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Practical guide on the application of the internal protection alternative

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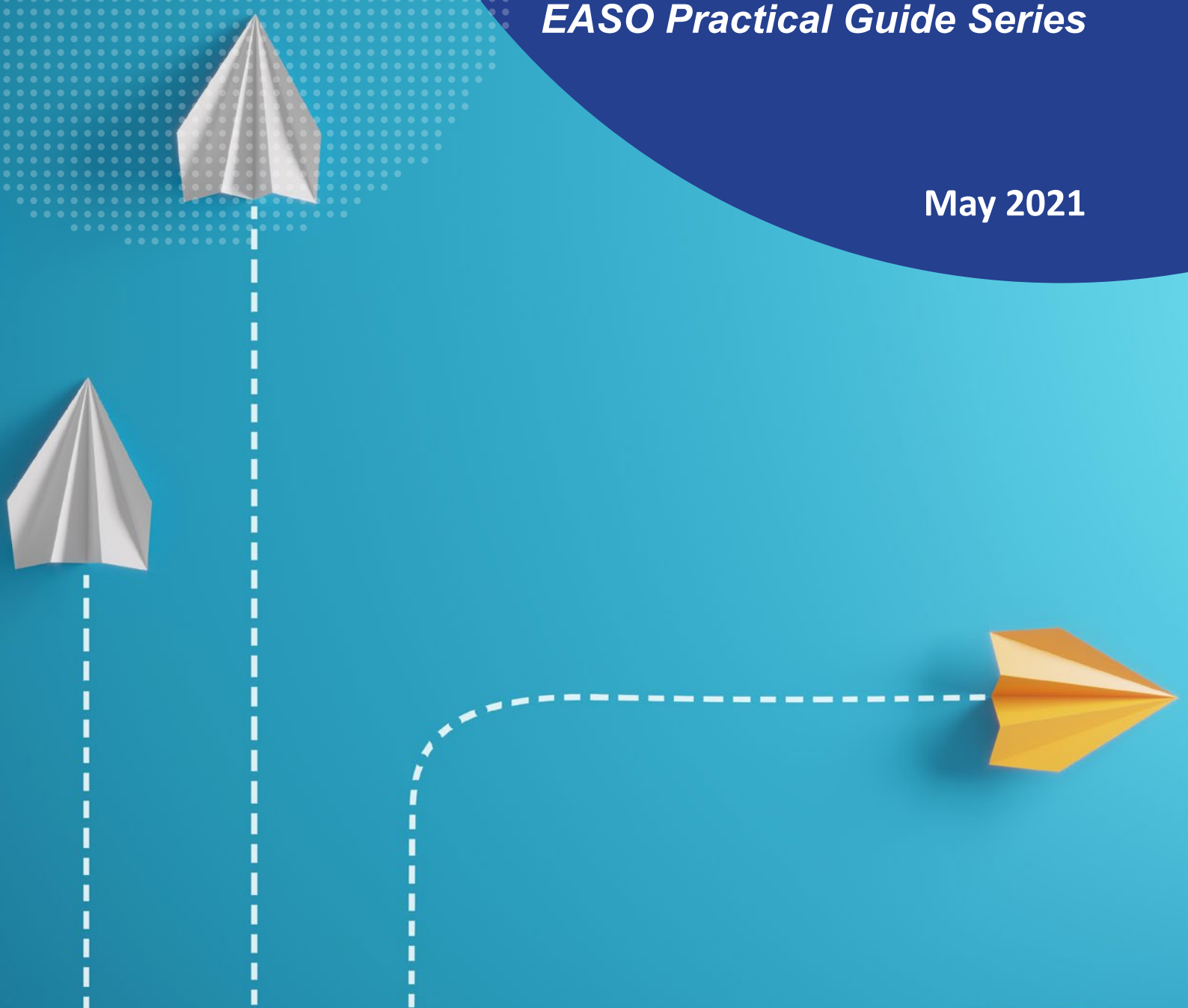

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About the guide

Why was this guide created? The mission of the European Asylum Support Office (EASO) is to support European Union Member States and Associated Countries (EU+ countries ([1])) through common training, common quality standards and common country of origin information (COI), among others. According to its overall aim of supporting Member States in achieving common standards and high-quality processes within the Common European Asylum System (CEAS), EASO develops common practical tools and guidance.

How was this guide developed? This guide was created by experts from the Member States of the European Union (Member States), with valuable input from the European Commission, the United Nations High Commissioner for Refugees (UNHCR) and the European Council on Refugees and Exiles (ECRE) ([2]). The development was facilitated and coordinated by EASO. Before its finalisation, the guide was consulted with all EU+ countries through the EASO Asylum Processes Network.

Who should use this guide? This guide is primarily intended for asylum case officers, interviewers and decision-makers, as well as policymakers in the national determining authorities. Additionally, this tool is useful for quality officers and legal advisers, as well as any other person working or involved in the field of international protection in the EU context.

How to use this guide. This guide on the internal protection alternative (IPA) is structured in six parts. 1) Legal basis, 2) Procedural safeguards, including aspects such as the burden of proof, the individual assessment, the opportunity to challenge the application of the IPA, 3) Initial indications for considering or not considering IPA, 4) Identifying a potential IPA location, 5) Assessment of the IPA criteria, 6) Exploration of specific profiles and their challenges. The final chapter includes specific considerations in relation to the application of the IPA, in particular regarding the cessation process and the subsequent applications. At the end the guide there is a summary of the most relevant judgments of EU courts in this field and legal references.

This guidance should be used in conjunction with the *EASO Practical guide on qualification for international protection.*

It should be emphasised that this document does not provide country-specific guidance. For such guidance concerning the applicability of internal protection alternative in the context of certain countries of origin, refer to country guidance, published by EASO: https://www.easo.europa.eu/country-guidance.

How does this guide relate to national legislation and practice? This is a soft convergence tool and it is not legally binding. It reflects commonly agreed standards.

Disclaimer
This guide was prepared without prejudice to the principle that only the Court of Justice of the European Union can give an authoritative interpretation of EU Law.

([1]) The 27 Member States of the European Union, complemented by Iceland, Liechtenstein, Norway and Switzerland.

([2]) Note that the finalised guide does not necessarily reflect the positions of UNCHR or ECRE.

