should be assessed in relation to the general situation in the respective city, as well as the individual circumstances of the family.</p> <p>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.</p>

Applicants with severe illnesses or disabilities

Depending on the health condition of the applicant, the limited accessibility of healthcare in the three cities may place him or her 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.

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.

Elderly applicants

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. Additionally, the state of health of an elderly applicant may cause difficulties, including in access to employment.

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.

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

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. An existing support network could also provide the applicant with such local knowledge. The background of the applicant, including their educational and professional experience and connections, as well as previous experience of living on their own outside Afghanistan, could be relevant considerations.

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.

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	<ul style="list-style-type: none"> ▪ crimes against peace, war crimes and crimes against humanity ▪ 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 	Subsidiary protection	<ul style="list-style-type: none"> ▪ 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.¹³

- ▶ **‘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.

¹³ 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

In order to apply this exclusion 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. 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 and General Assembly resolutions).

Relevant jurisprudence of the CJEU also views participation in the activities of a terrorist group under this provision.¹⁴

¹⁴ 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.

In the context of Afghanistan, (former) membership in armed groups such as ISKP, the Taliban or Hezb-e Islami, could trigger relevant considerations and require an examination of the applicant's activities under [Article 12\(2\)\(c\) QD/Article 17\(1\)\(c\) QD](#), in addition to the considerations under [Article 12\(2\)\(a\) QD/Article 17\(1\)\(a\) QD](#).

The application of exclusion should be based 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 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.

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
<p>Actors of persecution or serious harm include:</p> <ul style="list-style-type: none"> 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.

Risks to which a population of a country or a section of the population is generally exposed do not normally create in themselves an individual threat which would qualify as serious harm ([Recital 35 QD](#)). Generally, persecution or serious harm must always take the form of conduct on the part of a third party ([Article 6 QD](#)). For example, it cannot simply be the result of general shortcomings in the health system of the country of origin.¹⁵

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.

¹⁵ CJEU, *Mohamed M'Bodj v État belge*, C-542/13, Judgment of 18 December 2014, C-542/13, paras. 35-36.

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, kinship and tribal association [*Conflict targeting*, 2.2; *Key socio-economic indicators 2017*, 3.3.3, 3.4.4.3]. There have also been reports of extrajudicial killings of civilians, suspected to be anti-government elements (AGEs), 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 2017*, 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 2019*, 1.2.2].

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]. ISKP has limited territorial control, however, they have been able to carry out attacks in different parts of the country, including major cities [*Conflict targeting*, 1.2.10.3, 1.5.1.1; *Security situation 2019*, 1.2.2, 2.1].

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 harmful traditional 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 2017*, 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 2019*, 1.4.2; *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

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
<p>‘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 [exclusion] does not apply;</p>

According to [Article 9\(1\) QD](#):

Article 9(1) of the Qualification Directive
Acts of persecution
<p>In order to be regarded as an act of persecution within the meaning of Article 1(A) of the Geneva Convention, an act must:</p> <ol style="list-style-type: none"> 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](#).

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. 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 area¹⁶ of the applicant and presence of the potential actor of persecution;

¹⁶ 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.

- 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 (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 be individually identified by the actor of persecution, as long as his or her fear of persecution is well-founded;
- 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;
- etc.

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](#)). On the other hand, it should be noted that in order to establish well-founded fear of persecution there is no requirement of past persecution or threats. The risk assessment should be forward-looking.

A well-founded fear of being persecuted may also be based on events which have taken place and/or on activities which the applicant has engaged in since he or she left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin ([Article 5 QD](#)).

Once the required level of persecution as well as nexus have been established in relation to the home area of the applicant, 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, in particular where the requirement of nexus has is not satisfied, 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 lists of examples with regard to sub-profiles at a differentiated risk and to circumstances, which would normally increase or decrease the risk, are to be taken into account in light of all circumstances in the individual case.

In some cases, even if the applicant no longer belongs to a certain profile, 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 their own protection needs.

It should be highlighted that 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. This common analysis deals solely with issues of risk analysis and qualification.

For each profile, the sections below provide:

- ▶ **COI summary:** brief summary and analysis of the available common COI, as referenced.
- ▶ **Risk analysis:** analysis whether the treatment of individuals under this profile may amount to persecution; and assessment of the level of risk, which highlights some of the risk-impacting circumstances, where relevant.
- ▶ **Nexus to a reason for persecution:** where individuals under the respective profile may have a well-founded fear of persecution, this sub-section analyses the presence of nexus to a reason for persecution in general. 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.

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

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

COI summary

[*Conflict targeting*, 1.2.5, 1.5.1]

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.

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 2019*, 1.2.2; *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, 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, 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, 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, 2.4].

Risk analysis

Educational personnel could be exposed to acts that 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

[*Conflict targeting*, 1.2.6, 2.4]

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.

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, 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 analysis are presented below by subsection. The analysis of potential nexus in the case of children is provided at the end of the profile 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 2017*, 4.3; *Key socio-economic indicators 2019*, 4.5]. However, child labour remains a pervasive problem in Afghanistan [*Key socio-economic indicators 2017*, 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 2017*, 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 2017*, 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 2017*, 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.¹⁷ 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.

Nexus to a reason for persecution

See [below](#).

¹⁷ 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.

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 2017*, 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.

Nexus to a reason for persecution

See [below](#).

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 2019*, 7.3, 7.4; *Key socio-economic indicators 2017*, 2.5, 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.¹⁸ However, in the case of deliberate restrictions on access to education, in particular for girls, this could amount to persecution.

Nexus to a reason for persecution

See [below](#).

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 2017*, 4.3.1].

Children in orphanages reported mental, physical and sexual abuse, and were sometimes victims of human trafficking [*Key socio-economic indicators 2017*, 4.3.1]. The shelters, furthermore, often lack the capacity to support traumatised minors [*Key socio-economic indicators 2017*, 4.4.4].

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 2017*, 4.3.2, 4.3.3, 4.4].

¹⁸ CJEU, *M'Bodj*, paras. 35-36.

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.

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

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

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

- f. lack of a male support network.

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, 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, 3.8.5; *Key socio-economic indicators 2017*, 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, 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, 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 2017*, 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, 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.

Nexus to a reason for persecution

See [below](#).

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 2017*, 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, 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, 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.

Nexus to a reason for persecution

See [below](#).

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, healthcare, 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, 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, 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, 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.

Nexus to a reason for persecution

See [below](#).

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 2017*, 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, 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, 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, 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 2017*, 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, 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, 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 take 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.¹⁹

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

¹⁹ 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.

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.²⁰

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 2017*, 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 2017*, 2.6.5].

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;²¹ *Key socio-economic indicators 2017*, 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 individual is intentionally deprived of healthcare.²²

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,

²⁰ CJEU, *X, Y and Z*, paras. 45-49.

²¹ 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>.

²² CJEU, *M'Bodj*, paras. 35-36.

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 their genuine inner belief (converts), as well as those who disbelieve or lack belief in the existence of 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, 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, 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.²³ It should be noted that the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs ([Article 10\(1\)\(b\) QD](#)).

In the case of those considered apostates or blasphemers, 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.

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 by insurgent groups, in particular by ISKP, have significantly affected the Hazara population in 2018. Attacks by ISKP targeted places where Hazara/Shia gather, such as religious commemorations or political demonstrations, and sites in Hazara-dominated neighbourhoods in large cities, including Kabul and Herat. 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; *Security situation 2019*, 1.2.2, 2.1, 2.13].

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

²³ CJEU, *Bundesrepublik Deutschland v Y and Z*, joined cases C-71/11 and C-99/11, judgment of 5 September 2012, para 80.

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).

Being a Hazara in itself would normally not lead to the level of risk required to establish well-founded fear of persecution. In most cases where a well-founded fear of persecution is substantiated, it would be related to circumstances falling under other profiles included in this guidance, such as the profiles on *Shia, including Ismaili*, *Members of the security forces and pro-government militias*, *Government officials, including judges, prosecutors and judicial staff*; and *those perceived as supporting the government*, etc. The individual assessment should also take into account risk-impacting circumstances, such as the area of origin and area of work (depending on the actor of persecution), profession, political activism, etc.

Nexus to a reason for persecution

Available information indicates that persecution of this profile may be for reasons of (imputed) religion (see profile on *Shia*), (imputed) political opinion (e.g. links to the government, perceived support for Iran), and/or race (ethnicity).

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 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 demonstrations [*Conflict targeting*, 1.2.10.2].

In 2018, the majority of ISKP attacks on religious sites reportedly targeted Shia communities. The territorial control of the ISKP is limited, however they have been able to carry out attacks in different parts of the country [*Security situation 2019*, 1.2.2, 2.1, 2.13; *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, 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, 7.7.3; *Key socio-economic indicators 2017*, 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, 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 (2019)*, 1.4.2; *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 2019*, 1.4.2; *Security situation 2017*, 1.7, 2.1, 2.13].

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

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

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.

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, there would often be a nexus to a reason for persecution falling under the definition of a refugee (for example, *LGBT, individuals considered to have committed blasphemy and/or apostasy, members of insurgent groups and civilians perceived as supporting them*, etc.), 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 reason for persecution falling under the definition of a refugee, 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) is required in this regard.

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

- **Healthcare 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 ([Article 6 QD](#)). In themselves, the general unavailability of healthcare, 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 healthcare.^{24,25}

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 of 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. When assessing the conditions of detention, the following elements can, for example, be taken into consideration (cumulatively): number of detained persons in a limited space, adequacy of sanitation facilities, heating, lighting, sleeping arrangements, food, recreation or contact with the outside world. 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).

²⁴ CJEU, *M'Bodj*, paras.35-36.

²⁵ 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 EASO COI report on the security situation in Afghanistan published in June 2019. The general reference period for this chapter is **1 January 2018 – 28 February 2019**. Information concerning some of the indicators was not available for the first months of 2019 and the reference period in these instances is 1 January 2018 – 31 December 2018; this is clarified within the text. Events taking place after 28 February 2019 are not taken into account in the common analysis.

This guidance should be considered valid as long as current events and developments fall within the trends and patterns of violence observed 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 the protection needs which 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, *Diakité* judgment:²⁶ The judgment is of particular importance for the interpretation of relevant concepts, and in particular of 'internal armed conflict'.
- ▶ CJEU, *Elgafaji* judgment:²⁷ 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](#).
- ▶ ECtHR, *Sufi and Elmi* judgment:²⁸ 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

²⁶ CJEU, *Aboubacar Diakité v. Commissaire général aux réfugiés et aux apatrides*, C-285/12, Judgment of the Court (Fourth Chamber) of 30 January 2014.

²⁷ CJEU, *Elgafaji v. Staatssecretaris van Justitie*, C-465/07, Judgment of the Court (Grand Chamber) of 17 February 2009.

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

situation in a country and the degree of generalised violence were consulted in order to design the indicators of indiscriminate violence for the purposes of this common analysis.

The elements to examine under [Article 15\(c\) QD](#) are:



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

Figure 7. Elements of the legal provision of Article 15(c) QD.

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;²⁹

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.³⁰

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.

²⁹ *Diakité*, para 35.

³⁰ *ibid.*

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 ‘internal armed conflict’ within the meaning of [Article 15\(c\) QD](#), as interpreted in the *Diakité* judgment, did not take place, i.e. [Panjshir](#).³¹

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. Qualification of a person as a ‘civilian’

Being a civilian is a prerequisite in order to be able to benefit from protection under [Article 15\(c\) QD](#). 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](#). For example:

- **Insurgents / AGEs:** members of armed groups pursuing political, ideological or economic objectives, such as the Taliban, ISKP, IMU, the Haqqani Network, Al-Qaeda, Jundullah, as well as armed criminal groups directly engaged in hostile acts on behalf of a party to the conflict should be considered outside the scope of subsidiary protection under [Article 15\(c\) QD](#);
- **ANSF:** including the ANA, parts of ANP,³² NDS, as well as ALP.
- **PGMs:** different paramilitary initiatives that have been developed and formalised to support the Afghan government and to assist the formal armed forces of Afghanistan, such as the Khost Protection Force, should also be considered outside the scope of subsidiary protection under [Article 15\(c\) QD](#).

See also the chapter on [Actors of persecution or serious harm](#).

³¹ Panjshir/Panjsher: No confrontations between armed groups were reported during the reference period. No civilian casualties were documented by UNAMA in 2018 [*Security situation 2019*, 2.28].

³² 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.

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.

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. For example, the assessment should take into account whether the person had voluntarily taken part in the armed conflict; those who willingly joined the armed groups are unlikely to be considered civilians.

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.

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

c. 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.*³³

Some acts of violence may be indiscriminate by their nature, for example: (suicide) bombings, 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:³⁴

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.

In this category, ‘mere presence’ would exceptionally be considered sufficient and no

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 it is of such a low level that in general there would be no real risk for a civilian to be personally affected, to territories where the degree of indiscriminate violence is high and a lower level of individual elements would be required to

³³ *Elgafaji*, para.34.

³⁴ *Elgafaji*, para.43.

further individual elements would need to be substantiated.

establish a real risk of serious harm under Article 15(c) QD.

With regard to the second category, *Elgafaji* provides guidance on how the serious and individual threat 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.*³⁵

Risk-impacting elements related to the personal circumstances of the applicant should, therefore, be taken into account. See subsection on *Serious and individual threat*.

The graph below illustrates the further differentiated standard scale applied in country guidance 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 under Article 15(c) QD is substantiated for the applicant:

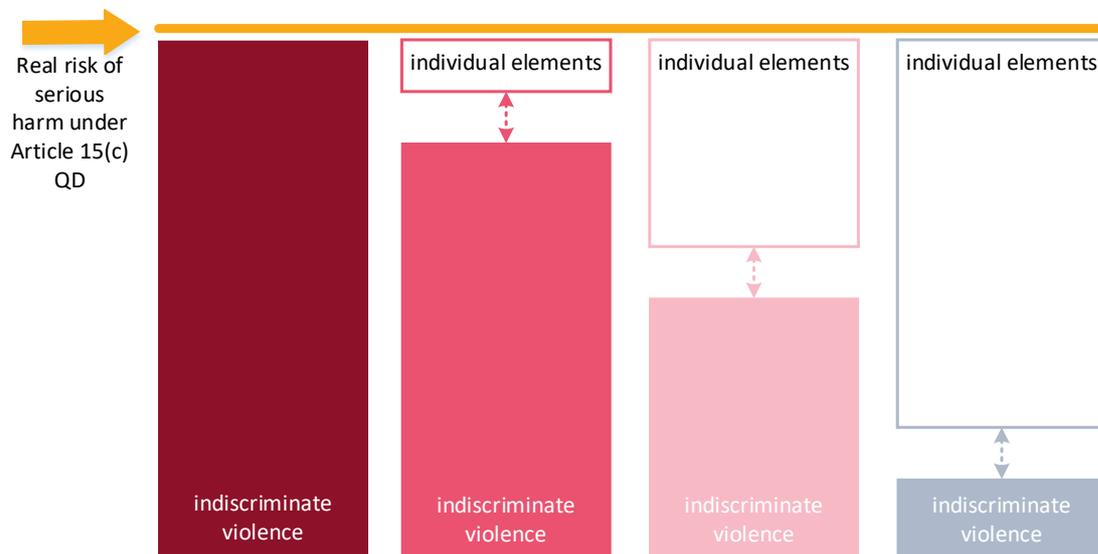


Figure 8. Indiscriminate violence and individual elements in establishing real risk of serious harm under Article 15(c) QD.

The different levels of indiscriminate violence can be described as follows:

I. Territories where ‘mere presence’ would be considered sufficient in order to establish a real risk of serious harm under Article 15(c) QD.

Territories where the degree of indiscriminate violence reaches such an exceptionally 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.

³⁵ *Elgafaji*, para.39.

II. Territories where real risk of serious harm under Article 15(c) QD may be established if the applicant is specifically affected by reason of factors particular to his or her personal circumstances (based on a ‘sliding scale’).

Territories where ‘mere presence’ in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD, however, indiscriminate violence reaches a high level, and, accordingly, **a lower level of individual elements** is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Territories where indiscriminate violence is taking place, however not at a high level and, accordingly, **a higher level of individual elements** is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

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 within the meaning of Article 15(c) QD.

It should be noted that in armed conflicts the targeting of civilians may have nexus to one of the reasons for persecution according the refugee definition under the QD. Therefore, refugee status may be granted as noted in the section above (see, for example, the profiles *Government officials, including judges, prosecutors and judicial staff; and those perceived as supporting the government, Religious leaders, Educational personnel, Humanitarian workers and healthcare professionals, Journalists, media workers and human rights defenders, Ethnic and religious minorities*). Such targeted violence, furthermore, would not be considered ‘indiscriminate’.