Contents

List of abbreviations

APD (recast)	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 (recast)
COI	country of origin information
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
EU+	Member States of the European Union plus Associated Countries
IPA	internal protection alternative
Member States	Member States of the European Union
QD	Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted
QD (recast)	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 (recast)
Refugee Convention	The 1951 Convention relating to the status of refugees and its 1967 Protocol, referred to as the Geneva Convention in the EU asylum *acquis*
UNHCR	United Nations High Commissioner for Refugees

Introduction

In accordance with Directive 2011/95/EU, hereinafter the QD (recast) ([3]), it is possible for Member States, as part of the assessment of an application for international protection, to determine that an applicant is not in need of international protection if in a part of the country of origin they have no well-founded fear of being persecuted and they are not at real risk of suffering serious harm or have access to protection against persecution and serious harm. The applicant should also be able to safely and legally travel to, and gain admittance to, the suggested internal protection alternative (IPA) location and be also reasonably expected to settle there. Regard must be had for the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant, based on up-to-date information from relevant sources ([4]).

This practical guide outlines that the assessment of protection needs in the IPA location is closely interlinked with the core aspects in the assessment of the protection needs and the risks within the country of origin as a whole. Furthermore, additional requirements in order to apply the IPA are explained, such as the reasonableness to settle in the suggested IPA location, which requires national authorities to take into account the socioeconomic situation in the proposed IPA location. While examining the application of IPA, the positive nature of the protection offered needs to be stressed. This is because the requirements laid out in Article 8 QD (recast) need to be met in order for it to be applied.

Furthermore, where the application of the IPA is concerned, the burden of proof shifts to the national administration. The national administration must prove that the applicant is not in need of international protection due to the fact that there is an alternative location for them to settle in a specific part of the country of origin.

When examining the application of the IPA, attention should be paid to identifying applicants with special needs for procedural guarantees and take the necessary measures required for their support ([5]). The best interests of the child should also form a primary consideration ([6]) accordingly.

In national legislation and practice, IPA may also be referred to as internal flight alternative, internal relocation alternative, as well as other terms. In this practical guide, the term 'internal protection alternative' is preferred for consistency with EU legislation and available EASO products.

The term 'area of origin' is used in the guide in opposition to the IPA location. The area of origin is usually the 'home area' in the country of origin. It is usually the area of birth or upbringing or the area where the applicant settled and lived, and therefore has close connections to it ([7]).

([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 (recast) (OJ L 337, 20.12.2011) with specific reference to recitals 26 and 27 and Articles 7 and 8.

([4]) Article 7(3) QD (recast).

([5]) On identification of persons with special needs, see additional information on the EASO IPSN tool at the following link: https://ipsn.easo.europa.eu/. See also further in recital 29 of 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 (recast) (OJ L 180, 29.6.2013) (APD Directive (recast)) and Article 22 the Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013).

([6]) See further in recital 18 QD (recast) and recital 33 APD (recast).

([7]) See section 'Individual circumstances' in the EASO, *Practical guide on qualification for international protection*, April 2018.

1. Legal basis

1.1 The internal protection alternative in international law

The IPA is not mentioned in the 1951 Refugee Convention ([8]) and is not a stand-alone principle of refugee law, nor an independent test in determining refugee status. International law does not require threatened individuals to exhaust all options within their own country first before seeking asylum. It is derived from the general principle of international law that constitutes that international protection plays only a subsidiary role and should only be granted where no national protection is available ([9]). Until the mid-1980s, this concept had not been used in practice as states were often perceived as the main actors of persecution. Its application is linked to the growing number of applicants fleeing regionalised threats since the late 1980s. In 1995 and 1999, UNHCR provided the first guidance of its kind concerning the appropriate application of internal flight alternative ([10]). As decision-makers increasingly started to apply IPA, in 2003 UNHCR released further detailed guidelines on international protection that covered the application of IPA ([11]).

1.2 The qualification directive

The **original Qualification Directive (2004/83/EC)** ([12]) was the first supranational instrument to provide a general description of the IPA ([13]).

The **QD (recast)** introduced a series of clarifications regarding the conditions for applying IPA. The QD (recast) lays down the concept of 'internal protection alternative' in Article 8, while keeping its application optional for Member States.

([8]) UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, UNTS p. 137.

([9]) Schultz, J., *The international protection alternative in refugee law*, Leiden 2019.

([10]) Hathaway, J. and Foster, M. *Internal Protection/Relocation/Flight Alternative as an Aspect of Refugee Status Determination,* University of Michigan Law School Scholarship Repository, 2003.

([11]) UNHCR, Guidelines on International Protection: '*Internal Flight or Relocation Alternative' within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003. This concept could be found also in the others documents made by the UNHCR such as UNHCR, *Annotated Comments on the EC Council Directive 2004/83/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted (OJ L 304/12 of 30.9.2004)*, 28 January 2005.

([12]) Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ L 304/12), referred to as the original qualification directive.

([13]) Article 8 of the original qualification directive.

Article 8 QD (recast): Internal protection

'1. As part of the assessment of the application for international protection, Member States may determine that an applicant is not in need of international protection if in a part of the country of origin, he or she:

(a) has no well-founded fear of being persecuted or is not at real risk of suffering serious harm; or

(b) has access to protection against persecution or serious harm as defined in Article 7;

and he or she can safely and legally travel to and gain admittance to that part of the country and can reasonably be expected to settle there.

2. In examining whether an applicant has a well-founded fear of being persecuted or is at real risk of suffering serious harm, or has access to protection against persecution or serious harm in a part of the country of origin in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant in accordance with Article 4. To that end, Member States shall ensure that precise and up-to-date information is obtained from relevant sources, such as the United Nations High Commissioner for Refugees and the European Asylum Support Office.'

It should be noted that the provision of **Article 8 QD (recast) is discretionary**: 'Member States **may** determine that an applicant is not in need of international protection…'. Therefore, the relevance of the IPA for the practice of Member States, even when its use is allowed for, will depend on certain factors. These include the **transposition of this article** and/or the **concept of IPA in national legislation**, its **implementation in practice**, and **related policy decisions** on whether and when it should be used, if at all.

1.3 European case law

At the time of publication of this guide, the Court of Justice of the European Union (CJEU) has not been called upon to rule on the interpretation and the application of the concept of IPA.

Although the European Court of Human Rights (ECtHR) has no competence to interpret EU asylum instruments such as the QD (recast), its judgments provide binding interpretations of the European Charter of Human Rights (ECHR), which can indirectly affect the application of asylum law in the EU.

For the purposes of this guide, the following ECtHR case law is taken into consideration (see more detailed summaries and extracts of the cases in Annex 1). It is important to emphasise that these cases were decided in specific factual situations and do not give general interpretative guidance on the IPA concept. Furthermore, these cases relate to IPA in the context of return (or deportation) procedures under Article 3 ECHR, and not within the context of asylum procedures.

NB: The ECtHR uses the term internal flight alternative to describe this concept.