Indicators of indiscriminate violence

The common analysis below regarding the degree of indiscriminate violence taking place in the different provinces in 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.*³⁶

These indicators are further developed and adapted 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 in the respective states is assessed by taking into account the following elements, as reflected in the *Security situation 2019* COI report.

³⁶ *Sufi and Elmi*, para.241.

❑ Presence of actors in the conflict

This indicator looks into the presence of actors in the conflict in the respective province. In this regard, the assessment of the Long War Journal (LWJ) is taken into account. The source relies on primary data and research based on open-source information, such as press reports and information provided by government agencies, including the Resolute Support Mission/SIGAR assessment, and by the Taliban. The LWJ frequently updates the information, as verifiable research is conducted to support control changes. The definitions applied by the LWJ are as follows:

- **'Contested'** district may mean that the government may be in control of the district centre, but little else, and the Taliban controls large areas or all of the areas outside of the district centre.
- **'Controlled'** district may mean the Taliban is openly administering a district, providing services and security, and also running the local courts.
- **'Unconfirmed'** district means that some level of claim-of-control is made by the Taliban, but either has not yet been—or cannot be— independently verified by LWJ research.

Districts are also defined as **'under government control or undetermined'** in line with the LWJ assessment.

In addition, this indicator mentions the reported presence of other insurgent groups, such as ISKP, Haqqani Network, etc.

The presence of Afghan security forces and their international allies is not systematically mentioned under this indicator. However, examples of incidents often refer to their activities in the province.

❑ Nature of methods and tactics

The methods and tactics may differ according to the actors involved. Some acts are by their nature more indiscriminate than others and create a more substantial risk for civilians.

Under this indicator, the sections below outline the leading causes of civilian casualties recorded by UNAMA. In addition, examples of incidents are provided as illustration of the methods and tactics used by the actors present in the province. It should be underlined that these examples are only for illustrative purposes and are by no means exhaustive or conclusive.

❑ Number of incidents

This indicator presents the total number of security incidents related to insurgents, as provided in the *Security situation 2019* report, on the basis of the Global Incident Map (GIM) and further sources used for verification.

In addition, an average frequency per week is provided for illustrative purposes.

❑ Geographical scope

This indicator looks into how spread the violence is and whether it affects the whole of the province or certain parts of it. The general approach under this section is to provide assessment at province level. Some information on district level is provided within the sub-sections and may be taken into account for further analysis.³⁷

³⁷ A note should be made that in the absence of an official list of districts, in principle the administrative divisions of the provinces used by UNOCHA are followed, in line with the *Security situation 2019* report. In some instances, the text refers to 'unofficial' districts (created before 2004 by the previous government, often by splitting existing districts) and 'temporary' districts (approved after the entry into force of the Constitution in 2004 by the President due to security or other considerations, but not yet approved by the Parliament).

In general, a differentiation can be made in the security situation in rural and urban areas, particularly with regard to provincial capitals. The accessibility of the area should also be taken into account.

The sections below highlight the districts qualified by UNOCHA in the highest and in the second highest category of conflict severity, out of six categories. The severity ranking adopted by UNOCHA is based on three indicators: armed clashes and airstrikes; civilian casualties, and conflict induced displacement, per district.

Certain districts are, furthermore, mentioned in examples of security-related incidents, as well as under further impact on the civilian population.

For some provinces, and in particular Kabul, Herat, Balkh, and Nangarhar, the situation in the capital cities is specifically addressed.

❑ 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 1 January – 31 December 2018, as recorded by UNAMA.

The reported number of civilian casualties is further weighted by the estimated population in the province 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 and within the province. In some cases, it is furthermore deemed relevant to note that internal displacement *to* the province or a city within the province is observed.

In addition to the indicators above, some examples of further impact of the armed conflicts 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 should be underlined.

Indiscriminate violence in Afghanistan

In this sub-section, some highlights concerning the indicators above are presented in terms of recent trends in the situation in Afghanistan, before looking into the assessment of indiscriminate violence at provincial level.

According to UNAMA, in 2018 fighting intensified particularly in the east, southeast and in some areas within the south. The Taliban ‘made territorial gains in sparsely populated areas, and advanced their positions in areas that had not seen fighting in years’ [*Security situation 2019, 1.1.1*]. As of December 2018, it was reported that all provincial centres were under the control or influence of the Afghan

government, however, throughout 2018, the Taliban had succeeded in temporarily capturing several district centres [*Security situation 2019*, 1.5.1].

In the context of Afghanistan all actors in the conflict engage in activities which (indiscriminately) affect civilians. According to UNAMA reporting, AGEs were responsible for 63 % of civilian casualties in 2018, with 37 % attributed to the Taliban and 20 % attributed to ISKP. In 2018, AGEs relied more on suicide and complex attacks and shifted their intended targets more and more towards the civilian population [*Security situation 2019*, 1.2.2, 1.3]. UNAMA attributed 24 % of the civilian casualties in 2018 to pro-government forces. An increase of 24 % in the number of civilian casualties attributed to the pro-government forces was mainly driven by a considerable increase in civilian casualties from aerial operations by international military forces and from search operations by ANSF and pro-government armed groups [*Security situation 2019*, 1.2.1].

In 2018, UNAMA documented a total of 10 993 civilian casualties as a result of the armed conflict, including 3 804 civilian deaths. This represents an increase compared to 10 459 civilian casualties, including 3 440 civilian deaths in 2017 [*Security situation 2019*, 1.4.1].

The figure below illustrates the civilian casualties by type of incident.

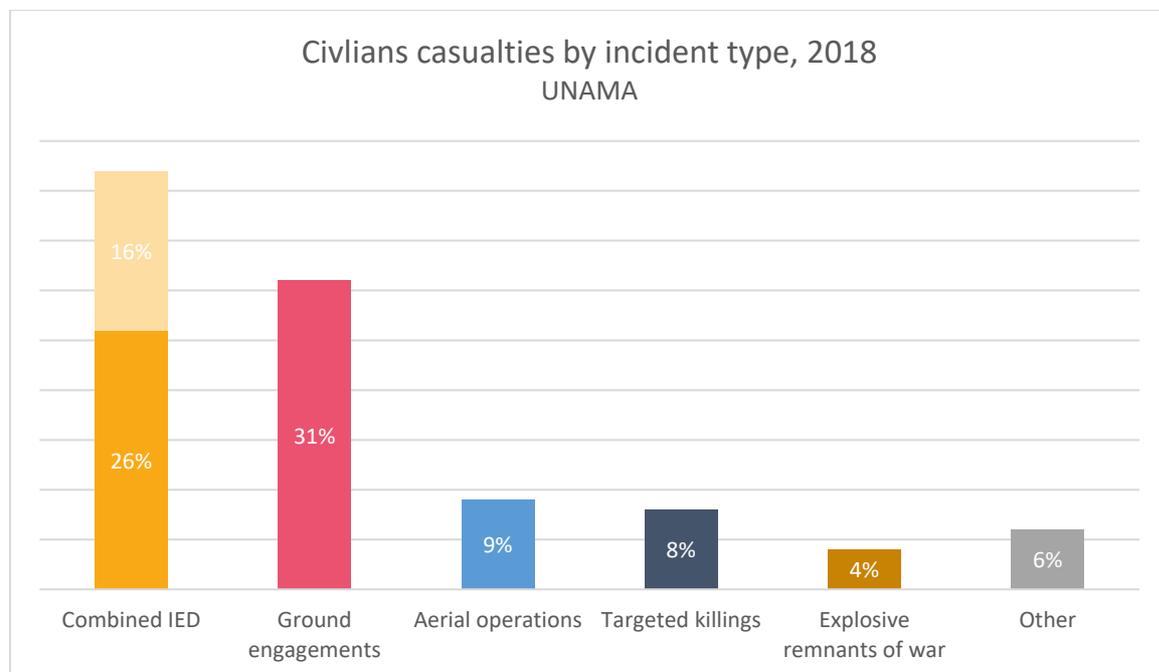


Figure 9. UNAMA, *Civilian casualties by incident type, January to December 2018*.³⁸

- **Improved explosive devices (IEDs):** At 42 % of the total, improvised explosive devices (IEDs) used by AGEs in both suicide and non-suicide attacks remained the leading cause of civilian casualties in 2018. Suicide and complex attacks resulted in 2 809 civilian casualties (26 % of the civilian casualties), the highest number of civilian casualties from such attacks in a single year, recorded by UNAMA since 2009. UNAMA further found that the substantial increase in civilian casualties attributed to ISKP was mostly due to the increase in suicide and complex attacks, in particular attacks carried out against civilians or in civilian-populated areas. 1 818

³⁸ UNAMA, *Afghanistan Protection of civilians in armed conflict Annual Report 2018*, 24 February 2019.

civilian casualties (16 % of the civilian casualties) were caused by non-suicide IEDs in 2018 [*Security situation*, 1.3, 1.3.2, 1.4.1].

- **Ground engagements:** Ground engagements remained the second leading cause for civilian casualties. UNAMA documented 3 382 civilian casualties caused by ground engagements in 2018, accounting for 31 % of the civilian casualties [*Security situation*, 1.3.1].
- **Aerial operations:** In 2018, UNAMA documented 1 015 civilian casualties (9 % of the civilian casualties) caused by 173 areal operations, with the majority attributed to international military forces. This represents 61 % increase in the number of civilian casualties by aerial operations compared to 2017 [*Security situation*, 1.3.5].
- **Targeted killings:** In 2018, UNAMA documented 589 civilian casualties (6 % of the civilian casualties) caused by targeted killings, showing a 17 % decrease compared to 2017 [*Security situation*, 1.3.4].

In addition, UNAMA documented 271 incidents of conflict-related abductions, affecting 1 857 civilians, with the number increasing by 85 % compared to 2017. The increase was mostly driven by incidents related to the election process. A number of the conflict-related abduction incidents resulted in death or injuries [*Security situation*, 1.3.4].

- **Explosive remnants of war:** UNAMA documented 492 civilian casualties (4 % of the civilian casualties) caused by explosive remnants of war, showing a 23 % decrease compared to 2017.³⁹

Additionally, some specific trends observed in 2018, include:

- election-related violence, mainly by the Taliban: From the start of voter registration on 14 April 2018 through the end of the year, UNAMA verified 1 007 election-related civilian casualties (226 deaths and 781 injured) [*Security situation*, 1.3].
- high profile attacks resulting in high numbers of civilian casualties, mostly in the capital region: The Taliban, along with other militant groups, continued to carry out high-profile attacks, mostly in the capital region [*Security situation*, 1.3.3].
- increased intensity of ISKP attacks: ISKP increased the frequency and intensity of its attacks in 2018, particularly in the eastern region. The majority of ISKP attacks on religious sites reportedly targeted Shia communities [*Security situation*, 1.2.2].

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

³⁹ Ibid.

Afghanistan: Level of indiscriminate violence

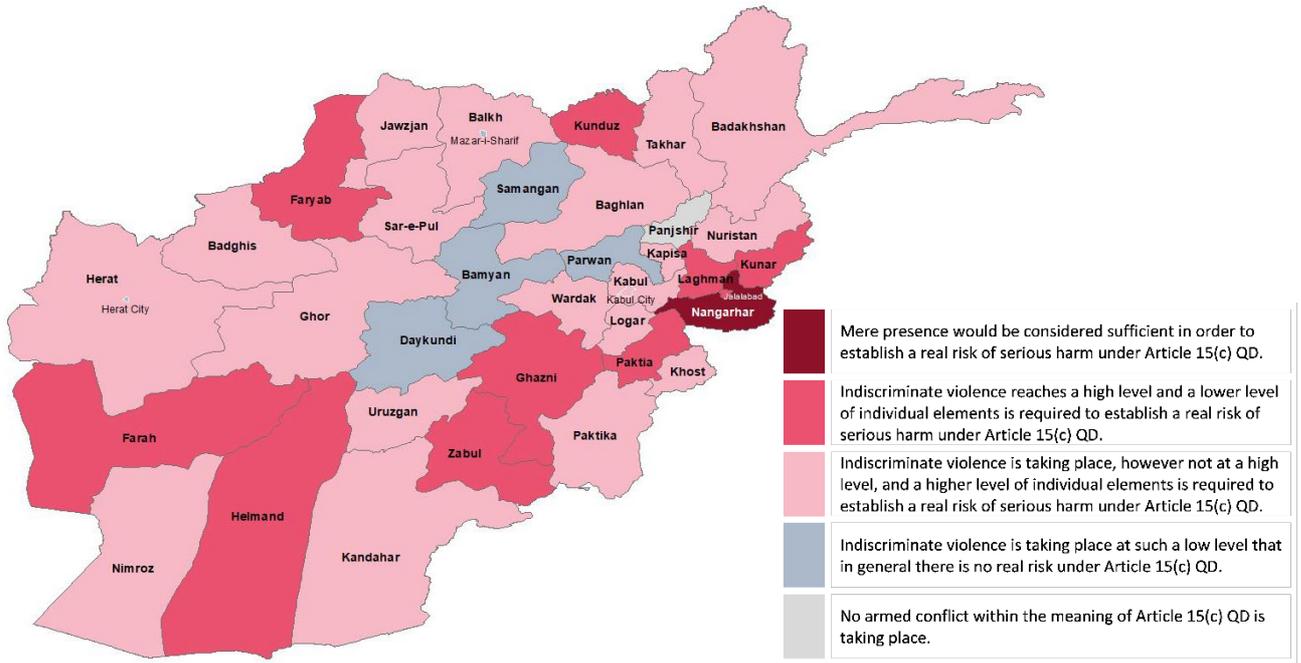


Figure 10. Level of indiscriminate violence in a situation of armed conflict in Afghanistan (based on data as of 28 February 2019).

Badakhshan

[*Security situation 2019, 2.2*]

The province of Badakhshan is located in the north-eastern region of Afghanistan and is divided into 28 districts. It borders Takhar, Panjshir and Nuristan, and shares an international border with Tajikistan, China and Pakistan.

Taliban presence is reportedly increasing in several districts in the province. Foreign fighters are reported to be fighting alongside the Taliban and smaller insurgent groups in several districts of the province. Sources also refer to ISKP presence in the province.

18 of Badakhshan's 28 districts are categorised by LWJ as contested, eight as under government control or undetermined, and two districts are considered under Taliban control.

According to GIM, 89 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.5 incidents per week).

Fighting between government forces and insurgents took place in several districts in 2018, including Arghanjkhwa, Jorm, Kohistan, Koran wa Monjan, Darwaz-e-Balla, and Zebak districts. Intensified airstrikes by US and Afghan forces took place against insurgent infrastructure.

UNAMA documented 63 civilian casualties (18 deaths and 45 injured) in 2018, representing 6 civilian victims per 100 000 inhabitants. This is a decrease of 3 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by kidnapping/abduction and targeted killings.

In the period 1 January 2018 – 28 February 2019, 18 270 persons were displaced from Badakhshan, mainly finding refuge within the province itself, in the neighbouring Panjshir and Nuristan, and in Kabul province.

In the map depicting conflict severity in 2018, UNOCHA places the district of Jorm in the second highest category. The remaining districts fall in the lower categories.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Badakhshan**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Badghis

[*Security situation 2019, 2.3*]

The province of Badghis is situated in western Afghanistan and is divided into seven districts. Badghis borders Herat, Faryab and Ghor, and shares an international border with Turkmenistan.

Anti-government groups are active in several of its districts and often carry out insurgency activities. Taliban factions have also been fighting against each other since 2016, providing government forces with an opportunity to gain influence in formerly Taliban-controlled districts. There is a small ISKP presence reported.

Four of the districts in the province are categorised by LWJ as contested. The district of the capital, Qala-e-Naw, is categorised as under government control or undetermined, and two districts are considered under Taliban control.

According to GIM, 119 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 2 incidents per week).

Taliban attacks on pro-government forces took place throughout the year. In September 2018, the Maqur district police chief was killed in a roadside bombing. Sources also report a bomb blast in Qala-i-Naw injuring civilians, including children, and kidnapping of passengers by the Taliban. The Afghan Ministry of Defense conducted several clearing operations in 2018.

UNAMA documented 79 civilian casualties (21 deaths and 58 injured) in 2018, representing 15 civilian victims per 100 000 inhabitants. This is a decrease of 40% compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by unexploded ordnance (UXO)/landmines and (non-suicide) IEDs.

In the period 1 January 2018 – 28 February 2019, 13 888 persons were displaced from the province of Badghis, the majority within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the district Ghormach in the highest category and the districts Bala Murghab, Muqur, Ab Kamari and Qadis in the second highest category. The remaining districts fall in the category below.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Badghis**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Baghlan

[*Security situation 2019, 2.4*]

Baghlan province borders the provinces of Bamyan, Samangan, Kunduz, Takhar, Panjshir, Parwan, and Balkh on a short stretch, and is divided into 15 districts. Baghlan is known to be an economic hub connected to eight other provinces by the Kabul-North highway, which is also of strategic importance for military operations.

Baghlan is among the provinces with a high Taliban presence and Afghan forces have been engaged in deadly battles in parts of the province. Jundullah, which has affiliated itself with ISKP, also has presence in the province.

The majority of the districts are categorised by LWJ as contested, with one district considered under Taliban control, and one district categorised as under government control or undetermined.

According to GIM, 131 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 2.2 incidents per week).

Examples of incidents include kidnappings, Taliban attacks on checkpoints, electoral violence in Pul-e Khumri, districts being temporarily overrun/controlled by the Taliban, clearing operations by government forces, mortar shell attacks on civilian houses with resulting deaths.

UNAMA documented 261 civilian casualties (68 deaths and 193 injured) in 2018, representing 27 civilian victims per 100 000 inhabitants. This is an increase of 17 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by (non-suicide) IEDs and targeted killings.

In the period 1 January 2018 – 28 February 2019, 13 491 persons were displaced from the province of Baghlan, within the province itself as well as to other provinces.

In the map depicting conflict severity in 2018, UNOCHA places the district Pul-e-Khumri in the highest category. Baghlan-e-Jadid and Burka districts are placed in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes taxes being imposed by the Taliban in regions under their control and damage of civilian property.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Baghlan**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Balkh

[*Security situation 2019, 2.5*]

Balkh province is situated in the northern part of Afghanistan, sharing an international border with Uzbekistan, Turkmenistan and Tajikistan, and bordering Kunduz, Baghlan, Samangan, Sar-e Pul, and Jawzjan. It consists of 15 districts. The provincial capital is Mazar-e Sharif.

The monopoly on power in Balkh was long held by the former warlord Atta Mohammed Noor, who later became governor of Balkh but who resigned in December 2017 following a dispute with President Ghani.

The majority of districts in Balkh are categorised by the LWJ as under government control or undetermined, with two districts categorised as contested and one district categorised as under Taliban control.

According to GIM, 131 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 2.2 incidents per week).

While Balkh is reportedly one of Afghanistan's most stable provinces, anti-government elements are active in the province and security incidents have been reported in 2018 and early 2019. Taliban fighters have attacked ALP personnel, members of pro-government militias, and security posts in the districts of Sholgareh, Chahrbulak, Chemtal, and Dawlatabad throughout 2018 and early 2019. The ANSF conducted several clearing operations in Balkh. Furthermore, the US air force carried out an airstrike in Charbulak district in April 2018. Other examples of incidents include a roadside bomb blast in Sholgareh district, kidnapping of travellers by the Taliban, abduction and killing of polling observers.

UNAMA documented 227 civilian casualties (85 deaths and 142 injured) in 2018, representing 16 civilian victims per 100 000 inhabitants. This is an increase of 76 % compared to 2017. 99 civilian casualties were caused by ground engagements in Balkh province, which is a 296 % increase compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by (non-suicide) IEDs and targeted killings.

In the period 1 January 2018 – 28 February 2019, 1 218 persons were displaced from the province of Balkh, all of them within the province itself. In the same period, 17 539 persons were displaced to Balkh province, mainly from the provinces of Faryab and Sar-e-Pul.

In the map depicting conflict severity in 2018, UNOCHA places the districts Chemtal, Charbulak, Balkh and Mazar-e Sharif in the second highest category. The remaining districts are placed the lower categories.

Focus on the provincial capital: Mazar-e Sharif

Mazar-e Sharif is the provincial capital of Balkh. Its population is officially reported to be 454 457. Dubbed a 'Silk Route crossroad', Balkh – and more specifically Mazar-e Sharif – is an import/export hub, as well as a regional trading centre. An airport with scheduled passenger services to national and international destinations is located in Mazar-e Sharif.

The resignation of Atta Mohammed Noor as governor of Balkh in December 2017 reportedly led to an increase in criminal activities such as armed robberies, murder, clashes, and kidnapping in Mazar-e Sharif.

The district of the capital city is categorised as under government control by LWJ.

In the period 1 January 2018 – 28 February 2019, no conflict-related displacement was reported from Mazar-e Sharif; and 3 108 persons were displaced to the city.

UNOCHA places the district Mazar-e Sharif in the second highest category of conflict severity.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Balkh**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

In the provincial capital of **Mazar-e Sharif**, 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 within 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.

Bamyan

[*Security situation 2019, 2.6*]

The province of Bamyan borders Samangan, Baghlan, Parwan, Wardak, Ghazni, Daikundi, Sar-e Pul and Ghor. It consists of seven districts. The main ethnic groups in Bamyan are the Hazara, followed by Tajiks and Pashtuns. The province is dubbed the 'unofficial Hazara capital' and part of the Hazarajat. Bamyan can be reached from Kabul either by the Kabul-Bamyan highway, via the province of Wardak, or via Parwan, or via passenger services to Bamyan's airport, which have resumed since February 2019.

According to sources, the Taliban had no influence in Bamyan as of November 2018. The relative stability of Bamyan can be linked to the social cohesion among its inhabitants. However, attacks on police checkpoints by Taliban insurgents have taken place in July 2018.

All districts of Bamyan are categorised by LWJ as under government control or undetermined.

According to GIM, 4 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 0.1 incidents per week).

Examples of incidents include an attack by Taliban insurgents in July 2018 on several police checkpoints in Kahmard district, killing one tribal elder and abducting four persons. In late November 2018, Afghan authorities arrested Hazara militia leader Alipoor on charges of attacking security forces, as well as of extortion of passengers by his gunmen on the highways in Bamyan, Ghor, and Wardak provinces.

UNAMA documented 7 civilian casualties (1 death and 6 injured) in 2018, representing 1.5 civilian victims per 100 000 inhabitants. This is an increase of 75 % compared to 2017. The leading causes for the civilian casualties were UXO/landmines, followed by ground engagements and threat/intimidation/harassment.

In the period 1 January 2018 – 28 February 2019, 8 persons were displaced from the province of Bamyan, all of them within the province itself. In the same period, 3 091 persons were displaced to the province of Bamyan, mainly from other provinces.

In the UNOCHA map depicting conflict severity in 2018, no districts are placed in the highest two categories.

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 within 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.

Daikundi/Daykundi

[*Security situation 2019, 2.7*]

Daikundi province borders Ghor, Bamyan, Ghazni, Uruzgan and Helmand. It consists of nine districts. Daikundi is part of the ‘Hazarajat’ and has a majority Hazara population, with a minority of Pashtuns, Balochs and Sayed/Sadat.

Daikundi is considered as one of the more stable provinces in Afghanistan, due to the social cohesion among its inhabitants. However, attacks by the Taliban have been reported throughout 2018.

Almost all districts of the province are categorised by LWJ as under government control or undetermined; the district of Gizab/Patoo is categorised as contested and the district of Kajran is unconfirmed.

According to GIM, 21 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 0.4 incidents per week).

Throughout 2018, the Taliban launched attacks against security checkpoints in several of Daikundi’s districts. Other examples of incidents include IED explosions with civilian casualties, and clearing operations by the Afghan security forces.

UNAMA documented 41 civilian casualties (19 deaths and 22 injured) in 2018, representing 8 civilian victims per 100 000 inhabitants. This is a decrease of 5 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by kidnapping/abduction and (non-suicide) IED.

In the period 1 January 2018 – 28 February 2019, 558 persons were displaced from the province of Daikundi, mainly within the province itself. In the same period, 2 756 persons were displaced to the province of Daikundi, mainly from Ghazni.

In the map depicting conflict severity in 2018, UNOCHA places the district of Patoo in the second highest category. The remaining districts fall in the lower categories.

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 within 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.

Farah

[*Security situation 2019, 2.8*]

The province of Farah is located in the western part of Afghanistan. It borders Herat, Ghor, Helmand and Nimroz, and shares an international border with Iran. The province is divided into 11 districts. Part of the Ring Road leads through Farah, connecting the province with Herat City in the north and the provinces of Nimroz and Helmand. Farah is of strategic interest to insurgents and pro-government strongmen because of its transport routes into bordering Iran.

The Taliban have a strong presence in Farah, with sources reporting that government forces control only the provincial capital and 10 district centres. ISKP presence has been reported in 2015, with sources indicating that the Taliban have dislodged ISKP militants.

Six of the districts in the province are categorised by LWJ as contested, four districts are categorised as under Taliban control and one district is categorised as under government control or undetermined.

According to GIM, 215 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 3.6 incidents per week).

Examples of incidents include Taliban attacks on military posts and checkpoints, an attack on and temporary capture of the provincial capital of Farah city in May 2018, airstrikes by the US forces and government forces, roadside bombing causing civilian casualties, and kidnapping and killing of civilians.

UNAMA documented 275 civilian casualties (122 deaths and 153 injured) in 2018, representing 51 civilian victims per 100 000 inhabitants. This is a decrease of 19 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by (non-suicide) IEDs and targeted killings.

In the period 1 January 2018 – 28 February 2019, 26 809 persons were displaced from the province of Farah, the majority of whom within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Farah, Bala Baluk, and Pushtrod in the highest category. The remaining districts fall in the four lowest categories.

Further impact on the civilian population includes taxing by the Taliban along the highway and on cross-border travel, and competition among local strongmen over border crossings, resulting in customs charges.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Farah**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Faryab

[*Security situation 2019, 2.9*]

The province of Faryab is situated in the north-western region of Afghanistan. It borders Jawzjan, Sar-e Pul, Ghor and Badghis, and has an international border with Turkmenistan. It consists of 14 districts. A part of the Ring Road leads through Faryab, connecting the province with neighbouring Jawzjan and the regional centre Mazar-e Sharif in Balkh.

Faryab is reportedly among the volatile provinces in the north of Afghanistan and an active front in the conflict, where Taliban militants are actively operating in some of its districts and often attempt to carry out attacks against the government and security institutions. Besides local Taliban insurgents, a small Taliban-affiliated group of the Islamic Jihad Union (IJU) reportedly fights in Faryab.

Six of the districts of the province are categorised by LWJ as contested, four districts are categorised as under Taliban control and four districts are categorised as under government control or undetermined.

According to GIM, 259 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 4.3 incidents per week).

Examples of incidents include intensified airstrikes by the government forces, causing civilian casualties, attacks on villages, and clashes between the Taliban and government forces.

UNAMA documented 646 civilian casualties (230 deaths and 416 injured) in 2018, representing 60 civilian victims per 100 000 inhabitants. This is an increase of 1 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by UXO/landmines.

In the period 1 January 2018 – 28 February 2019, 75 603 persons were displaced from the province of Faryab, mainly within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Dawlatabad, Shirintagab, Khwajasabzposh, Pashtunkot, Qaysar and Almar in the highest category and the district of Kohestan in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes Taliban checkpoints on highways and the insecurity preventing voters from registering at polling centres.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Faryab**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Ghazni

[*Security situation 2019, 2.10*]

The province of Ghazni is located in the south-east of Afghanistan, bordering the provinces of Bamyan, Wardak, Logar, Paktya, Paktika, Zabul, Uruzgan and Daikundi. It consists of 19 districts. Ghazni City is considered a 'key intersection', as it is situated on the Ring Road connecting the capital Kabul with the major population centre Kandahar in the south.

Ghazni continued to be highly contested and a major battlefield between Taliban insurgents and the Afghan government, backed by US forces since the second half of 2018. The Taliban has significant presence and dominates almost all of the district centres. In the middle of August 2018, the Taliban captured large parts of Ghazni City during 5 days, leading to fierce clashes between the insurgents and government forces.

12 of the districts of the province are categorised by LWJ as under Taliban control and seven districts are categorised as contested.

According to GIM, 476 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 7.9 incidents per week).

Examples of incidents include attacks against the previously peaceful districts of Jaghori and Malestan, clashes between the Taliban and government forces, airstrikes causing civilian casualties, and the temporary capture of Ghazni City.

UNAMA documented 653 civilian casualties (253 deaths and 400 injured) in 2018, representing 50 civilian victims per 100 000 inhabitants. This is an increase of 84 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by aerial attacks and targeted or deliberate killings.

In the period 1 January 2018 – 28 February 2019, 46 394 persons were displaced from the province of Ghazni, the majority within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the district of Andar in the highest category and the districts of Ajrestan, Qarabagh, Dehyak and Ghazni in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes destruction of civilian property, extortion and forced taxation, intimidations by armed groups, road checkpoints, and postponement of elections.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Ghazni**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Ghor

[*Security situation 2019, 2.11*]

The province of Ghor is located in central-northwestern Afghanistan and borders the provinces of Herat, Badghis, Faryab, Sar-e Pul, Bamyán, Daikundi, Helmand and Farah. Ghor is divided into 10 districts.

Ghor is reported as being known for its 'particularly confusing pattern of conflicts', involving insurgent groups and 'freelancing' militias, with unclear dividing lines between them. Besides strong presence of Taliban insurgents, armed groups partially affiliated to political parties in the central government are present in the province. The 'insurgent' activities of some groups can be hardly distinguished from crime, and allegiances have been shifting several times in the past.

Half of the districts of the province are categorised by LWJ as contested; the other half are categorised as under government control or undetermined.

According to GIM, 56 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 0.9 incidents per week).

Examples of incidents include insurgents' killing of travellers, abductions and assassinations, attacks on voter registration centres, and heavy clashes between Taliban and government forces and local militias.

UNAMA documented 64 civilian casualties (28 deaths and 36 injured) in 2018, representing 9 civilian victims per 100 000 inhabitants. This is an increase of 94 % compared to 2017. The leading causes for the civilian casualties were targeted or deliberate killings, followed by ground engagements and (non-suicide) IEDs.

In the period 1 January 2018 – 28 February 2019, 13 436 persons were displaced from the province of Ghor, the majority within the province itself and in Herat, Nimroz and Kandahar.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Taywara and Feroz Koh (Chagcharan) in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes stopping passengers on the highway, lack of law enforcement and rule of law, enforcement of Taliban parallel justice, and high levels of gender-based violence and abuse.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Ghor**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Helmand

[*Security situation 2019, 2.12*]

The province of Helmand is situated in southern Afghanistan, bordering the provinces of Nimroz, Farah, Ghor, Daikundi, Uruzgan and Kandahar. In the south, Helmand shares an international border with Pakistan. Helmand is the largest province of Afghanistan. It consists of 15 districts, including two temporary districts. The province has a significant geo-strategic importance as a section of the Ring Road runs through it, connecting the major population centre Herat City with Kandahar and the capital Kabul.

Helmand is reportedly one of Afghanistan's most volatile provinces and the Taliban are able to draw large support amongst Helmand's population. Besides the Taliban, Al-Qaeda is allegedly present in Helmand.

Six of the districts of the province are categorised by LWJ as under Taliban control and seven of the districts are categorised as contested.

According to GIM, 313 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 5.2 incidents per week).

Examples of incidents include US and Afghan forces airstrikes, inflicting considerable casualties among civilians; with one third of all airstrikes in Afghanistan carried out in the province of Helmand in the period of November 2018 to February 2019. Other examples include several suicide attacks, reported targeting of civilians through group poisoning, a bomb attack at an election rally, and a car bomb blast near a stadium.

UNAMA documented 880 civilian casualties (281 deaths and 599 injured) in 2018, representing 63 civilian victims per 100 000 inhabitants. This is a decrease of 11 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by (non-suicide) IEDs and suicide or complex attacks.

In the period 1 January 2018 – 28 February 2019, 8 528 persons were displaced from the province of Helmand, the majority within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Lashkargah, Nad-e Ali, Nawa-e-Barakzaiy, Sangin and Nahr-e Saraj in the highest category, the district of Garmser in the second highest category. The remaining districts fall in the lower categories.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Helmand**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Herat

[*Security situation 2019, 2.13*]

The province of Herat is located in the west of Afghanistan and is divided in 20 districts, including four temporary districts. It borders with Badghis, Ghor, Farah, and shares an international border with Iran and Turkmenistan. The provincial capital of Herat is Herat City. The province is connected to other major cities by the Ring Road.