- **ECtHR, 2011, *Sufi and Elmi* v *the United Kingdom*** ([14])

In this case concerning two Somali nationals, the judgement held that for the area which is considered for the return, the following elements need to be taken 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.

Moreover, the case provides an illustration of the personal circumstances that can be taken into account when assessing internal flight alternative; whether the applicant had family connections in the area of relocation, and whether the applicant had a recent experience of living in his country of origin.

- **ECtHR, 2007, *Salah Sheekh* v *the Netherlands*** ([15])

In this case concerning a Somali national, the judgement considered that an internal flight alternative in Somalia was not applicable because the conditions related to the ability to travel and to gain admittance to the safe area were not met. In particular, this was because the local authorities of the area considered to be safe in Somalia were opposed to the 'forced deportation of various classes of refugee' and did not accept the EU travel documents. Further, the judgement held that the difference between the position of individuals who originated from those areas and had clan and/or family there compared to individuals from elsewhere in Somalia who did not have such links need to be taken into account.

- **ECtHR, 2014, *A.A.M* v *Sweden*** ([16])

In this case concerning an Iraqi national, the judgement lays down principles that are of relevance to the reasonableness test, i.e. 'internal relocation inevitably involves certain hardship' such as difficulties in 'finding proper jobs and housing'. These difficulties are not decisive if it can be found that the general living conditions for the applicant in the proposed area of the internal flight alternative are not 'unreasonable or in any way amount to treatment prohibited by Article 3 [of ECHR]'.

The judgement outlined elements that can be used as indicators for the reasonableness test: the availability of jobs and the 'access to healthcare as well as financial and other support from the UNHCR and local authorities'.

([14]) ECtHR, judgment of 28 June 2011, *Sufi and Elmi* v *the United Kingdom*, Nos 8319/07 and 11449/07, ECLI:CE:ECHR:2011:0628JUD000831907. For specific paragraph references in the judgment, refer to paras. 283, 294, 295 available in the ECtHR Hudoc database.

([15]) ECtHR, judgment of 11 January 2007, *Salah Sheekh* v *the Netherlands*, No 1948/04, ECLI:CE:ECHR:2007:0111JUD000194804. For specific paragraph references in the judgment, refer to paras. 139 and 142 available in the ECtHR Hudoc database.

([16]) ECtHR, judgment of 3 April 2014, *A.A.M* v *Sweden*, No 68519/10, ECLI:CE:ECHR:2014:0403JUD006851910. For specific paragraph references in the judgment, refer to para. 73 available in the ECtHR Hudoc database.

2. Procedural safeguards

Regarding procedural safeguards when applying the concept of IPA, Member States should take into account the individual nature of the assessment of any IPA (Section 2.1). Member States should also take into account the stage of the procedure at which IPA is examined i.e. after the well-founded fear of persecution or the real risk of serious harm has been established with regard to the area of origin of the applicant (Section 2.2). Additionally, applying an IPA means a shift in the burden of proof, as it is for the determining authorities to substantiate that IPA is applicable (Section 2.3). Furthermore, the opportunity should be given to the applicant to challenge the application of the IPA (Section 2.4).

2.1 Individual assessment

The duty of the Member States to conduct an individual assessment of an IPA is laid out in Articles 4(3) and 8(2) QD (recast).

Article 8(2) QD (recast): Internal protection

'… 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. […] '

The assessment of the IPA is always carried out on an individual basis. Individual assessment means that **IPA can never be considered to be applicable in general** for a given area and/or for a particular group of applicants. Hence, even where the general conditions in the IPA location are considered as being favourable, IPA may not be possible due to the personal situation of the applicant. Similarly, even where in practice, IPA is applicable for a particular area for most cases (or the vast majority of cases), an individual assessment will be needed to evaluate if this applies as well when due consideration is given to the personal circumstances of the applicant (see Chapter 6).

The individual assessment implies taking into consideration the applicant's personal circumstances in the IPA assessment. In this regard, it is of utmost importance to take into consideration the applicant's vulnerabilities and/or special needs. **Each condition** for applying IPA (i.e. safety in the IPA location, travel and admittance, reasonableness to settle) should be assessed **taking into account the applicant's vulnerabilities and/or special needs.**

2.2 IPA in the examination process

Even though the QD (recast) itself does not prescribe a strict order for the examination, it does set out that the assessment of the **availability of IPA** should be carried out '**as part of the assessment of the application for international protection**' ([17]). In line with Article 4(3) QD (recast), the examination needs to take into account all statements and documentation presented by the applicant, the individual position and circumstances of the applicant and any acts of past persecution or serious harm. In relation to IPA, it is clear that a proper assessment of the availability of IPA is not possible without a proper assessment of the initial fear for persecution or serious harm in the area of origin**.**

([17]) Article 8(1) QD (recast).

More concretely, to examine the absence of persecution and serious harm in the IPA location, the initial claim of the applicant will need to be fully assessed. This is in order to be able to conclude that the claimed persecution or serious harm is, if credible, not of such a nature that the risk extends to the whole territory of the country of origin.

Likewise the availability of protection in a part of the country cannot be carried out *in abstracto*. The nature of the claimed persecution and/or serious harm, including who the actors are, needs to be well understood in order to be able to assess if authorities are willing and able to offer protection in a part of the country against this persecution or risk of serious harm.

To conduct a thorough and well-structured examination and to avoid unproductive loops in the reasoning, it is therefore important that **IPA will only be assessed** after having shown that there is **a well-founded fear for being persecuted or a real risk of serious harm** in the area of origin in the country of origin. This includes the assessment that the applicant does not have access to protection (as defined in Article 7 QD (recast)) in the area of origin.

The *EASO practical guide on qualification for international protection* ([18]) presents the examination of an individual application for international protection as a step-by-step process, during which each element of the refugee definition is examined. The steps are the following.

Step 1: Preliminary considerations

The applicant is a third-country national or a stateless person and is outside their country of nationality or, when stateless, of former habitual residence.

Step 2a: Persecution

The treatment feared by the applicant amounts to persecution, i.e. it is a sufficiently severe violation of human rights, or an accumulation of various measures which is sufficiently severe, taking the form mentioned, inter alia, in Article 9(2) QD (recast).

Step 2b: Well-founded fear

The fear of persecution is well-founded.

Step 2c: Reason(s) for persecution

The persecution or the absence of protection against such acts is connected (at least in part) to one of the following (actual or imputed) reasons:

- race
- religion
- nationality
- membership of a particular social group
- political opinion.

Step 3: Subsidiary protection

Eligibility for subsidiary protection is examined only when the applicant does not qualify for refugee status, i.e. if none of steps 2a, 2b or 2c are met.