It is reported that Herat has been among the relatively calm provinces in the west of Afghanistan, but the Taliban militants are active in some of its remote districts and in the capital, and often attempt to carry out terrorist-related activities. The ISKP is also active in the provincial capital.

According to LWJ, seven of the districts of Herat are contested, while the other districts are categorised as under government control.

According to GIM, 175 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 2.9 incidents per week).

Examples of incidents include clashes between the Taliban and government forces in the districts of Zawal, Guzra and Shindand; Taliban leaders were killed in two separate drone strikes in the districts of Farsi and Zawal. Attacks on Shia religious figures and sites have reportedly increased in Herat since 2016. Furthermore, bombings were reported in Gulran district and Shindand district, killing civilians. Shindand is allegedly the most volatile district of Herat, witnessing violent clashes between rival Taliban factions, as well as between the mainstream Taliban and pro-government forces.

UNAMA documented 259 civilian casualties (95 deaths and 164 injured) in 2018, representing 13 civilian victims per 100 000 inhabitants. This is a decrease of 48 % compared to 2017. The leading causes for the civilian casualties were (non-suicide) IEDs, followed by ground engagements and targeted killings.

In the period 1 January 2018 – 28 February 2019, 669 persons were displaced from the province of Herat, mainly within the province itself. In the same period, 7 040 persons were displaced to the province of Herat. It was reported that in 2018, Herat province hosted the ‘the highest number of IDPs and returnees nationwide – more than 200 000.

In the map depicting conflict severity in 2018, UNOCHA places the district of Shindand (together with the temporary districts formerly part of Shindand) in the highest category, and the district of Herat in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, an upsurge of criminality in the district of Nizam-e Shadid and in the provincial capital, as well as the interference with public services, reportedly with the exception of healthcare, by the Taliban in Obe district.

Focus on the provincial capital: Herat City

Herat City is the provincial capital of Herat. Its population is officially reported to be 506 896. An airport with scheduled passenger services to national and international destinations is located in the vicinity of the city.

According to LWJ, Herat City is categorised as under government control.

There are reported activities of the Taliban and ISKP. Examples of incidents include attacks by the ISKP near mosques, killing and injuring civilians, in particular against the Shia. The Taliban are allegedly also active in the city, causing casualties among security force members, as well as civilians.

In the period 1 January 2018 – 28 February 2019, 5 663 persons were displaced to the district of Herat in conflict-related displacement. In August 2018, 12 000 displaced families were reportedly settled in Herat City, mainly in the west of provincial capital.

UNOCHA places the conflict severity for the district of Herat in the second highest category.

Further impact on the civilian population includes, for example, an upsurge of criminality in Herat City.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Herat**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

In the provincial capital of **Herat City**, 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 within 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.

Jawzjan

[*Security situation 2019, 2.14*]

Jawzjan is situated in the north of Afghanistan, bordering Balkh, Sar-e Pul and Faryab, as well as Turkmenistan. The province is divided in 11 districts. The Ring Road connects the provincial capital of Jawzjan, Shiberghan, with the major population centre Mazar-e Sharif in Balkh, as well as Faryab to the west.

In 2017, it was reported that the Taliban became increasingly successful in Jawzjan, setting up administrative and military institutions. A self-proclaimed ISKP group managed to hold control over the districts of Qushtepa and Darzab for three years, fighting the Taliban - although not expanding its territory due to the widespread Taliban presence in the province. The Taliban took over Qushtepa and Darzab after the group's defeat in 2018.

According to LWJ, most of the districts are contested; three districts are categorised as under government control and two districts are categorised as under Taliban control.

According to GIM, 111 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.9 incidents per week).

Examples of incidents include ground operations, which were carried out by government forces in the province. Furthermore, a series of airstrikes by international military forces caused civilian casualties in Jawzjan province. Fighting between government forces and insurgents has been reported causing casualties among fighters throughout 2018 and early 2019, e.g. in the districts of Aqcha, Darzab, Fayzabad, Khamab, Qushtepa and Sheberghan. Travellers have been caught in crossfire as security forces and Taliban insurgents clashed on the highway in the district of Aqcha in Jawzjan.

UNAMA documented 183 civilian casualties (61 deaths and 122 injured) in 2018, representing 32 civilian victims per 100 000 inhabitants. This is an increase of 55 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by aerial attacks and (non-suicide) IEDs.

In the period 1 January 2018 – 28 February 2019, 2 590 persons were displaced from the province of Jawzjan, within the province itself and to Balkh province. In the same period, 8 849 persons were displaced to the province of Jawzjan, all of them to the provincial capital.

In the map depicting conflict severity in 2018, UNOCHA places the district of Darzab in the highest category and the district of Qushtepa in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, an increase in the number of rapes and sexual violence against women. Furthermore, insurgents hindered healthcare in October 2018 in Darzab district. Due to security reasons, the 2018 parliamentary elections did not take place in the districts of Darzab, Khamyab and Mardyan.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Jawzjan**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Kabul

[*Security situation 2019, 2.15*]

Kabul province is located in central Afghanistan and is divided in 15 districts. It borders Parwan, Kapisa, Laghman, Nangarhar, Logar and Wardak. Major roads depart from Kabul City and connect the capital with the rest of the country.

In Kabul province, outside of Kabul city, the major insurgent actor were the Taliban, whereas the ISKP is primarily active in the provincial capital.

According to LWJ, all districts of Kabul province are categorised as under government control or undetermined.

According to GIM, 324 incidents related to insurgents were reported in the period of January 2018 – February 2019 in the province; 36 of them outside of the capital city (average of 0.6 incidents per week).

Examples of incidents include airstrikes by Afghan security forces in Surobi district, killing and wounding Taliban insurgents. There were reports of security forces as well as civilians being killed in attacks by the Taliban, and reports of explosions, for example attacks on Afghan security forces' outposts in Surobi district. Roadside bombs exploded in Paghman district, killing security forces and civilians. It was reported that security incidents were taking place along the road network in Paghman district and occasional incidents along the highways through Qarabagh and Dehsabz districts took place.

UNAMA documented 1 866 civilian casualties (596 deaths and 1 270 injured) in the province in 2018, representing 38 civilian victims per 100 000 inhabitants. This is an increase of 2 % compared to 2017. The leading causes for the civilian casualties were suicide/complex attacks, followed by (non-suicide) IEDs and targeted killings. The majority of the victims were in Kabul City.

In the period 1 January 2018 – 28 February 2019, 35 persons were displaced from Surobi district, the majority within the province itself. In the same period, 10 598 persons were displaced to the province of Kabul, the majority of them to the capital city.

In the map depicting conflict severity in 2018, UNOCHA places the district of the capital in the highest category. The remaining districts fall in the four lowest categories.

*Focus on the capital: Kabul City**[Security situation, 2.1]*

Kabul is the capital of Afghanistan. It is reported that the city, which before 2001 counted 12 wards, expanded to 22 wards as a result of its significant demographic growth and horizontal expansion. Its population is officially reported to be 4 117 414. Kabul city hosts an airport, which is served by international and domestic passenger flights.

The Taliban as well as the ISKP are active in the provincial capital. According to LWJ, the capital city is considered as under government control or undetermined.

Because of frequent high-profile attacks in the city throughout 2017, the Afghan government announced in August 2017 the development of a new security plan for Kabul, called the 'Green Belt'. Moreover, a special unit within the Afghan police called the Crisis Response Unit was created, in order to prevent and respond to attacks.

According to GIM, 288 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 4.8 incidents per week).

The picture of conflict in Kabul City is characterised by asymmetric tactical warfare, with suicide bombers and IEDs as weapons of attack. The attacks mainly targeted civilians, including the civilian government administration, places of worship, education facilities, election-related sites and other 'soft' targets.

Examples of incidents include several complex attacks by the ISKP, killing and injuring civilians, especially the Shia population; for example, an attack on a voter registration centre in the Hazara-dominated neighbourhood of Dasht-e-Barchi and a suicide attack near the Karte Sakhi shrine, where hundreds, many of them Shia, had gathered to celebrate the start of Nowruz, the New Year festivity. The Taliban also carried out attacks in the provincial capital throughout 2018, killing and wounding civilians. The most prominent security incident occurred in late January 2018, when a van painted to look like an ambulance exploded outside of a government compound, killing 114 civilians and wounding 229 civilians. The Taliban also carried out an attack on the Intercontinental Hotel, as well as attacks on polling centres.

UNAMA documented 1 686 civilian casualties (554 deaths and 1 132 injured) from suicide and complex attacks in the city in 2018, representing 41 civilian victims of such attacks per 100 000 inhabitants. This is an increase of 5 % compared to 2017. Between 16 November 2018 and 7 February 2019, suicide attacks in Afghanistan overall decreased by 61 %, compared with the same period the year before, which, according to the UN Secretary General may reflect successful interdiction efforts by security forces in the cities of Kabul and Jalalabad.

No displacement from the capital was recorded in the period 1 January 2018 – 28 February 2019, however 10 430 persons were displaced to the city. The IDPs arriving and residing in Kabul add pressure on the community, basic services and social infrastructure, strongly affecting the absorption capacity of the city.

UNOCHA places the capital of Kabul in the highest category of conflict severity.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Kabul** and in **Kabul City**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Kandahar

[*Security situation 2019, 2.16*]

The province of Kandahar is situated in the south of Afghanistan, bordering Uruzgan and Zabul to the north, Helmand to the west, and Pakistan to the south and east. Kandahar is divided in 18 districts, including two temporary districts. The ring road connects the provincial capital of Kandahar with the major population centres of Herat and Kabul.

Kandahar is reportedly the "birthplace" of the Taliban and therefore has symbolic importance for the group. A relative stability in the province was reported, attributed of the role played by local strongman and police Chief General Abdul Razeq. However, an increase in Taliban attacks was reported throughout late 2017 to early 2019.

According to LWJ, the majority of the districts of Kandahar are contested and five districts are categorised as under government control or undetermined; Miyanshin district is categorised as under Taliban control.

According to GIM, 243 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 4.1 incidents per week).

Examples of incidents include several attacks by the Taliban on security checkpoints in the province throughout 2018 and early 2019. Furthermore, IED blasts caused casualties among civilians, killing for instance eleven children in a car bomb blast targeted at a convoy of foreign forces. Afghan special forces reportedly summarily executed civilians in Kandahar province during military operations. Police Chief General Abdul Razeq was assassinated in October 2018.

UNAMA documented 537 civilian casualties (204 deaths and 333 injured) in 2018, representing 40 civilian victims per 100 000 inhabitants. This is a decrease of 25 % compared to 2017. The leading causes for the civilian casualties were (non-suicide) IEDs, followed by ground engagements and search operations.

In the period 1 January 2018 – 28 February 2019, 789 persons were displaced from the province of Kandahar, mainly within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Kandahar, Maiwand, and Shah Wali Kot in the highest category and the districts of Khakrez, Maruf, Miyanshin and Nesh in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, the postponement of the parliamentary elections following the killing of General Abdul Razeq.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Kandahar**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Kapisa

[*Security situation 2019, 2.17*]

The province of Kapisa is situated in central-eastern Afghanistan, surrounded by the provinces of Panjshir, Laghman, Kabul and Parwan. Kapisa is divided in seven districts. A primary road connects the capital of Kapisa to Kabul City. Kapisa is considered of strategic importance due to its location.

Taliban activity is reported in the province. According to LWJ, three districts in Kapisa province are contested and the other four are under government control or undetermined.

According to GIM, 81 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.4 incidents per week).

Examples of incidents include several operations, which were carried out by government forces, with US support, mainly in the districts of Tagab and Nijrab in 2018 and early 2019, which resulted in retaking several villages in Tagab from the Taliban in January 2019. Airstrikes by US forces were reported, causing civilian casualties.

UNAMA documented 139 civilian casualties (39 deaths and 100 injured) in 2018, representing 29 civilian victims per 100 000 inhabitants. This is an increase of 38 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by aerial attacks and (non-suicide) IEDs.

In the period 1 January 2018 – 28 February 2019, 8 890 persons were displaced from the province of Kapisa, mainly within the province itself or in neighbouring Kabul and Parwan.

In the map depicting conflict severity in 2018, UNOCHA places the district of Tagab in the highest category and the district of Nijrab in the second highest category of conflict severity. The remaining districts fall in the lower categories.

Further impact on the civilian population includes the collection of *ushr* taxes from Tagab's residents by the Taliban as well as the ALP.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Kapisa**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Khost

[*Security situation 2019, 2.18*]

The province of Khost is situated in the eastern part of Afghanistan, bordering the provinces of Paktika and Paktya, and sharing an international border with Pakistan. The province is divided in 13 districts. The so-called Khost-Gardez Pass connects Khost with neighboring Paktya, with Logar and ultimately with Kabul.

Taliban activity is reported in the province. The Haqqani network has been most active in western Khost, Paktya and Paktika. In 2017, the UN Security Council reported the presence of individuals affiliated to Al-Qaeda in Khost.

On the government side, a 'campaign force' named Khost Protection Force (KPF) has reportedly been the most influential security actor in the province.

According to LWJ, eight of the districts of Khost are contested, with the remaining five districts categorised as under government control or undetermined.

According to GIM, 67 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.1 incidents per week).

Examples of incidents include insurgent activities as well as operations by Afghan security forces and the KPF. KPF has been accused of human rights violations such as extrajudicial killings, torture and arbitrary arrests. Explosions in mosques (e.g. one serving as a voter registration centre for the upcoming parliamentary elections) and within the provincial capital were reported, causing casualties.

UNAMA documented 175 civilian casualties (84 deaths and 91 injured) in 2018, representing 29 civilian victims per 100 000 inhabitants. This is a decrease of 3 % compared to 2017. The leading causes for the civilian casualties were (non-suicide) IEDs, followed by targeted killings and search operations.

In the period 1 January 2018 – 28 February 2019, 4 676 persons were displaced from the province of Khost, almost all within the province itself, in the capital district, Khost (Matun).

In the map depicting conflict severity in 2018, UNOCHA places the district of Khost (Matun) in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, human rights violations and arbitrary arrests attributed to the KPF.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Khost**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Kunar

[*Security situation 2019, 2.19*]

Kunar is located in eastern Afghanistan, on the Afghan-Pakistani border and is divided in 16 districts. It borders Nuristan, Nangarhar, Laghman. A national highway from Jalalabad passes through the districts of Nurgal, Chawkay, Narang, Asadabad, Shigal and leads to Asmar.

According to LWJ, most of the districts in Kunar province are contested, with the exception of the district of the provincial capital, Asadabad, which is categorised as under government control or undetermined, and the district of Chapadara, which is categorised as under Taliban control.

In 2017, sources had reported that at least 15 terrorist organisations, among them ISKP, Al-Qaeda and Lashkar-e Taiba, were active in the province.

According to GIM, 174 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 2.9 incidents per week).

Examples of incidents include clashes between ISKP forces and Afghan security forces, as well as clashes between the Taliban and the ISKP. Suicide attacks took place in Sawkay district, killing and injuring policemen and civilians at a police checkpoint. Airstrikes as well as military ground operations by Afghan security forces were reported in several districts, causing civilian casualties.

UNAMA documented 397 civilian casualties (128 deaths and 269 injured) in 2018, representing 82 civilian victims per 100 000 inhabitants. This is an increase of 77 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by aerial attacks and (non-suicide) IEDs.

In the period 1 January 2018 – 28 February 2019, 15 311 persons were displaced from the province of Kunar, the majority within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Ghaziabad, Watapur and Sarkani in the highest category and Chapadara, Dara-e-Pech, Marawara, Nari, Dangam, Shigal and Chawkay in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, threats by insurgents to healthcare personnel to stop vaccination campaigns, including for polio.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Kunar**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Kunduz

[*Security situation 2019, 2.20*]

Kunduz is located in northern Afghanistan and is divided in 10 districts, including three temporary districts. The province borders Takhar, Baghlan, Balkh, and shares an international border with Tajikistan. A section of the Asian Highway AH-7 from Kabul passes through the provinces of Parwan and Baghlan and connects Kabul with Kunduz and the border crossing to Tajikistan.

Strong presence of insurgent groups, especially the Taliban, was reported in almost all parts of Kunduz province.

According to LWJ, the districts of Qala-e-Zal, Aqtash, Kalbad and Gul Tapa are categorised as under Taliban control; the other districts as contested. It is reported that the Taliban have established a parallel shadow government in Dasht-e-Archi.

ISKP has reportedly set up bases in the northern provinces of Afghanistan, including in Kunduz. Moreover, an insurgent group called Jabha-ye Qariha, which is known as the military wing of Jundullah, is purportedly active in Dasht-e-Archi district, allied with the Taliban. The presence of foreign fighters in the province is also reported.

According to GIM, 167 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 2.8 incidents per week).

Examples of incidents include military operations as well as airstrikes carried out by Afghan security forces, causing a number of civilian casualties in the province. The Afghan Air Force, for example, released multiple rockets and fired heavy machineguns, which caused 107 casualties, of which 81 were children. Attacks by insurgent groups, in particular the Taliban, as well as fighting over territorial control were reported. Furthermore, Kunduz was among the provinces with the highest level of Taliban violence during the 2018 parliamentary elections: shelling at polling centres was reported in most parts of the province, even inside the city, killing and injuring Independent Election Commission volunteers and voters.

UNAMA documented 337 civilian casualties (105 deaths and 232 injured) in 2018, representing 31 civilian victims per 100 000 inhabitants. This is a decrease of 11 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by aerial attacks and (non-suicide) IEDs.

Kunduz was one of the three provinces that experienced the highest numbers of conflict-related displacement. In the period 1 January 2018 – 28 February 2019, 48 741 persons were displaced from the province of Kunduz, the majority within the province itself. According to humanitarian actors the scale of damage to civilian infrastructure and homes caused by airstrikes prevents the possible return of displaced families.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Emamsaheb, Dasht-e-Archi, Chardarah and Kunduz in the highest category, and the districts Qala-e-Zal and Khanabad in the second highest category. The district of Aliabad is placed in the third category.

Further impact on the civilian population includes, for example, the Taliban establishing a parallel shadow government in Dast-e-Archi, which includes a district governor, head of education, judicial,

health, public outreach, military and finance committees. Limited school access due to Taliban activities was also reported in some areas of Kunduz province (reopened again in April 2018). Voting did not take place in Qala-e-Zal, Gultepa and Gulbad, due to high security risks. Intense Taliban attacks in Khanabad and Emamsaheb districts also limited voting.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Kunduz**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Laghman

[*Security situation 2019, 2.21*]

Laghman is located in eastern Afghanistan and borders on the provinces of Panjshir, Nuristan, Kunar, Nangarhar, Kabul and Kapisa. The province is divided in six districts, including one temporary district. The province is mostly mountainous, a fact that has favoured the insurgents in the past. The Kabul-Jalalabad section of Asian Highway AH-1 passes through Qarghayi district.

It is reported that Laghman has seen a rise in activities by the Taliban and ISKP militants in some remote districts of the province. The UN Secretary General described Laghman as one of the Islamic State's 'strongholds' in Afghanistan.

According to LWJ, three of the districts are categorised as contested and two districts are categorised as under government control or undetermined.

According to GIM, 144 incidents related to insurgents were reported in the period of January 2018 - February 2019 (average of 2.4 incidents per week).

Examples of incidents include military operations as well as airstrikes, carried out by Afghan security forces killing insurgents. Clashes between Taliban insurgents and ISKP fighters were reported in Alingar district throughout 2018. Incidents have been reported of civilians, including children, killed in a roadside bombing and after the detonation of unexploded ordnance in the districts of Alingar and Qarghayi. Election-related violence was reported as well, injuring civilians after the detonation of IEDs placed near a school serving as a polling centre in Mehtarlam.

UNAMA documented 271 civilian casualties (93 deaths and 178 injured) in 2018, representing 57 civilian victims per 100 000 inhabitants. This is a decrease of 23 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by targeted killings and UXO/landmines.

In the period 1 January 2018 – 28 February 2019, 9 752 persons were displaced from the province of Laghman, almost all within the province.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Alishang, Mehtarlam and Alingar in the highest category, and Dawlatshah in the second highest category. The district of Qarghayi is placed in the third category.

Further impact on the civilian population includes, for example, the closure of schools and the stop of vaccinations in Alingar district.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Laghman**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is

required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Logar

[*Security situation 2019, 2.22*]

Logar province is located in central Afghanistan and is divided in 7 districts. It borders on the provinces of Kabul, Nangarhar, Paktya, Ghazni and Wardak. The Kabul-Gardez-Khost highway passes through the districts of Mohammad Agha and Pul-e-Alam.

According to a local source, Taliban fighters and members of other insurgent groups have been active in all of Logar's districts, including the provincial capital.

Three of the districts are categorised by LWJ as under Taliban control, one district as under government control of undetermined, and the other three districts are categorised as contested.

According to GIM, 151 incidents related to insurgents were reported in the period of January 2018 - February 2019 (average of 2.5 incidents per week).

Examples of incidents include military operations as well as airstrikes, carried out by government security forces (Afghan Air Force, NDS). Incidents have been reported of civilians being killed in attacks by the Taliban, including bombings. Furthermore, Taliban militants stopped buses travelling on the highway section in Mohammad Agha and kidnapped government employees in November 2018.

UNAMA documented 143 civilian casualties (68 deaths and 75 injured) in 2018, representing 34 civilian victims per 100 000 inhabitants. This is a decrease of 3 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by targeted killings and complex attacks.

In the period 1 January 2018 - 28 February 2019, 2 653 persons were displaced from the province Logar, finding refuge in the neighbouring provinces Kabul and Khost or within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Charkh, Barakibarak, Pul-e Alam and Mohammad Agha in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, threats by the Taliban against girls' schools in Barakibarak district, which resulted in the suspension of classes for girls above grade six in the district and the replacement of female teachers for younger girls with male teachers. In July 2018, schools were reportedly closed in Mohammad Agha and Pul-e Alam due to the threats by Taliban insurgents.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Logar**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Nangarhar

[*Security situation 2019, 2.23.1, 1.2.2, 1.5.1*]

Nangarhar province is located in eastern Afghanistan, on the Afghan-Pakistani border and has served as an unofficial crossing-point for local and foreign militias. It borders the provinces of Laghman, Kunar, Logar and Kabul, and shares an international border with Pakistan. Asian Highway AH-1 passes through the province and reaches the Afghan-Pakistani border. The province is divided into 22 districts.

Insurgency in Nangarhar is fragmented, undermined by internal power struggles with commanders and fighters involved in criminal activities. Examples of the various Afghan and foreign groups present in the province include Taliban, Hezb-e Islami, as well as Salafi groups, and foreign groups such as Al-Qaeda, Lashkar-e Islam, Tehrik-e Taliban Pakistan and splinter groups of the latter. ISKP's stronghold is based in southern districts of the province. Inter-tribal fighting was also reported.

Besides Afghan security forces and international forces, activities of pro-government military special units, unofficially trained and overseen by CIA, are also reported in the province.

The involvement of external actors, including Pakistan, Iran, India, China, Russia and US, further complicates the tense intra-provincial relations among warlords, strongmen, criminals, local officials, businessmen and Taliban fighters.

The majority of the districts within the province are categorised by LWJ as contested. Eight districts are under government control or undetermined.

According to GIM, 754 incidents related to insurgents have taken place in the period of January 2018 - February 2019 (average of 12.6 incidents per week).

Examples of incidents include a number of airstrikes carried out by pro-government forces against ISKP and Taliban, clashes between Taliban and ISKP, and suicide attacks against civilian targets by insurgents.

UNAMA reported 1 815 civilian casualties (681 deaths and 1,134 injured) in 2018, representing 111 civilian victims per 100 000 inhabitants. This is an increase of 111 % compared to 2017. The leading causes for the civilian casualties were suicide/complex attacks, followed by (non-suicide) IEDs and ground engagements.

In the period 1 January 2018 – 28 February 2019, 12 390 persons were displaced from the province of Nangarhar, mainly within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Khogyani, Chaparhar, Dehbala, Batikot and Rodat in the highest category, and the districts of Jalalabad, Hesarak, Surkhrod, Pachieragam, Achin, Shinwar und Muhmand Dara in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, the closure of more than 80 girls' schools in Jalalabad and its neighbouring districts due to threats by the ISKP.

Focus on the provincial capital: Jalalabad

Jalalabad is the provincial capital of Nangarhar. Its population is officially reported to be 255 012. Asian Highway AH-1 passes through the district of Jalalabad. The city is a major point of influx for returnees from Pakistan and IDPs in the region.

The Taliban as well as the ISKP are active in the provincial capital. The conflict in the city is characterised by asymmetric tactical warfare with suicide bombing and IEDs as weapons of attack. The attacks target security forces and government administrations as well as civilians, including places of worship, education facilities, an international NGO and other 'soft' targets.

Between 16 November 2018 and 7 February 2019, suicide attacks in Afghanistan overall decreased by 61 %, compared with the same period the year before, which, according to the UN Secretary General, may reflect successful interdiction efforts by security forces in the cities of Kabul and Jalalabad.

The district of the capital city is categorised as under government control or undetermined by LWJ.

In the period 1 January 2018 - 28 February 2019, no conflict-related displacement was reported from Jalalabad; and 2 286 persons were displaced to the city.

UNOCHA places the district Jalalabad in the second highest category of conflict severity.

Looking at the indicators, it can be concluded that the degree of indiscriminate violence reaches such a high level in **Nangarhar**, except the capital city of Jalalabad, that substantial grounds are shown for believing that a civilian, returned to the province, would, solely on account of his or her presence on the territory of the province, face a real risk of being subject to the serious threat referred to in Article 15(c) QD.

In the **city of Jalalabad**, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD; however, 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD.

Nimroz

[*Security situation 2019, 2.24*]

Nimroz province is located in the south-west of Afghanistan, it borders Farah and Helmand, as well as Iran and Pakistan. Nimroz is divided into five districts. The province is an important smuggling and trafficking route because of its vicinity to Iran, Pakistan and Helmand.

The influence of Iran in the province is high. Constant disputes over water resources and surreptitious support of the Taliban by Iranian State actors reportedly worsened existing tensions. Taliban fighters loyal to Mullah Rasul, the leader of a splinter group, are active in western Afghanistan. Al-Qaeda has not announced its presence but one firefight with the group is reported.

The majority of the districts within the province are categorised by LWJ as contested, with the exception of the district of the provincial capital, Zaranj, which is categorised as under government control or undetermined.

According to GIM, 65 incidents related to insurgents have taken place in the period of January 2018 – February 2019 (average of 1.1 incidents per week).

Examples of incidents include military operations against Al-Qaeda and airstrikes against the Taliban and their narcotic production factories in Kashrod. Armed clashes between Afghan security forces and Taliban in Dil Aram and in Charburjak have also been reported. A Taliban attack on an Afghan police checkpoint was also reported.

UNAMA reported 82 civilian casualties (18 deaths and 64 injured) in 2018, representing 45 civilian victims per 100 000 inhabitants. This is a decrease of 17 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by UXO/landmines and aerial attacks.

In the period 1 January 2018 – 28 February 2019, 86 persons were displaced from the province of Nimroz, mainly within the province itself. In the same period, 617 persons were displaced to the province.

In the map depicting conflict severity in 2018, UNOCHA places the district of Khashrod in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, Taliban checkpoints for charging taxes on vehicles carrying goods. Road blockades by insurgents to prevent the elections were also reported in October 2018. Taliban attacks against a dam project are also reported.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Nimroz**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Nuristan

[*Security situation 2019, 2.25*]

Nuristan province is located in eastern Afghanistan on the Afghan-Pakistani border. It borders the provinces of Badakhshan, Kunar, Laghman, and Panjshir. The province is divided into eight districts. The villages are isolated from each other, as well as from the district centres. Most of the roads are only travelable by pack animals due to poor road conditions. Nuristan is known as key support route for numerous insurgents.

In addition to the influential position of the Taliban in the region, ISKP is also reported to be active in the province since 2016. According to a press source, Al-Qaeda may also be present. It is reported that the presence of the Afghan police is limited to district centres.

Five of the districts of the province are categorised by LWJ as contested while three as under government control or undetermined.

According to GIM, 82 incidents related to insurgents were recorded in the period of January 2018 – February 2019 (average of 1.4 incidents per week).

Examples of incidents include airstrikes against ISKP and the Taliban. A roadside bomb caused the deaths of Afghan security forces. Fighting between Taliban and ISKP has also been reported.

UNAMA documented 25 civilian casualties (9 deaths and 15 injured) in 2018, representing 16 civilian victims per 100 000 inhabitants. This is an increase of 41 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by targeted/deliberate killings and aerial attacks.

In the period 1 January 2018 – 28 February 2019, 628 persons were displaced from the province of Nuristan, mainly within the province itself.

In the UNOCHA map depicting conflict severity in 2018, no districts are placed in the highest two categories.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Nuristan**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Paktika

[*Security situation 2019, 2.26*]

Paktika is located in eastern Afghanistan and borders Pakistan and the provinces of Ghazni, Paktya, Khost and Zabul. It is divided into 19 official and four unofficial districts. A national highway connects the provinces of Ghazni and Paktika and continues to the Afghan-Pakistani border.

The influence of the Taliban is high. Activities of other insurgent groups, in particular the Haqqani network, are also reported.

11 of the districts of the province are categorised by LWJ as contested, four as under government control or undetermined, and four as under Taliban control.

According to GIM, 92 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.5 incidents per week).

Examples of incidents include some security incidents during the parliamentary elections and airstrikes carried out by Afghan and US security forces against the militants, including the Haqqani network and the Taliban, which also caused civilian casualties. A detonation of an UXO, killing civilians, was also reported.

UNAMA documented 150 civilian casualties (67 deaths and 83 injured) in 2018, representing 20 civilian victims per 100 000 inhabitants. This is a decrease of 6 % compared to 2017. The leading causes for the civilian casualties were (non-suicide) IEDs, followed by targeted killings and ground engagements.

In the period 1 January 2018 – 28 February 2019, 5 445 persons were displaced from the province of Paktika, mainly within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the district of Urgun in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, the closure of the Ghazni-Paktika highway for six months, as well as the closure of schools due to clashes between security forces and armed insurgents.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Paktika**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Paktya/Paktia

[*Security situation 2019, 2.27*]

Paktya is located in eastern Afghanistan and is divided into 11 districts. It borders Pakistan, and the provinces of Logar, Khost, Paktika and Ghazni. The Kabul-Gardez highway connects the provincial capital to Kabul city and the Gardez-Khost highway runs to the Afghan-Pakistani border.

Paktya province is witnessing an active insurgency, which is reportedly constrained by strong tribal affiliations and cohesive local communities. The province is a stronghold of the Taliban, but the Haqqani Network has also become powerful in the province. The network allied with Al-Qaeda foreign fighters in order to reach the provincial capital and potentially Kabul by demanding transit rights through Zurmat valley.

LWJ considered five of the districts as contested, the districts of Janikhel and Zurmat under Taliban control, and the remaining four districts, including the capital Gardez, under government control or undetermined.

According to GIM, 108 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.8 incidents per week).

Throughout 2018, Afghan and foreign security forces carried out operations and airstrikes against insurgents in the districts of Ahmadabad, Zurmat and Sayedkaram, which also caused civilian casualties. Further examples of incidents include a Taliban attack on a convoy of provincial officials and the kidnapping of passengers on the Kabul-Gardez highway. It was also reported that militants allegedly belonging to the Khost Protection Force executed civilians on more than one occasions. ISKP attacked a Shia mosque and at least 38 worshippers were killed.

UNAMA documented 428 civilian casualties (152 deaths and 276 injured) in 2018, representing 73 civilian victims per 100 000 inhabitants. This is a decrease of 13 % compared to 2017. The leading causes for the civilian casualties were suicide/complex attacks, followed by ground engagements and aerial attacks.

In the period 1 January 2018 – 28 February 2019, 1 829 persons were displaced from the province of Paktya, mainly within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the district of Gardez in the highest category and the districts of Zurmat and Jani Khel in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, the closure of Ghazni-Paktya highway by the Taliban after fights with Afghan security forces. Moreover, Taliban hindered dwellers of Zurmat district to cast their vote during parliamentary elections in October 2018.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Paktya**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Panjshir

[*Security situation 2019*, 2.28]

Panjshir is located in central Afghanistan and is divided into seven districts. The province borders Baghlan, Takhar, Badakhshan, Nuristan, Laghman, Kapisa and Parwan. It is isolated and difficult to access. The local population is known for their historical opposition to the Taliban. Many Panjshiris have been members of the Afghan political and military elite.

There is no recent Taliban activity in the province, and the most prominent assaults date several years back. One media source refers to possible limited ISKP presence in Panjshir.