([18]) Refer to section 'Flowcharts' in the EASO, *Practical guide on qualification for international protection*, April 2018.

Step 4a: Protection in the country of origin (area of origin)

There is no protection in the applicant's area of origin, or actors of protection are unable or unwilling to provide it; or protection is not effective or temporary, i.e. protection does not meet the criteria of Article 7 QD (recast).

Step 4b: Internal protection alternative

The examination of IPA consists of determining whether in a part of the country of origin the applicant:

- (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 QD (recast);
- and they can safely and legally travel to and gain admittance to that part of the country and can reasonably be expected to settle there.

2.3 Burden of proof

Article 4 (1) QD (recast): Assessment of facts and circumstances

'Member States may consider it the duty of the applicant to submit as soon as possible all the elements needed to substantiate the application for international protection. In cooperation with the applicant, **it is the duty of the Member State to assess the relevant elements** of the application.' (emphasis added)

The assertion that IPA exists is made by the determining authority, therefore **the burden of proof shifts to the determining authority** when it is argued that an IPA is available in another part of the country of origin.

The rule that the burden of proof is on the determining authority, when it is argued that an IPA is available, is laid down in Article 8(2) QD (recast).

Article 8(2) QD (recast): Internal protection

'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.'

In order to support the finding that an IPA is applicable, the determining authority will consider the general circumstances prevailing in that part of the country as well as the personal circumstances of the applicant.

The applicant is also entitled to submit elements and indicate specific reasons why the IPA should not be applied to them. Those elements have to be assessed by the determining authority (Section 2.4).

In terms of evidence assessment, it is up to **the determining authorities to demonstrate that all conditions for applying IPA are met**.

It is for the determining authorities to demonstrate that the applicant can live safely in the proposed relocation area, i.e. without a risk of persecution or serious harm, or with access to protection against persecution or serious harm. The determining authority must also demonstrate that the applicant can safely and legally travel to and gain admittance to the proposed relocation area and that they can reasonably be expected to settle there without suffering any other undue hardship.

To that end, the determining authority must take into account precise and up-to-date information from relevant sources, such as, among others, information issued by EASO and UNHCR (Article 8(2) QD (recast)).

Even though the burden of proof lies with the determining authority to demonstrate that an IPA is available, **the applicant has the duty to cooperate** ([19]) with a view to establishing their identity and the relevant elements of their application. This includes age, background (including that of relevant relatives), nationality(ies), country(ies) and place(s) of previous residence, previous applications for international protection, travel routes and travel documents. For instance, the applicant has to provide information of the locations where they used to live, their family network and their socioeconomic situation in their country of origin, in order for the authorities to be able to assess the reasonableness of a proposed IPA location.

2.4 Opportunity for the applicant to challenge the application of IPA

If the available information indicates that an actor of protection can offer effective and non-temporary protection within the meaning of Article 7 QD (recast) in the area under consideration for an IPA, the applicant seeking to challenge the IPA should be given an opportunity to explain why they are personally unable or not willing to avail themselves of that protection.

It is advisable to inform the applicant during the interview about any specific IPA location or area under assessment and to explain the scope and nature of the IPA assessment. This will give the applicant the **opportunity to immediately share their views and/or any additional information** in relation to the proposed IPA. This could be, for example, why the applicant is unable or, owing to a threat, unwilling to avail themselves of the protection of their country, what are the potential challenges to travelling to this area safely and legally and to gaining admittance there, as well as how their life would look in the IPA location (work, housing, family life, etc.).

The applicant is not required to demonstrate that, before seeking international protection, they have exhausted all possibilities to find an internal protection alternative in any area of their country of origin. The assessment focuses on whether such an alternative is available at the time the application is being examined.

([19]) Article 13 APD (recast).

3. Initial indications for considering or not considering IPA

After a well-founded fear of persecution or a real risk of serious harm has been established in the area of origin, there are a number of elements that can indicate if an IPA may be relevant to assess. Elements such as the actors of persecution or serious harm and nature of the acts, as well as the applicants' profile and individual circumstances can be indicative in this regard. However, whether an IPA is applicable will depend on the assessment of the IPA criteria, which is explained in Chapter 5.

Possible factors for considering or not considering an IPA are included below. This list should not be considered exhaustive.

3.1 Actor of persecution ([20])

When it has been established that the applicant is at risk of facing persecution or serious harm in their area of origin, the actor of persecution (or of serious harm) and their reach should be taken into account in the process of identifying an IPA location.

State actors

State actors are presumed to operate throughout the country. There is, therefore, a presumption that the IPA is not available in these cases. However, in specific cases, where the reach of the state actor is clearly limited to a particular geographic area, e.g. when the actor of persecution is acting privately and not on behalf of the state, the IPA may be applicable.

Non-state actors

If the risk of facing persecution or serious harm derives from a non-state actor, the geographical reach of the non-state actor should be taken into consideration. It should be considered whether the actor is likely to pursue the applicant in the identified IPA location. In this regard, the actor may not be able to reach the applicant in the IPA location (in person or by using their influence), and/or may not have any interest in pursuing persecution or harm beyond the area of origin.

Society

If the persecution or the risk of suffering serious harm derives from society at large, it has to be considered whether the risk is limited to the applicant's area of origin, or if the applicant is at risk throughout the country. In certain cases, the risk of persecution or serious harm is linked to local society. In these cases, relocation to another part of the country may be an alternative.

The reach of the actors of persecution, in particular non-state actors, may be influenced by **the size of the country.** In some cases, the size of a country, its administrative structure and population can be an indicator for considering IPA. For example, IPA could be considered in large countries with a diverse population, if the reach of the actor of persecution is limited. In a similar vein, it will be less likely to

([20]) For more information on actors of persecution see Section 5.1.

find any IPA available in countries of a very small geographical size. Similarly, when the application is based on the general security situation, it can be relevant to assess IPA in large countries, where the security situation can be different from one area to another. This is less likely in a country of a very small geographical size where an unstable security situation in one area can more easily affect the rest of country.

3.2 Individual elements

Minority groups

If the applicant has an ethnic/cultural/religious background different to the majority of the population, a relevant element to consider would be whether the applicant's group is represented at the potential IPA location. In some countries, the applicant would be able to live a relatively normal life without the group being present. In other countries, living in a place where the group is not represented can mean being at risk of facing undue hardship and being excluded in society. Therefore, the situation of the particular group in a specific country should be taken into account.