LWJ considered all districts of the province under government control or undetermined.

According to GIM, 2 incidents related to insurgents were reported in the period of January 2018 – February 2019.

UNAMA documented no civilian casualties in 2018.

In the period 1 January 2018 – 28 February 2019, no displacement from the province of Panjshir was reported.

In the UNOCHA map depicting conflict severity in 2018, all districts of Panjshir are placed in the lowest category.

Looking at the indicators, it can be concluded that no armed conflict within the meaning of Article 15(c) QD is taking place in the province of **Panjshir**. Therefore, there is no real risk under Article 15(c) QD.

Parwan

[*Security situation 2019, 2.29*]

Parwan province is located in the central part of Afghanistan and borders Panjshir, Kapisa, Kabul, Wardak and Bamyan. It is divided into 10 districts. The Salang Pass Tunnel connects Kabul to northern Afghanistan and a highway from Kabul to Kunduz runs through the province; another highway connects Parwan and Bamyan provinces. The province also hosts the Bagram Air Base, the largest NATO military base in Afghanistan.

The Taliban have been active in some districts, from where they planned attacks on the capital and the NATO facility in Bagram, the latter in collaboration with Al-Qaeda.

LWJ considered half of the districts under government control or undetermined and the other half contested.

According to GIM, 49 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 0.8 incidents per week).

Examples of incidents include fighting between Taliban and Afghan security forces in several districts of the province in 2018, such as Siya Gird, Shinwari and Shekhali. The Taliban also attacked Afghan and international security forces near the capital and carried out road blocks with regard to the elections in October 2018. Kidnapping of passengers along the Kabul-Bamyan route in Shekhali district was also reported. Afghan and foreign forces carried out airstrikes in Jabalussaraj district, causing casualties among insurgents and the civilian population.

UNAMA documented 41 civilian casualties (20 deaths and 21 injured) in 2018, representing 6 civilian victims per 100 000 inhabitants. This is a decrease of 47 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by suicide/complex attacks.

In the period 1 January 2018 – 28 February 2019, 84 persons were displaced from the province of Parwan. In the same period, 1 218 persons were displaced to the province of Parwan.

In the map depicting conflict severity in 2018, UNOCHA places the district of Ghorband in the second highest category. The remaining districts fall in lower categories.

Further impact on the civilian population includes the closure of the Parwan-Bamyan highway due to clashes between the Taliban and Afghan security forces.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Parwan** 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 within 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.

Samangan

[*Security situation 2019, 2.30*]

Samangan is located in the north of Afghanistan. The province lies strategically, to the north of the Hindu Kush, and borders Balkh, Baghlan, Bamyan and Sar-e Pul. It is divided into seven districts. The section of the Ring Road from Kabul to Mazar-e Sharif crosses districts of the province.

The Taliban have been operating in the province throughout 2018. A number of other illegal armed groups, as well as pro-government militias, were also active in Samangan.

According to LWJ, all districts are considered under government control or undetermined, with the exception of Dara-e-Sufe-Payin, which is categorised as contested.

According to GIM, 43 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 0.7 incidents per week).

The Taliban targeted Afghan security force posts in Lower Dara-e-Suf district throughout 2018. Other examples of incidents include Taliban attacks on a pro-government militia, which caused civilian casualties in the same district. Kidnapping of 40 passengers by Taliban was reported in the Upper Dara-e-Suf district.

UNAMA documented 46 civilian casualties (19 deaths and 27 injured) in 2018, representing 11 civilian victims per 100 000 inhabitants. This is an increase of 21 % compared to 2017. The leading causes for the civilian casualties were (non-suicide) IEDs, followed by targeted/deliberate killings and ground engagements.

In the period 1 January 2018 – 28 February 2019, 3 997 persons were displaced from the province of Samangan, mainly within the province itself or in Kabul province.

In the UNOCHA map depicting conflict severity in 2018, no districts are placed in the highest two categories.

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 within 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.

Sar-e Pul

[*Security situation 2019, 2.31*]

Sar-e Pul is located in the northern part of Afghanistan and borders Jawzjan, Balkh, Samangan, Bamyan, Ghor and Faryab. It is divided into seven districts.

Since 2012, Sar-e Pul province has become a 'Taliban stronghold'. Militants from the Islamic Jihad Union have operated alongside the Taliban since 2015. There is no evidence that ISKP is present in the province although some media information indicates this.

According to LWJ five of the districts are contested, considering only the district of Kohestanat under Taliban control and the district of Balkhab under government control or undetermined.

According to GIM, 71 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.2 incidents per week).

The provincial capital Sar-e-Pul nearly fell to Taliban insurgents in September 2018. Further examples of incidents include clashes between the Taliban and Afghan security forces in the district of Sayaf in December 2018, and Taliban attacks on the outskirts of the capital in January 2019, which reportedly aimed to secure an oil-rich area near the capital. Kidnapping of travellers was also reported.

UNAMA documented 101 civilian casualties (22 deaths and 79 injured) in 2018, representing 17 civilian victims per 100 000 inhabitants. This is a decrease of 6 % compared to 2017. The leading causes for

the civilian casualties were ground engagements, followed by UXO/landmines and (non-suicide) IEDs and targeted/deliberate killings.

In the period 1 January 2018 – 28 February 2019, 21 623 persons were displaced from the province of Sar-e Pul, mainly within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts of Sar-e Pul, Sayad and Sancharak in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes, for example, the occasional closure of the Sar-e Pul-Jawzjan highway due to clashes between insurgents and Afghan security forces, followed by the set-up of Taliban check points along the highway and the closure of electoral registration centres in Sayad and Sozmaqala.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Sar-e Pul**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Takhar

[*Security situation 2019, 2.32*]

Takhar province is located in the north-east of Afghanistan and is divided in 17 districts. It borders on Badakhshan, Panjshir, Baghlan and Kunduz, and on Tajikistan to the north. The Kunduz-Takhar highway runs through the districts of Kalafgan, Taloqan and Bangi.

In 2018, Taliban militants have reportedly been active in the province, particularly in Darqad, Khwaja Ghar, Khwaja Bahawuddin, Yangi Qala, Eshkamesh and Chahab districts, bordering Kunduz and Tajikistan. Besides the Taliban, militants from the ISKP, IMU and its splinter group Jundallah are active along the border with Tajikistan. Reputedly, a small number of Islamic Jihad Union fighters are also active in parts of Takhar province.

According to LWJ, nine of the districts in Takhar province are contested and eight as under government control or undetermined.

According to GIM, 88 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.5 incidents per week).

Examples of incidents include battles between the Taliban and the Afghan security forces in an attempt by the insurgents to gain territory; Taliban attacks on security posts in Khwaja Ghar and Chahab; firing of mortars towards a polling centre located in a school in Eshkamesh district; bomb explosion targeted at election rally in Rostaq district.

UNAMA documented 113 civilian casualties (26 deaths and 87 injured) in 2018, representing 11 civilian victims per 100 000 inhabitants. This is an increase of 15 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by (non-suicide) IEDs and threat/intimidation/harassment.

In the period 1 January 2018 – 28 February 2019, 31 094 persons were displaced from the province of Takhar, all within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the district of Darqad in the second highest category. The remaining districts fall in the four lowest categories.

Further impact on the civilian population includes, for example, the closure of schools by the Taliban.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Takhar**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Uruzgan

[*Security situation 2019, 2.33*]

Uruzgan province is located in the central part of Afghanistan and is divided into five districts. It borders Daikundi, Ghazni, Zabul, Kandahar and Helmand. The Kandahar-Uruzgan highway runs through the districts of Chora and Tarinkot. In some districts of the province, like Khas Uruzgan, Hazaras have lived in self-governed enclaves under local agreements with the Taliban.

Throughout 2018, Taliban militants were active in the province. They expanded their operations to areas which until then had been spared, like the district of Khas Uruzgan. Sources also reported activity of ISKP in the province, particularly in Chora district.

Four districts of Uruzgan province are categorised by LWJ as contested and one is categorised as under Taliban control.

According to GIM, 220 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 3.7 incidents per week).

Examples of incidents include intense battles between local Hazara militia and the Taliban. The fighting, accounting for many casualties and internally displaced people, mostly among the Hazara civilian population, went on almost one month until late November 2018. There are also reports of travellers being kidnapped and later killed by the Taliban. Ongoing military operations in order to clear the Kandahar-Uruzgan highway from Taliban insurgents were reported in February 2019.

UNAMA documented 173 civilian casualties (46 deaths and 127 injured) in 2018, representing 41 civilian victims per 100 000 inhabitants. This is a decrease of 70 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by (non-suicide) IEDs and aerial attacks.

In the period 1 January 2018 – 28 February 2019, 8 620 persons were displaced from the province of Uruzgan, the majority within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the capital district of Tirinkot in the highest category and the districts of Dehrawud, Chora and Khas Uruzgan in the second highest category. The remaining districts fall in the lower categories.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Uruzgan**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Wardak

[*Security situation 2019, 2.34*]

Wardak province, also known as Maidan Wardak, is located in the central part of Afghanistan and is divided into nine districts. It borders Parwan, Bamyan, Kabul, Logar and Ghazni. The Kabul-Kandahar

highway, which is of strategic importance, crosses the province's districts of Maidan Shahr, Narkh and Saydabad.

Wardak province is considered a 'relatively volatile' province, with Taliban active in most of its districts. Most districts of the province are categorised by LWJ as contested. Two districts are categorised as under government control or undetermined, and the district of Saydabad as under Taliban control.

Due to increased violence against the Shia community, in Wardak province, a militia composed of 1 000 armed Hazara allied itself with Hazara groups in Ghazni in order to create its own protection force for the central region.

According to GIM, 90 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 1.5 incidents per week).

Examples of incidents include intensive night raids and airstrikes, the most prominent one in Jaghtu district at the end of September 2018. Narkh and Jalrez districts were also affected by airstrikes and military operations. Taliban insurgents carried out suicide attacks outside a police compound in the provincial capital in October 2018, as well as in January 2019. Election-related violence, landmines and roadside bombing were also reported.

UNAMA documented 224 civilian casualties (88 deaths and 136 injured) in 2018, representing 35 civilian victims per 100 000 inhabitants. This is an increase of 170 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by suicide attacks and (non-suicide) IEDs.

In the period 1 January 2018 – 28 February 2019, 3 199 persons were displaced from the province of Wardak, the majority of whom within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the districts Jalrez and Saydabad in the second highest category. The remaining districts fall in the lower categories.

Further impact on the civilian population includes the Taliban setting up check-points on a provincial road and temporarily capturing strategic posts along main roads to Kabul in Saydabad and Daymirdad districts, thereby restricting movement between provinces. Following clashes between Taliban and Afghan security forces, electricity was cut-off in the province and the Kabul-Kandahar highway has been closed occasionally.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the province of **Wardak**, however not at a high level and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

Zabul

[*Security situation 2019*, 2.35]

Zabul province is located in the southern part of Afghanistan and is divided into 11 districts. The province borders Kandahar, Uruzgan, Ghazni, Paktika, and shares an international border with Pakistan. The Kabul-Kandahar highway, which is of strategic importance, passes through remote areas of the province, many of which are not under government control. It is a key supply route for the south.

Zabul province is considered a 'Taliban stronghold' in the 'volatile south', the province sees a weak presence of the Afghan government, which is limited to the capital city, while the majority of the population lives across numerous villages in rural areas. Besides local Taliban insurgents, ISKP fighters are reportedly active in several districts of the province.

Eight districts of the province are categorised by LWJ as contested, the district of the capital, Qalat, is considered under government control or undetermined, and the districts Arghandab and Kakar are considered under Taliban control.

According to GIM, 117 incidents related to insurgents were reported in the period of January 2018 – February 2019 (average of 2 incidents per week).

Examples of incidents include night raids and airstrikes. Taliban insurgents have been carrying out activities related to terrorism such as shootings and suicide attacks in some districts of Zabul province. Moreover, conflict-related security incidents such as illegal armed groups attacking police check posts and detonations of IEDs are reported to have taken place along some highway sections in Zabul province. Airstrikes by US forces also took place and killed Taliban leaders and commanders.

UNAMA documented 293 civilian casualties (57 deaths and 236 injured) in 2018, representing 79 civilian victims per 100 000 inhabitants. This is a decrease of 12 % compared to 2017. The leading causes for the civilian casualties were ground engagements, followed by (non-suicide) IEDs and UXO/landmines.

In the period 1 January 2018 – 28 February 2019, 2 902 persons were displaced from the province of Zabul, the majority of whom within the province itself.

In the map depicting conflict severity in 2018, UNOCHA places the district of Shahjoy in the highest category and the district of Qalat is in the second highest category. The remaining districts fall in the lower categories.

Looking at the indicators, it can be concluded that 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD in the province of **Zabul**, however, indiscriminate violence reaches a high level, and, accordingly, a lower level of individual elements is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

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.*⁴⁰

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.*⁴¹

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 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.*⁴²

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.⁴³ See [Indiscriminate violence](#).

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

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

- 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 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).

⁴⁰ *Elgafaji*, para.38.

⁴¹ *Elgafaji*, para.43.

⁴² *ibid.*

⁴³ *Elgafaji*, para.39.

- 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. 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.⁴⁴

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’.*⁴⁵

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.

f. 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.

⁴⁴ *Elgafaji*, para.28.

⁴⁵ *Elgafaji*, paras. 33-34.

IV. Actors of protection

Article 7 QD stipulates the requirements for actors of protection:

Article 7(1)(2) of the Qualification Directive Actors of protection
<p>1. Protection against persecution or serious harm can only be provided by:</p> <ul style="list-style-type: none"> a) The State; or b) Parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State; <p>provided they are willing and able to offer protection in accordance with paragraph 2.</p> <p>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.</p>

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, the ANP, the ALP and the NDS [*Key socio-economic indicators 2017*, 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 2017*, 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, 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:

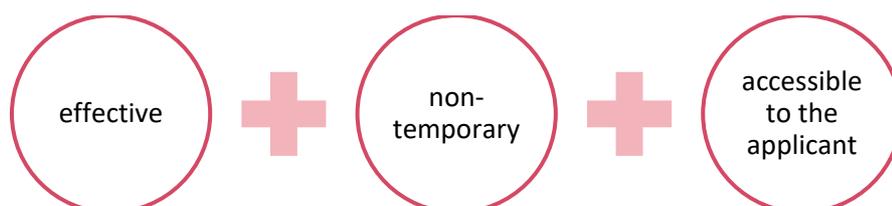


Figure 11. Requirements to the protection in the country of origin in accordance with Article 7 QD.

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 2019*, 1.4.2]. Afghan security forces have not been able to secure all of Afghanistan and have lost territory to the insurgents [*Security situation 2019*, 1.5.3]. 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 2017*, 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 2017*, 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 2019*, 1.4.2].

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 2017*, 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 2019*, 1.4.2; *Key socio-economic indicators 2017*, 3.5.2, 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 2018*, 1.1, 2.1.2, 2.5.2, 2.13.2; *Security situation 2019*, 1.3.3, 1.3.4, 1.4.2; *Key socio-economic indicators 2017*, 3.4].

Family and domestic matters are typically kept private and the police do not get involved [*Key socio-economic indicators 2017*, 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 healthcare 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
<p>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:</p> <ul style="list-style-type: none"> 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; <p>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.</p> <p>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.</p>

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 (IPA) in national legislation and its implementation in practice.

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. In such cases, 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.

The analysis of IPA should be part of the assessment of the future risk of being subjected to persecution or serious harm. 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 IPA should not be applied to him or her.

This chapter is structured following the elements of the legal provision of [Article 8 QD](#):

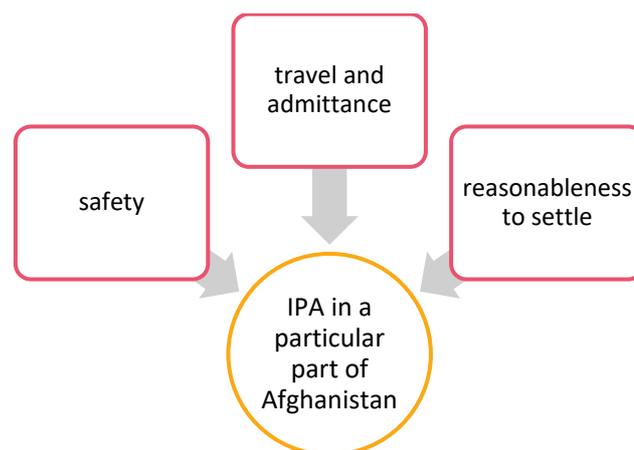


Figure 12. Internal protection alternative: elements of the assessment.