Vulnerability

If vulnerability is identified, this would indicate that extra caution is needed when considering the applicability of IPA. Individual elements and circumstances have to be taken into account. Depending on the situation in the country of origin, it may not be relevant to consider IPA for certain categories of applicants in general. For example, in some countries where women's civil rights are limited and/or they cannot access basic services or basic means of survival without a male support network, it may not be relevant to consider IPA for women who lack such support. Similarly, it may not be relevant to consider IPA for a child who has no close family in a country of origin that lacks the necessary guarantees for children in such situations. Applicants with special needs related to their health, mental health and disability should be considered on a case-by-case basis. In general, IPA may not be relevant to consider for applicants with severe illnesses or disabilities. More information about practical illustrations of the examination of IPA can be found in Chapter 6.

4. Identifying a potential IPA location

Identifying a location for which an IPA will be considered requires the designation of the specifically considered location. This could be a city, district, province or region. This will mainly depend on the specific situation in the country of origin.

The applicant's individual circumstances, as well as the general circumstances prevailing in the identified location, need to be taken into consideration. This section outlines several factors related to general circumstances or the applicant's individual circumstances that are useful for the identification of an IPA location.

4.1 Factors related to general circumstances

General security situation

The general security situation should be taken into account when identifying a possible IPA location. The existence of an ongoing conflict is a crucial element in this regard, as well as the level of volatility of the security situation in the area. In general, areas where there is an active ongoing conflict would not be considered as IPA ([21]).

Urban vs rural areas

It is often more suitable to identify an urban area instead of a rural area as a location for an IPA. An urban area is more likely to be better developed with better infrastructure and access to social services, healthcare and hygiene, including water and sanitation. It can be easier to find housing and employment and the situation regarding food security can also be better in an urban area compared to a rural area.

There is also a demographic aspect to the procedure of identifying an urban area or a rural area as a location for IPA. In urban areas there tends to be more variety of different groups living there, a factor that can make it easier for the applicant to establish contacts and access support from others. This can be of particular relevance in countries where religious/cultural/ethnic belonging is important. Additionally, urban areas are generally more accessible and this is also an important aspect to take into consideration (see section on accessibility below). However, rural areas should not be excluded and might be considered in some countries.

Accessibility

Accessibility is a relevant element to be considered when identifying the potential IPA location. This could be especially pertinent in the countries of origin where indiscriminate violence takes place and travelling by road may present additional risks for the applicant. Availability of international and/or domestic airports in the IPA location is an important factor in this regard.

([21]) For guidance regarding serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict refer to section 'Article 15(c) QD' in the EASO, *Practical Guide on qualification for international protection*, April 2018.

4.2 Factors related to individual circumstances

The individual circumstances of the applicant may indicate that a particular place could be of interest in the process of identifying a potential IPA location. The applicant might have a connection to a specific location due to a previous stay, or there might be other individual circumstances or special needs that indicate that the particular location could be relevant. The following examples may be helpful in terms of collecting information about individual circumstances. This list should not be considered exhaustive.

Previously stay or residence in another location

A previous stay or a longer-term visit to another location can indicate that this might be a suitable IPA location. The applicant's knowledge of the location and the local society can facilitate the applicant settling in.

Family or a social network in another location

If applicants have contacts in the area who can support them this can help them to establish themselves in the new location.

Presence of the applicant's religious and/or ethnic group in another location

The importance of the ethno-religious background of the applicant when considering a potential IPA location would depend on the situation in the country of origin. In some cases, this consideration may be particularly pertinent, while in others it would not be crucial to identify a location where the same religious and/or ethnic group is represented. In general, the latter may be seen as a factor that could facilitate the integration of the applicant in the local society.

5. Assessment of the IPA criteria

In order to determine that internal protection is available in a particular part of the applicant's country of origin, three cumulative criteria have to be met.

The **availability** of an IPA location has to be **determined at the time the decision is made by the determining authority concerned**. It is not necessary that the location already met the IPA criteria at the time the applicant fled the country. In addition, the applicant's choice to go there or not to go there before leaving their country of origin would not be decisive for the application of an internal protection alternative.

5.1 Safety in the IPA location

An area can be considered safe for an applicant either because they have no well-founded fear of persecution or real risk of serious harm there, or because they have access to protection against persecution or serious harm in that part of the country.

The well-founded fear of persecution or real risk of serious harm at the potential IPA location must be assessed by the same standards as those applied concerning the area of origin in the country of origin.

a) No well-founded fear of persecution and no real risk of suffering serious harm for the applicant

The persecution or the serious harm that has been substantiated with regard to the applicant's area of origin in the country of origin must be absent in the IPA location. Additionally, no new risks of persecution and serious harm can be present in the IPA location that potentially threatens the applicant.

It should be also underlined that it cannot be reasonably expected that the applicant will avoid persecution or serious harm by abstaining from certain practices fundamental to their identity. The applicant cannot be expected to self-impose restrictions, for example, to hide sexual orientation ([22]) or religious belief in order to avoid the risk of persecution and serious harm.

([22]) CJEU, judgment of 7 November 2013, *X, Y and Z* v *Minister voor Immigratie en Asiel*, joined cases C-199/12 to C-201/12, EU:C:2013:720. For specific paragraph references in the judgment, refer to paras. 70-76 available in the CJEU Curia database.

The assessment will revolve around the determination of whether the actor of persecution or serious harm ([23]) is **likely to pursue the applicant to the IPA location.**

In this regard, the ability and willingness of the actor of persecution to reach the applicant in the IPA location is an important consideration. To determine the ability and willingness, several elements of the applicant's fear of persecution or risk of suffering serious harm in the area of origin have to be taken into account. Who the actor is, the actor's capability to trace the applicant, and their motives are key factors in this assessment.

If the actor of persecution or serious harm is the state, an IPA in the country of origin will be presumed to be not applicable, as states generally control the whole territory. Even if the risk of persecution or serious harm emanates from local or regional administrations within a state, the reach of the actor still has to be taken into account. This is because local and regional administrations in general derive their authority from the central state authority and thus may be able to reach the applicant across the country and not just in the areas they control directly.

However, an IPA could be applicable if the state's ability to persecute is for some reason limited or non-existent in the IPA location. By way of example, this may occur:

- if the IPA location is, by law or fact, governed by another entity other than the state persecutor, or;
- the state persecutor is a local or regional authority, who abuses their powers without support of the national structures, for example, when the actor of persecution is a local police authority who is not carrying out its duty or implementing a policy but is abusing its powers for personal gain; or
- the different legal framework in the IPA location does not enable the same kind of persecution as in the area of origin in the country of origin.

If the actor of persecution is a non-state actor, the question of their sphere of action will to a large extent depend on their ability and willingness or intent to reach the applicant. There must be **a reason to believe that the reach of the persecutor will not extend** to the IPA location ([24]).