These criteria under Article 8(1) QD reflect ECtHR jurisprudence, for example in the case of *Salah Sheekh*.⁴⁶

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, Herat** and **Mazar-e Sharif**.

This is without prejudice to the possibility to apply IPA to other places in Afghanistan.

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 place in 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.

⁴⁶ECtHR, *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.'

Safety

The criterion of safety would be satisfied where the following two aspects have been established:

✓ **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 below.

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**

The case officer 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.⁴⁷

The analysis under the chapters [Refugee status](#) and [Subsidiary protection](#) should be referred to in this regard.

These elements 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 situation in Kabul, Herat and Mazar-e Sharif is assessed in light of the indicators of indiscriminate violence in the section on [Article 15\(c\) QD](#) above. The conclusions with regard to the three cities are as follows:

⁴⁷ 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', 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.

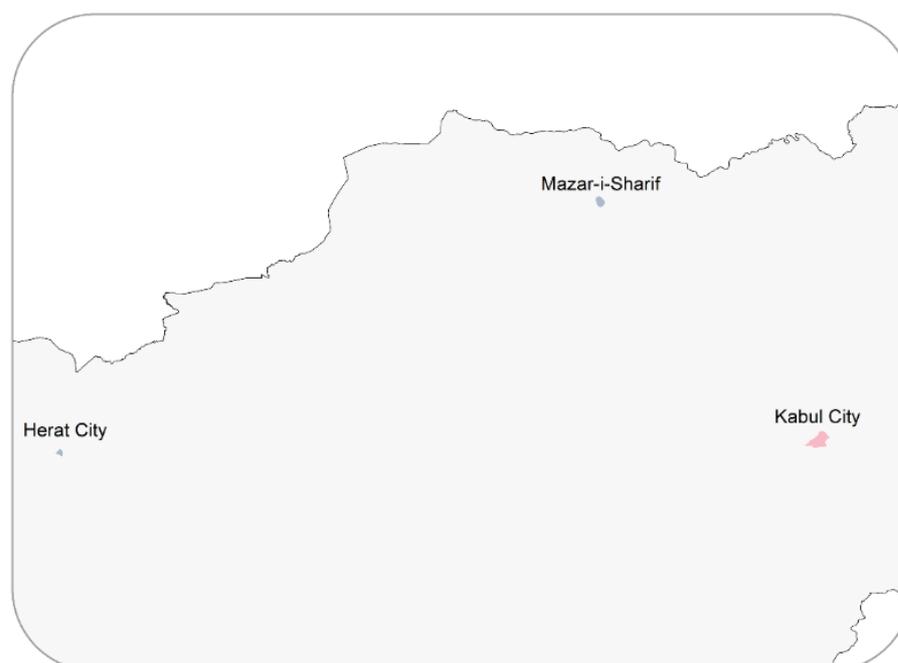


Figure 13. Level of indiscriminate violence in the cities of Kabul, Herat and Mazar-e Sharif (based on data as of 28 February 2019).

- In **Kabul City**, indiscriminate violence is taking place, however **not at a high level and, accordingly, a higher level of individual elements** is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm in the meaning of Article 15(c) QD.
- In **Herat City**, 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.
- In **Mazar-e Sharif**, 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.

It can be concluded that the general security situation in the cities of Kabul, Herat and Mazar-e Sharif does not preclude the consideration of the three cities as IPA. However, a careful examination of the safety requirement with regard to IPA should take place, particularly when assessing the availability of IPA to Kabul.

► 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 safety 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 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 and their ability to track and target individuals in the cities should be assessed; in most cases IPA could be available. The operational presence of **ISKP** in Kabul and Herat should be taken into account in the individual assessment [*Conflict targeting*, 1.5.1.1; *Security situation 2019*, 1.2.2, 2.1, 2.13].

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. LGBTI persons, 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.

See the section [Actors of persecution or serious harm](#).

▶ **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.

▶ **personal enmity**

Some private disputes, including those based on honour and blood feuds, could strengthen the determination of 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.

▶ **behaviour of the applicant**

The applicant cannot be expected to change his or her behaviour or to live in concealment, for example in relation to his or her sexual orientation or religion, in order to avoid persecution or serious harm.⁴⁸

Availability of protection against persecution or serious harm

Alternatively, case officers may determine that the requirement of safety is satisfied if the applicant would have access to protection against persecution or serious harm as defined in [Article 7 QD](#) in the area where IPA is considered. 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.

See the chapter on [Actors of protection](#) above.

⁴⁸ CJEU, *X, Y and Z*, paras. 70-76; CJEU, *Y and Z*, para. 80.

Travel and admittance

As a next step, case officers have to establish whether an applicant can:

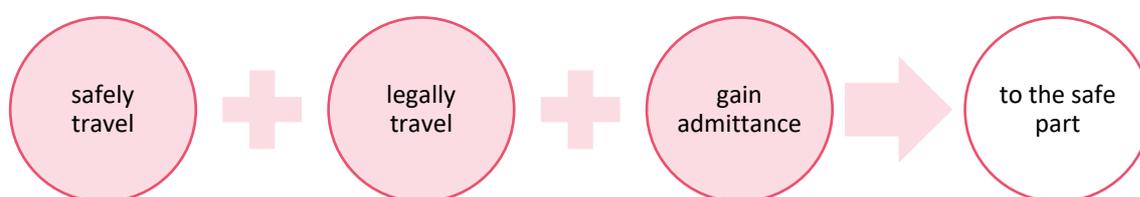


Figure 14. Travel and admittance as requirements for IPA.

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 travel criterion and has to be assessed carefully based on relevant COI.⁴⁹ See *Key socio-economic indicators 2019*, 2.1, 2.4; *Security situation 2019*, 2.1, 2.5, 2.13.

- **Kabul city:** The airport of Kabul (KIA) is part of the urban area of Kabul city, located 5 km from the city centre. This airport operates domestic and international flights.

Security incidents have occurred in the vicinity of the airport, including bombings and attacks targeting the security apparatus and high profile figures.

- **Mazar-e Sharif:** The airport of Mazar-e Sharif (MZR) lies 9 km east of the city in the district of Marmul. This airport operates domestic and international flights.

No examples of incidents were reported for the airport in Mazar-e Sharif.

- **Herat:** The airport of Herat (HEA) lies 13 km south of the city in the district of Gozara. This airport operates domestic and international flights.

The road connecting Herat to the airport is routinely controlled by security forces. However, in recent years there have been reports of activity by criminal networks, who are often connected to insurgents.

Based on available COI, it is concluded that, in general, a person can access the cities of Kabul, Herat and Mazar-e Sharif without serious risk.

- ✓ **Legally travel** – there should be no legal obstacles that prevent the applicant from travelling to the safe area.

There are no legal restrictions on travel inside Afghanistan. The government does not generally restrict the right of movement of individuals within the borders of the country, but security forces and insurgents may operate illegal checkpoints and extort money and goods from travellers. At government checkpoints, appropriate identification is generally sufficient to permit passage and

⁴⁹ ECtHR, *Sufi and Elmi*, paras. 268, 269, 271.

other sources report that there is no ‘systematic requirement for documents to travel within Afghanistan’ [*Key socio-economic indicators 2019, 2.2*].

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.

- ✓ **Gain admittance to** – the applicant should be allowed to access the safe area by the actor(s) who control it.

There are no legal restrictions on admittance and residence inside Afghanistan [*Key socio-economic indicators 2019, 2.2*]. The cities of Kabul, Herat and Mazar-e Sharif are under the control of the government [*Security situation 2019, 2.1, 2.5, 2.13*]. It is, therefore, concluded that the person would be allowed to gain admittance to the three cities.

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. Social restrictions constrain women’s ability to travel on their own and women’s freedom of movement is limited by the requirement of male consent or male chaperone. There is variation in women’s freedom of movement and dress code across the country. For example, in Kandahar women are rarely seen alone in public, but this is more common in Mazar-e Sharif and Kabul [*Key socio-economic indicators 2019, 2.3*].

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’.⁵⁰
- ‘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 [of ECHR]’.⁵¹

⁵⁰ECtHR, *Sufi and Elmi*, para.283.

⁵¹ECtHR, *A.A.M. v. Sweden*, para.73.

In applying the reasonableness test, it should be established that the basic needs of the applicant would be satisfied, 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, and to the availability of basic healthcare.

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 and services, such as:
 - shelter and housing;
 - basic healthcare;
 - hygiene, including water and sanitation;
- 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.

The general situation in the area in consideration should be examined in light of the criteria described above, and not in comparison with standards in Europe or other areas in the country of origin.

These criteria are assessed below in relation to the general situation in the cities of Kabul, Herat and Mazar-e Sharif (*General situation*). This general situation is, furthermore, taken into account in the conclusions regarding the applicability of IPA to certain profiles of applicants (*Conclusions on reasonableness*).

General situation

Based on available COI, the general situation with regard to the elements mentioned above is assessed as follows:

Food security [*Key socio-economic indicators 2019, 6*]: According to 2016-2017 Afghanistan Living Conditions Survey (ALCS) data, 44.6 % of the Afghan population – 13 million people – are very severely to moderately food insecure, increasing from 30.1 % in 2011. An increase has been observed in all residence population groups, with the highest rise being observed in the rural areas. During the winter planting season in December 2017 – February 2018, Afghanistan experienced an extended period of drought. UNOCHA found that the drought in 2018 has affected more than two thirds of the Afghan population, causing health issues, triggering negative coping mechanisms and reducing incomes by half. Famine Early Warning System (FEWS) labelled both **Kabul** and **Mazar-e Sharif** as 'stressed' in December 2018, meaning that even with humanitarian assistance at least one in five households had minimally adequate food consumption but was 'unable to afford some essential non-food expenditures without engaging in irreversible coping strategies'. **Herat** was found to be in the category of 'crisis', meaning that despite any humanitarian assistance at least one in five households had food consumption gaps or above usual acute malnutrition or was only marginally able to meet minimum food needs.

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.

Housing and shelter [*Key socio-economic indicators 2019, 9; Networks, 4.2*]: Afghanistan's annual urban population growth rate is among the highest in the world. **Kabul** has been the centre of the growth, and the rest of the urban population is concentrated mostly in four other city regions: **Herat**, **Mazar-e Sharif**, Kandahar and Jalalabad. The large majority (72 %, based on ALCS figures for 2016-2017) of Afghanistan's urban population lives in slums or inadequate housing; 86 % of urban houses in Afghanistan can be classified as slums, according to the UN-Habitat definition. The State of Afghan

Cities report found that '[a]ccess to adequate housing is a major challenge for the majority of urban Afghans [...] poverty and inequality are the harsh reality for roughly one-third of all urban households'. According to an International Growth Centre (IGC) research, an estimated 70 % of **Kabul's** population lived in informal settlements. According to IGC, 'informal settlements in Kabul offer crucial low-cost housing to the majority of residents in the city.' Many urban households accommodate extended family members from rural areas who have come to the city looking for work, and this is particularly frequent in Kabul. Such households also tend to be multigenerational and to host elderly relatives. In addition, the cities provide the option of 'tea houses', which are relatively cheap lodging at 30 to 100 Afghani per night. 'Tea houses' are utilised as temporary lodging by travellers, day workers, street salesmen, young people, single men and others who do not have permanent housing in the area.

Hygiene, including water and sanitation [*Key socio-economic indicators 2019, 9*]: According to ALCS, access to clean water and adequate sanitation and hygiene has improved significantly in terms of access to appropriate services of sanitation and especially drinking water. Access to basic services, such as water supply and sanitation, were generally better in the cities compared to the countryside. However, access to drinking water still remains a problem for many Afghans and sanitation continues to be poor.

Kabul is regarded as one of the world's most water-stressed cities. It is estimated that 32 % of Kabul's population has access to running water, and only 10 % of residents receive potable water. Those who can afford it drill their own wells. Many poor residents of Kabul depend on public taps often far from their homes. The majority of the shared water points and wells in the capital are contaminated by domestic and industrial wastewater released into the Kabul River, posing grave health concerns. ALCS 2016-2017 found that almost half of the population in Kabul had basic sanitation services.

Afghanistan Public Policy Research Organization (APPRO) found in April 2016 that 80 % of the residents in **Herat City** have access to grid power, 70 % to water, and 30 % to sewage services. Of the urban population in Herat, 81.2 % has access to improved water sources and 92.1 % has an improved sanitation facility. However, Herat City lacks a central sewage system.

Most people in **Mazar-e Sharif** have access to improved sources of drinking water (76 %), usually piped or from the wells. 92 % of households have improved sanitation facility.

Basic healthcare [*Key socio-economic indicators 2019, 8*]: Afghanistan's Ministry of Public Health stated that 60 % of people had access to health services in April 2018, where access was defined as one-hour walking distance to the nearest clinic. Despite the fact that according to the Afghan Constitution healthcare should be free of charge, people have to pay for medications, doctor's fees, laboratory tests and inpatient care in many public facilities. High treatment costs were the main reason treatment was avoided.

APPRO noted in a 2016 report that '[t]hough people have access to public and private health services in **Kabul City**, poor quality motivates those who can to seek treatment in India and Pakistan'. According to different sources, there are one or two public mental health hospitals in Kabul.

Herat Regional Hospital, located in the centre of Herat City, was the main hospital serving the provinces of Herat, Badghis, Ghor, Farah and Nimroz, with specialised tertiary level health services. It is reported that a public hospital providing free outpatient and inpatient treatment by a psychiatrist or psychologist is located in the city, with the possibility of free medication if available. UNOCHA reported in September 2018, that basic and secondary healthcare facilities in Herat City had become insufficient to cope with the large numbers of IDPs that had come to Herat City.

There were approximately 10-15 hospitals in **Mazar-e Sharif**, most of them private, and 30-50 health clinics. The Abu Ali Sinha Balkhi Regional Hospital in Mazar-e Sharif served as the central hospital for Balkh province and was the referral hospital for the northern region, receiving all accident and

emergency cases and acting as a major general hospital for the clinics in the surrounding districts. It was reported that there were two facilities providing mental health service in Mazar-e Sharif.

Means of basic subsistence [*Key socio-economic indicators 2019, 2.8, 4; Networks*]: According to ALCS 2016-17, 2 million Afghans – 23.9 % of the total labour force – can be classified as unemployed, meaning they do not work or seek employment or work less than eight hours per week. Young Afghans enter the labour market in large numbers every year, but employment opportunities cannot keep up with the population growth because of inadequate development resources and poor security.

Afghanistan faced a sharp increase in poverty since 2011-2012, with a rise in both urban and rural poverty rates. In 2016-2017, 54.5 % of the population was living below the national poverty line. Increasing numbers of people resort to negative coping mechanisms such as petty crime, child marriages, child labour, and street begging, particularly affecting IDPs.

Access to productive or remunerative employment is limited, 80 % of employment is considered vulnerable and insecure in the form of self- or own-account employment, day labour or unpaid work. The seasonal effect is significant. The unemployment rate is relatively low during spring and summer months (around 20 %) while in winter time it can reach 32.5 %. ALCS 2016-2017 noted that only 19.8 % of all employed persons in Afghanistan are in salaried public and private employment or are employers, meaning that the majority of workers represent vulnerable employment.

52.6 % of the rural population is employed in agriculture, while there is more diversity in urban employment, where 36.5 % of the working population is engaged in various services and only 5.5 % in agriculture.

The capital has a large share of salaried workers, while self-employment is less common compared to rural parts of the country. Salaries in **Kabul** are generally higher than in other provinces.

In **Herat** City, there are opportunities related to trade, import and export of goods, mining and manufacturing. Approximately half of the working population are day labourers.

Mazar-e Sharif is a regional trading centre for northern Afghanistan and an industrial centre with large-scale manufacturing operations and a huge number of small and medium enterprises providing handicrafts, rugs and carpets. Mazar-e Sharif is considered relatively more stable compared to Herat or Kabul. The largest group of workers in the city were service and sales workers.

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. It is, for example, reported that the recent settlements in Kabul are often composed of residents with a common regional or ethnic background, who lean exclusively on each other to find housing and jobs. Sources report that extended family networks were vital for returnees in finding and maintaining employment and housing; however, having a family network did not necessarily remove all vulnerabilities. For unaccompanied minors, single women and female-headed households, vulnerabilities were higher even with family support. Many returnees, particularly those without family connections, settled in cities assuming that those were safer and livelihood opportunities were better.