In some countries, entities other than the state may have similar capabilities due to their structure and control in the territory.

The ability to reach the applicant may be limited in case the non-state actor is an individual or a limited group of individuals not linked to an organisation.

Willingness to reach the applicant generally depends on the reason the applicant is persecuted by this actor. A very personal motive for the targeting might be a reason to follow the applicant to the IPA location. In some cases, the reason of persecution or serious harm are of local nature or ceases to exist when the applicant leaves the area of origin. For example, if the aim of the actor of persecution or serious harm is to drive the applicant away from the area of origin, the actor could be satisfied once the applicant is out of sight or has left the area, and may not have the intention to pursue the applicant further.

([23]) Article 6 QD (recast) defines the actors of persecution or serious harm as '(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…'.

([24]) UNHCR, Guidelines on International Protection: '*Internal Flight or Relocation Alternative' within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, para. 17.

In countries of origin where armed conflict is taking place, it is necessary to assess the general security situation in the IPA location when establishing the absence of persecution or serious harm in this location. It is also necessary to assess the humanitarian situation in the IPA location in order to verify the reasonableness to settle in the IPA location. The security situation needs to be assessed according to the standards laid out in Article 15(c) QD (recast) ([25]).

b) Availability of protection

If the applicant is at risk of facing persecution or serious harm in the IPA location, the availability of protection needs to be taken into consideration. This is done in order to deduce whether there is an actor of protection that is able and willing to protect the applicant. The risk of the applicant facing persecution or serious harm in the IPA can happen when the actor of persecution or serious harm has some reach in the IPA location. It can also happen when the actor of persecution or serious harm is the society at large or parts of the society and is also present in the IPA location.

Protection in the considered area must meet the same mandatory criteria as those required for protection against persecution or serious harm in the area of origin in the country of origin ([26]).

Article 7 QD (recast)

'1. Protection against persecution or serious harm can only be provided by:

(a) the State; or

(b) parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State;'

provided they are willing and able to offer protection in accordance with paragraph 2.

2. Protection against persecution or serious harm must be effective and of a non-temporary nature. Such protection is generally provided when the actors […] 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.

3. When assessing whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph 2, Member States shall take into account any guidance which may be provided in relevant Union acts.'

If the state is **not able and not willing** to protect the applicant against persecution or serious harm in the area of origin, this could be an indicator of the state's inability or unwillingness to protect the applicant in the IPA location too. Exceptionally, this may not be the case, for example in the following situations:

- when the actor of persecution is a non-state actor and authorities are willing but not able to provide protection in the region of origin due to local circumstances; or
- when the actor of persecution is a non-state actor and the unwillingness of the local authorities to provide protection in the area of origin is not linked to a national policy, but rather to local circumstances.

([25]) For detailed information refer to section 'Indiscriminate violence' in the EASO, *Practical Guide on qualification for international protection*, April 2018.

([26]) Refer to section 'Quality of protection' in the EASO, *Practical Guide on qualification for international protection*, April 2018.

In those cases, protection may be available in the IPA location.

Laws and mechanisms for the applicant to obtain protection from the state may reflect the state's willingness, if they are also given effect in practice. However, if the state tolerates or condones the attacks by non-state actors, this will indicate that the safety criterion would not be met.

The protection must be **effective and non-temporary**, which are cumulative criteria. In this sense, the protection must be provided by an organised and stable authority disposing of the necessary control and means to provide protection. Failed states, states unable to control the territory or states facing widespread corruption would not be normally able to provide effective and non-temporary protection.

If the authority providing protection is not a state, it must have state-like capabilities to control and protect ([27]). Parties or organisations other than the state can be equivalent where they control all or a substantial part of the state and have also sought to replicate traditional state functions. Protection can be considered as effective if the actor of protection would make reasonable steps to prevent harmful acts and to diminish the risk of them occurring. This could be done by, for example, an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm ([28]). In addition, any social and financial support provided by private actors, such as the family or the clan of an applicant, falls short of constituting protection ([29]).

'Non-temporary' means that the situation can be expected to remain sufficiently stable for the foreseeable future. Short-term protection cannot be considered sufficient. Particular care should be taken when assessing this element in relation to the protection provided by parties or organisations, including international organisations, that control the state or a substantial part of the territory of the state, given that their control would normally be of a temporary nature.

Lastly, it is not sufficient for protection to be generally available, it must also be **accessible** to the applicant, allowing them to receive the necessary attention for their concern. For instance, the applicant should be able to press charges or file complaints.

For more information about protection in the country of origin refer to the *EASO Practical guide on qualification for international protection,* April 2018.

([27]) Article 7 QD (recast).

([28]) CJEU [GC], judgment of 2 March 2010, *Aydin Salahadin Abdulla and Others* v *Bundesrepublik Deutschland*, joined cases C-175/08, C-176/08, C-178/08, C-179/08, EU: C:2010:10. For specific paragraph references in the judgment, refer to para. 70 available in the CJEU Curia database.; and CJEU [GC], judgment of 20 January 2021, *OA* v *Secretary of State for the Home Department,* C-255/19, EU:C:2021:36. For specific paragraph references in the judgment, refer to paras. 38-44 available in the CJEU Curia database.

([29]) CJEU [GC], 2021, *OA,* op. cit., fn. 28. For specific paragraph references in the judgment, refer to para. 63 available in the CJEU Curia database.

5.2 Travel and admittance to the IPA location

a) Safe travel

The applicant must be able to travel on a safe route that allows them to reach the IPA location without undue difficulty. This is in order that they can access the IPA location in the country of origin without serious risks and without facing persecution. The relevant travel route that needs to be assessed is from the country of application to the IPA location in the country of origin.

If there is an international airport in the location, travel to the relocation area can usually be considered safe. If there are no international flights to the IPA location, a safe route in the country of origin or through a third country has to be identified. Depending on the security situation in the country, domestic flights can be an alternative in order to avoid travelling through insecure areas.

Any barriers to reaching the area should be reasonably surmountable. The applicant should not be required to encounter physical dangers to health or person en route such as minefields, fighting, shifting war fronts, banditry or other forms of harassment ([30]).

The journey can be considered to be without undue difficulty if it does not expose the applicant to risks of serious harm or persecution and if potential difficulties would not exceed problems travellers in the country of origin normally face and manage to overcome. The applicant should not be at risk of ending up stranded in parts of the country where they are likely to suffer mistreatment. Some practical difficulties, such as poor quality of roads or long distance, would not constitute undue difficulty where they do not constitute a risk to the safety of the applicant.