Where relevant, available reintegration assistance for forced returnees may also be taken into account as an additional factor, temporarily contributing to reintegration in Afghanistan.⁵²

⁵² 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

The general circumstances prevailing in the cities of Kabul, Herat and Mazar-e Sharif, assessed in relation to the factors above, do not preclude the reasonableness to settle in the cities. The assessment should take into account the individual circumstances of the applicant. A person's ability to navigate the above circumstances will mostly depend on access to a support network or financial means.

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, ethnicity, religion, 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** [*Key socio-economic indicators 2019, 7*]: 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. In case of children, the best interests of the child shall be a primary consideration, for example, with regard to access to basic education. Afghanistan's education system has been described as overwhelmed, particularly due to the increased displacement, with most schools overcrowded and insufficiently resourced. Factors such as residence, gender, disability status and poverty affect access to education. There have been limitations in the access to education for IDPs and undocumented refugee returnees. Education facilities are present in the cities.
- **Gender** [*Key socio-economic indicators 2019, 2.3*]: 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)** [*Key socio-economic indicators 2019, 8*]: Access to healthcare 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.
- **Ethnicity and linguistic background** [*Security situation 2019, 2.1.1, 2.5.1, 2.13.1*]: While parts of Afghanistan are ethnically homogenous, different ethnicities are present in the cities of Kabul, Herat and Mazar-e Sharif. Kabul is a 'melting pot' for various ethnicities and linguistic groups, each of them settled in specific places. In Herat province. Pashtuns, Tajiks, Hazara, Turkmen, Uzbeks and Aimaqs are the main ethnic groups. Balkh is an ethnically diverse province. It is inhabited by Pashtun, Uzbek, Hazara, Tajik, Turkmen, Aimaq, Baloch, Arab, and Sunni Hazara (Kawshi) communities. In these cities, the knowledge of Dari or Pashtu is

generally considered sufficient and the linguistic background of the applicant would not be a determinative factor.

- **Religion** [*Society-based targeting, 2*]: 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.
- **Documentation** [*Key socio-economic indicators 2019, 2.2*]: The most important identification document in Afghanistan is called *tazkera*. A *tazkera* is formally required to access a range of public services, such as education, employment, healthcare, and official loans provided by a bank. It is also formally required for the issuance of housing, land and property certificates and title deeds.
- **Local knowledge**: Having lived in Afghanistan and/or being familiar with the societal norms is an important factor to take into account when assessing the reasonableness of IPA. Experience of having lived in an urban environment or, especially, in the respective city, could assist the applicant in settling there. Such experience may include, for example, having lived in the city for work or education, or having travelled to the city before.
- **Professional and educational background and financial means**: 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** [*Networks*]: 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 willingness and 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.

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), 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.

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.*

Although the situation related to settling in the cities of Kabul, Herat and Mazar-e Sharif entails certain hardships, IPA may be reasonable for single able-bodied men, taking into account their individual circumstances. 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.
- **Professional, educational and economic background:** 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:** Having lived in Afghanistan and/or being familiar with the societal norms is an important factor to take into account when assessing the reasonableness of IPA. Experience of having lived in an urban environment or, especially, in the respective city, could assist the applicant in settling there.
- **Support network:** The existence of a support network could assist the applicant in accessing the means to ensure one's subsistence.

Married couples of working age without children

**For applicants who were born and/or lived outside Afghanistan for a very long period of time see separate conclusion below.*

Although the situation related to settling in the cities of Kabul, Herat and Mazar-e Sharif entails certain hardships, IPA may be reasonable for married couples of working age without children, taking into account their individual circumstances.

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.

Single women without a male support network

For single women, especially those without a male support network in Afghanistan, IPA should be assessed carefully with regard to the requirement of safety, including safety of travel. Moreover, in Afghanistan, most women would not have independent access to means of ensuring their basic subsistence and basic services. Therefore, in general they need to be assisted by a male member of the core or extended family.

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 need to depend on other providers for their basic subsistence. The best interests of the child shall be a primary consideration. The question of access to basic education should be assessed in relation to the general situation in the respective city, as well as the individual circumstances of the child.

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, as they are particularly vulnerable, including to risks of child-specific forms of persecution or serious harm, such as child marriages and child labour.

Families with children

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. The best interests of the child shall be a primary consideration. The question of access to basic education should be assessed in relation to the general situation in the the respective city, as well as the individual circumstances of the family.

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, as they are particularly vulnerable, including to risks of child-specific forms of persecution or serious harm, such as child marriages and child labour.

Applicants with severe illnesses or disabilities

Depending on the health condition of the applicant, the limited accessibility of healthcare in the three cities may place him or her 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.

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.

Elderly applicants

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. Additionally, the state of health of an elderly applicant may cause difficulties, including in access to employment.

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.

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

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. An existing support network could also provide the applicant with such local knowledge. The background of the applicant, including their educational and professional experience and connections, as well as previous experience of living on their own outside Afghanistan, could be relevant considerations.

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.

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.

This chapter focuses on the exclusion of applicants found not to deserve international protection in accordance with [Article 12\(2\) QD](#) and [Article 17\(1\) QD](#).

If a person would otherwise qualify for refugee status, the following would constitute exclusion grounds, according to [Article 12\(2\) and \(3\) QD](#):⁵³

Article 12(2) and (3) of the Qualification Directive Exclusion (refugee status)
<p>2. A third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that:</p> <ul style="list-style-type: none"> (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. <p>3. Paragraph 2 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.</p>

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.⁵⁴

Article 17 of the Qualification Directive Exclusion (subsidiary protection)
<p>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:</p> <ul style="list-style-type: none"> (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;

⁵³ 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.

⁵⁴ 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.

- (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;
 - (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:

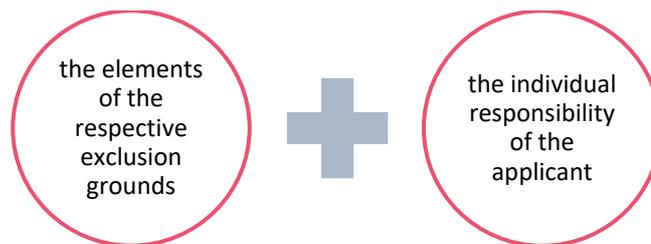


Figure 15. Elements in applying exclusion.

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 set a time limit for the application of the grounds for exclusion. Applicants may be excluded in relation to events occurring in the 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, 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.

▶ **‘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.⁵⁵ War crimes can only be committed during an armed conflict qualified accordingly under international humanitarian law.

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.⁵⁶

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.⁵⁷

Armed conflicts in the past can be characterised as follows:

⁵⁵ **War crimes** are listed, *inter alia*, under [Article 8 of the Rome Statute](#), under the ‘Grave Breaches’ provisions of the 1949 Geneva Convention 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).

⁵⁶ ‘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’, ICTY (Appeals Chamber), judgment of 12 June 2002, *Prosecutor v Kunarac et al.*, IT-96-23 and IT-96-23/1-A, para. 58.

⁵⁷ 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**.^{58,59} 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

⁵⁸ **Crimes against humanity** are defined in international instruments, *inter alia* [Article 7 of the Rome Statute](#).

⁵⁹ 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.

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.

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.

Analysis on the applicability of Article 12(2)(a) and Article 17(1)(a) QD:

It can be noted that the ground ‘crime against peace’ is not found to be of particular relevance in the cases of applicants from Afghanistan.

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.⁶⁰

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. Terrorist acts, which are characterised by their violence towards civilian populations, even if committed with a purportedly political objective, fall to be regarded as serious non-political crimes within the meaning of point (b).⁶¹

⁶⁰ For further information, see <https://www.icc-cpi.int/afghanistan>.

⁶¹ See, for example, CJEU, *Bundesrepublik Deutschland v. B and D*, C-57/09 and C-101/09, 9 November 2010, para.81.

It should also be noted that state agents could be responsible for serious (non-political) crimes (e.g. in relation to death penalty and executions, torture).

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**. This requirement does not apply to exclusion from subsidiary protection.

Analysis 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.

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](#). In order to apply this exclusion 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.⁶² However, there is no 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. 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 and General Assembly resolutions).⁶³

Relevant jurisprudence of the CJEU, including the *B and D* case⁶⁴ and the more recent *Lounani* case⁶⁵, views acts constituting participation in the activities of a terrorist group under this provision. This

⁶² CJEU, *Lounani*, para.74; *B and D*, para.84.

⁶³ See, for example, the 2001 UN Security Council resolutions 1373 and 1377.

⁶⁴ CJEU, *Bundesrepublik Deutschland v. B and D*, C-57/09 and C-101/09, 9 November 2010.

⁶⁵ CJEU, *Commissaire général aux réfugiés et aux apatrides v. Mostafa Lounani*, C-573/15, 31 January 2017.

could cover a wide range of conduct, such as recruitment, organisation, transportation or equipment of individuals, for the purpose of, inter alia, the planning or preparation of terrorist acts, etc.⁶⁶ It should be noted that the CJEU finds that the mere fact that a person was a member of an organisation implicated in terrorist acts does not automatically mean that the respective exclusion ground can be applied. However, it is not a prerequisite that an applicant for international protection has instigated a terrorist act or has otherwise participated in the commission of such an act. [Article 12\(2\)\(c\) QD](#) and [Article 17\(1\)\(c\) QD](#) can be applied only after undertaking, for each individual case, an assessment of the specific facts brought to the attention of the authorities with a view to determining whether there are serious reasons for considering that the acts committed by the person in question, who otherwise satisfies the qualifying conditions for international protection, fall within the scope of that particular exclusion.⁶⁷

Analysis 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 Hezbe 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 should be based 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' in [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 State or criminal activities of the applicant.

The application of this provision, in particular, 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').

⁶⁶ CJEU, *Lounani*, para. 69.

⁶⁷ CJEU, *Lounani*, paras. 70, 72; *B and D*, paras. 87 and 94.

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. in the context of forced recruitment), self-defence or defence of others (or property, in the case of war crimes), superior orders in specific circumstances (see [Article 33 of the Rome Statute](#)),⁶⁸ 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 that the act is subject to an amnesty, 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](#)'.⁶⁹

⁶⁸ Rome Statute of the International Criminal Court, Article 33.

⁶⁹ The 'EASO Practical Guide: Exclusion' is available in different languages at <https://www.easo.europa.eu/practical-tools>.

Annex I. Abbreviations and glossary

AGEs	See ‘anti-government elements’.
ALCS	Afghanistan Living Conditions Survey
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	Armed opposition fighters, or insurgents, 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.
APPRO	Afghanistan Public Policy Research Organization
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.
CIA	Central Intelligence Agency, US
CJEU	Court of Justice of the European Union
COI	Country of origin information
complex attack	A deliberate and coordinated attack that includes a suicide device, more than one attacker and more than one type of device. All three elements must be used for an attack to be considered complex.
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
FEWS	Famine Early Warning System, Afghanistan
GIM	Global Incident Map, a web-based database, displaying Terrorist Acts, Suspicious Activity, and General Terrorism News, www.globalincidentmap.com .

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.
Hanafi	Sunni jurisprudence in use in Afghanistan; one of the four schools of Sunni jurisprudence.
HIV	Human immunodeficiency virus
IDP(s)	Internally displaced person(s)
IED	Improvised Explosive Device. A bomb constructed and deployed in ways other than in conventional military action.
IGC	International Growth Centre
IMU	Islamic Movement of Uzbekistan
IPA	Internal protection alternative
ISKP	Islamic State Khorasan Province
jirga	A council or assembly of tribal elders held for dispute resolution; <i>jirgamar</i> refers to elders whose profession is dispute settlement
KPF	Khost Protection Force
LGBT	Lesbian, Gay, Bisexual, Trans
LWJ	Long War Journal, blog by the The Foundation for Defense of Democracies, www.longwarjournal.org
madrassa	Islamic religious school
mujahideen	Islamic ‘holy warriors’. In the context of the conflict of Afghanistan, the term dates back to the 1980s, when it referred to Islamic fighting groups opposed to the communist regime and the military forces of the former Soviet Union in Afghanistan. Its fighters have since been called mujahideen. Currently, the Taliban refer to their fighters as mujahideen.
NATO	North Atlantic Treaty Organisation
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
Sharia	The religious law of Islam; Islamic canonical law
shura	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

SIGAR	Special Inspector General for Afghanistan Reconstruction; an independent oversight body on US-funded reconstruction programs
Targeted/ deliberate killing	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.
tazkera	Afghan identity document
Ulema	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
UNOCHA	Office for the Coordination of Humanitarian Affairs
US	United States of America
ushr	Islamic tax, referring to 10 % tax on the harvests of irrigated land and 10 % tax on harvest from rain-watered land and 5 % on land dependent on well water.
UXO	Unexploded ordnance
zina	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:

<i>Conflict targeting</i>	<p>EASO Country of Origin Information Report: Afghanistan, Individuals targeted by armed actors in the conflict (December 2017)</p> <p><i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan_targeting_conflict.pdf</p>
<i>Key socio-economic indicators 2019</i>	<p>EASO Country of Origin Information Report: Afghanistan Key socio-economic indicators Focus on Kabul City, Mazar-e Sharif and Herat City (April 2019)</p> <p><i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/EASO_COI_Afghanistan_KSEI_April_2019.pdf</p>
<i>Key socio-economic indicators 2017</i>	<p>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)</p> <p><i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/EASO_COI_Afghanistan_IPA_August2017.pdf</p>
<i>Networks</i>	<p>EASO Country of Origin Information Report: Afghanistan, Networks (February 2018)</p> <p><i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan_Networks.pdf</p>
<i>Recruitment by armed groups</i>	<p>EASO Country of Origin Information Report: Afghanistan, Recruitment by armed groups (September 2016)</p> <p><i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan_recruitment.pdf</p>
<i>Security situation 2019</i>	<p>EASO Country of Origin Information Report: Afghanistan, Security situation (June 2019)</p> <p><i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan_security_situation_2019.pdf</p>
<i>Security situation 2018</i>	<p>EASO Country of Origin Information Report: Afghanistan, Security Situation - Update (May 2018)</p> <p><i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/Afghanistan-security_situation_2018.pdf</p>

<i>Security situation 2017</i>	EASO Country of Origin Information Report: Afghanistan, Security situation (December 2017) <i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/EASO_Afghanistan_security_situation_2017.pdf
<i>Society-based targeting</i>	EASO Country of Origin Information Report: Afghanistan, Individuals targeted under societal and legal norms (December 2017) <i>Available at:</i> 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	<ul style="list-style-type: none"> ▪ CJEU, Mohamed M'Bodj v État belge, case C-542/13, judgment of 18 December 2014, Grand Chamber (M'Bodj)
Reasons for persecution - religion	<ul style="list-style-type: none"> ▪ CJEU, Bundesrepublik Deutschland v Y and Z, joined cases C-71/11 and C-99/11, Judgment of 5 September 2012, Grand Chamber (Y and Z)
Reasons for persecution – membership of a particular social group	<ul style="list-style-type: none"> ▪ 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 (X, Y and Z)
Article 15(b) QD	<ul style="list-style-type: none"> ▪ CJEU, MP v Secretary of State for the Home Department, case C-353/16, judgment of 24 April 2018 (MP) ▪ CJEU, <i>M'Bodj</i>
Indiscriminate violence in relation to armed conflict (Article 15(c) QD)	<ul style="list-style-type: none"> ▪ CJEU, Aboubacar Diakité v. Commissaire général aux réfugiés et aux apatrides, C-285/12, Judgment of the Court (Fourth Chamber) of 30 January 2014 (Diakité) ▪ CJEU, Elgafaji v. Staatssecretaris van Justitie, C-465/07, Judgment of the Court (Grand Chamber) of 17 February 2009 (Elgafaji) ▪ ECtHR, Sufi and Elmi v. United Kingdom, Applications nos. 8319/07 and 11449/07, Judgment of 28 June 2011 (Sufi and Elmi)
Internal protection alternative	<ul style="list-style-type: none"> ▪ 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 (Abdulla) ▪ ECtHR, A.A.M. v Sweden, Application no. 68519/10, Judgment of 3 April 2014 (A.A.M v Sweden) ▪ ECtHR, Salah Sheekh v the Netherlands, Application no. 1948/04, Judgment of 11 January 2007

	(<i>Salah Sheekh</i>)
	<ul style="list-style-type: none"> ■ <i>Sufi and Elmi</i>
Exclusion	<ul style="list-style-type: none"> ■ 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 (<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 (<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)