Some personal circumstances in particular vulnerabilities such as young or old age, health problems or gender can create additional problems for the safe travel that have to be considered in the assessment.

b) Legal travel

The applicant must be able to travel without legal obstacles preventing them from reaching the IPA location. In particular, if the applicant needs to pass through a third country to reach the IPA location, they must be legally able to do so. Legal restrictions can apply also within a state and have to be taken into account.

It might be essential that the applicant has certain documents, or is able to access certain documents, in order for the application of the IPA to meet the travel criterion. If documents are required to accomplish the journey, those documents should be available to the applicant without putting them in danger. The applicant should not be forced to present themselves to the persecuting authorities to obtain documents necessary in order to travel. The necessary documents can vary from country to country and may be required in the form of a passport, an ID card, an internal passport or travel authorisation of different kinds. A visa may be necessary to pass through another country.

Besides legal restrictions and the necessity of documents based on laws or judicial decisions, administrative obstacles, such as difficulties to obtain necessary documents due to inefficient

([30]) UNHCR, Guidelines on International Protection: *'Internal Flight or Relocation Alternative' within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, para. 10.

bureaucracy, complicated procedures, special requirements, corruption, etc., may also render it difficult for the applicant to travel to the IPA location. These administrative hurdles have to be surmountable for the applicant without them endangering themselves.

c) Gain admittance

After reaching the IPA location at the end of their journey, the applicant must be able to gain admittance there. Gaining admittance means that the actor(s) controlling it must permit the applicant to access the IPA location and they must be allowed to settle there. Depending on the country of origin and the particular area, the requirements for being allowed to access the area and to settle there might be different. For the element of 'gaining admittance' to be substantiated, both sets of requirements should be satisfied in the case of the applicant.

In the event of difficulties in gaining admittance, an IPA might only be considered if such difficulties are reasonably surmountable. Certain formalities, such as registration with local authorities, may be a prerequisite to settling in an area. These in themselves would usually not be considered obstacles to gaining admittance in the IPA location. However, difficulties that take an undue amount of time to overcome, or call for an unreasonably demanding struggle on the part of the applicant, can prevent the IPA location from meeting the requirement of 'gaining admittance'. This can, for example, be the case when the waiting time for registration is intentionally kept much longer than normal and the consequences would have serious impact on the applicant. This could be, for example, the limited possibility to access the necessary healthcare.

Stateless persons or persons who through no fault of their own do not possess documentation may face more severe difficulties to gain admittance in some areas. The possibility of admittance in these cases may require a more thorough assessment by the case officer.

5.3 Reasonableness to settle in the IPA location

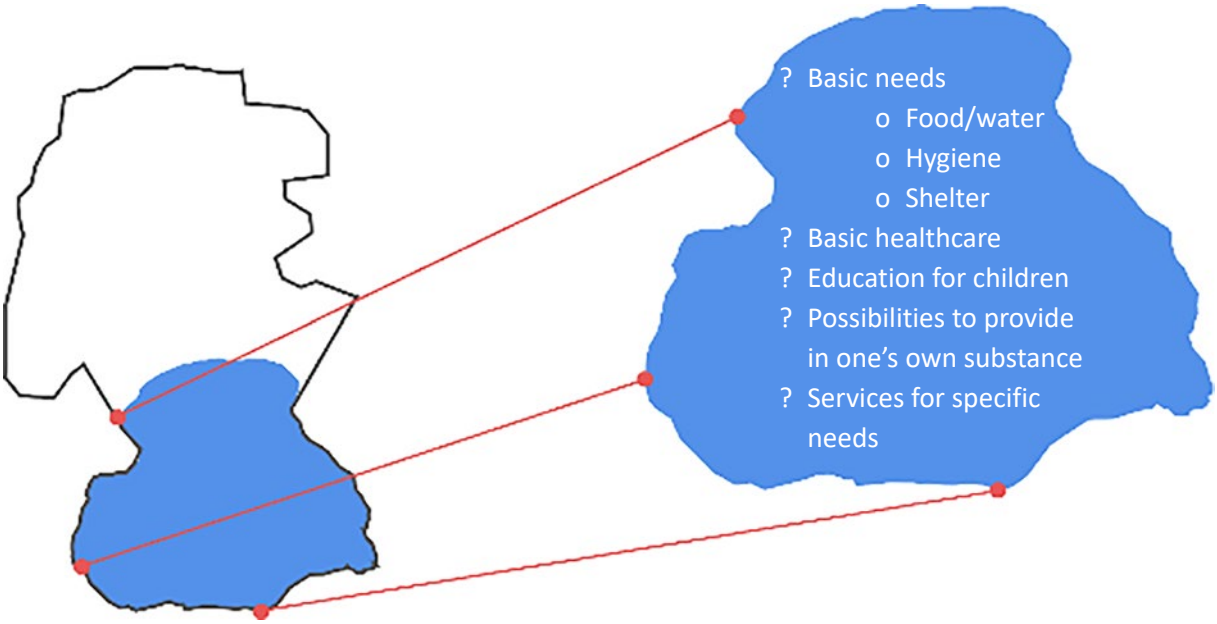
The reasonableness criterion calls for an individual assessment. It is not an assessment in the sense of what a 'reasonable person' should expect and accept. It is focused on **whether it is reasonable for the applicant to live in the IPA location**, considering both (a) general conditions and (b) relevant personal circumstances. The determining authority must thus assess all factors and circumstances particular to the applicant in the IPA location in view of relevant and up-to-date COI, which has to be available to the case officer at the time of the decision.

It should be noted that the conditions for satisfying the 'reasonableness test' go beyond the guarantees of Article 3 ECHR. The mere survival of the applicant and the absence of torture, inhuman or degrading treatment or punishment in the considered location are not sufficient to conclude that the applicant is reasonably expected to settle in the IPA location.

Additional considerations need to be taken into account, as indicated below.

a) General conditions

Assessment of general conditions in a fictive country of origin. The area in blue is the proposed IPA location.



Determining whether the general conditions prevailing in the IPA location would allow the consideration that the applicant can be reasonably expected to settle there requires the use of a set of criteria or indicators.

For the purposes of this guide, the ECtHR case law – *Sufi and Elmi* v *the United Kingdom* and *A.A.M* v *Sweden* ([31]) – is taken into consideration. It is important to emphasise that these cases were decided in specific factual situations and as such do not give general interpretative guidance on the IPA concept. Furthermore, these cases relate to IPA in the context of return (or deportation) procedures under Article 3 ECHR, and not within the context of asylum procedures. Nevertheless, the provided argumentation related to the reasonableness of the 'internal flight alternative', is relevant as well for the reasonableness assessment of IPA under the QD (recast).

Sufi and Elmi* v *the United Kingdom ([32])

The applicant's ability to cater for his most basic needs, such as

- food
- hygiene
- shelter.

([31]) Refer to the extracts of the official summary of cases, page 38 of this practical guide.

([32]) ECtHR, 2011, *Sufi and Elmi*, op. cit., fn. 14. For specific paragraph references in the judgment, refer to para. 283 available in the ECtHR Hudoc database.

A.A.M* v *Sweden ([33])

- availability of jobs
- access to healthcare
- financial and other support from UNHCR and local authorities.

Other elements to take into consideration in the reasonableness test are further derived from existing Member State practice ([34]):

- the opportunity for the applicant to ensure their own and their family's subsistence;
- education for children ([35]) (in the context of the country of origin ([36])).

In case **of vulnerable applicants** with special needs, it may be necessary to assess if adequate services and infrastructure (e.g. specialised medical care, specific facilities) are available in the IPA location. This should take into account their personal circumstances. Further guidance regarding applicants with special needs can be found in Section 5.3.b. and Chapter 6.

The general situation in the considered area should be examined in light of the **objective criteria** described above. While the overall context of the country of origin can be taken into account, these elements **should not be assessed in comparison** with other areas in the country of origin or with standards in the country of application.

The IPA location has to offer basic infrastructure, including food and water supply, sanitation, access to housing, electricity, basic medical care and, where it is relevant for the situation of the applicant or their family, educational establishments in the context of the country of origin.

The situation in the IPA location has to allow applicants to earn a living and to reach an adequate level of subsistence. The socioeconomic conditions in the IPA location have to permit applicants to earn a living through employment or self-employment. However, internal relocation inevitably involves certain hardship such as difficulties in finding proper jobs ([37]). It is not required that applicants are able to pursue the same profession in which they were previously engaged. Temporary unskilled labour, for example in agriculture or in the construction sector is acceptable as long as it provides sufficient income. On the other hand, paid employment for a criminal organisation, which consists in continuing to commit or participate in crimes, is not reasonable.

([33]) ECtHR, 2014, *A.A.M*, op. cit., fn. 16. For specific paragraph references in the judgment, refer to para. 73 available in the ECtHR Hudoc database.

([34]) Refer to section 'Reasonableness for the applicant to settle in a part of the country of origin' in the EASO, *Practical guide on qualification for international protection*, April 2018.

([35]) This is also based on the UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577.

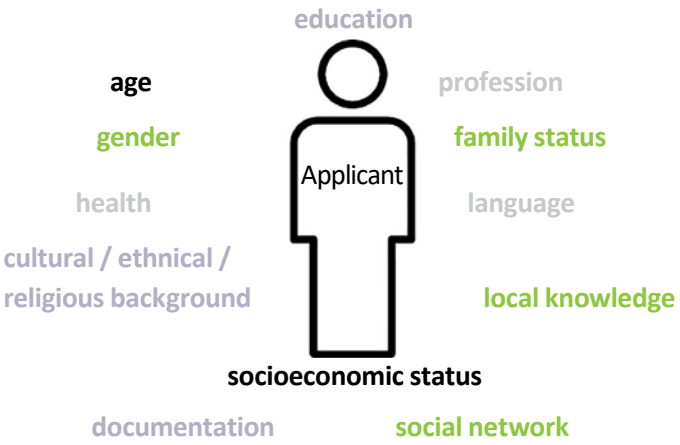
([36]) This element should not be assessed in comparison with standards in the country of application, but in the overall context of the country of origin.

([37]) ECtHR, 2014, *A.A.M*, op. cit., fn. 16. For specific paragraph references in the judgment, refer to para. 73 available in the ECtHR Hudoc database.

In general, lower living standards or a reduction in economic status due to settling in the IPA location is not a sufficient reason to reject a proposed area as unreasonable ([38]). Article 8 QD (recast) does **not require the unaltered continuation** of the applicant's previous life for IPA to be applicable. However, a sufficient income means that the applicant is not only able to ensure food security, water supplies, shelter and hygiene, where these resources are not otherwise attainable, but also allows the applicant to partake in the ordinary life in the country of origin.

Additionally, other factors may be relevant to consider when taking into account the applicant's subsistence, such as availability of humanitarian aid and/or individual circumstances such as existing financial means and/or support by a network, which are further discussed in Section 5.3.b.

b) Individual conditions



To be able to determine whether it would be reasonable for the individual applicant to settle in a specific IPA location, the case officer should also take into consideration the individual circumstances of the applicant. This is especially the case if special needs and vulnerabilities are identified. In such cases, an individual assessment of the reasonableness to settle in the IPA location needs to take into consideration the special needs of the applicant.

Attention should be paid to following categories: accompanied/unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders, persons who have been subjected to torture, persons who have been subjected to rape, persons who have been subjected to other serious forms of psychological, physical or sexual violence, lesbian, gay, bisexual, intersex and transgender people, and people with gender-related special needs ([39]).

There are other individual circumstances of the applicants that can be important when assessing the reasonableness to settle in an IPA location since they may either facilitate their settling in or present additional obstacles. These could be individual circumstances intrinsic to the applicant but also external support. **Examples of personal circumstances** are provided below that can be taken into consideration

([38]) UNHCR, Guidelines on International Protection: *'Internal Flight or Relocation Alternative' within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, para. 29.

([39]) For more information about the categories, identification of categories and special needs refer to the EASO tool for identification of persons with special needs, available at https://ipsn.easo.europa.eu.

when assessing whether an IPA would be reasonable or not. The list should not be considered exhaustive. Please mind that the impact of the individual circumstances largely depends on the situation in the country of origin.

Age. Being of working age would indicate the ability to engage in employment in order to earn a living. On the contrary, young age as well as elderly age can limit the possibility to engage in employment and the ability to ensure sufficient means of subsistence. In such cases, the individual condition should be seen in conjunction with the available support network.

Gender (sex). In some countries, women can face restrictions due to their gender/sex that could lead to limitations in certain areas, such as limited access to certain services, accommodation and employment. Women could also be at higher risk of exploitation and violence. For this reason, IPA might not be reasonable for women, especially if lacking supporting network.

Professional and educational background, including language abilities. Level of education and previous work experience could be relevant when assessing the applicant's possibilities to access basic means of subsistence through employment. The applicant's own financial and other resources can also be taken into account, if relevant. The ability to speak the language in the IPA location would be a significant factor if the other language is spoken as a primary language in the IPA location.

Family status. Basic subsistence has to be ensured for all immediate family members ([40]) in the IPA location.

At the same time, it should be noted that if the applicant has immediate family according to Article 2(j) QD (recast) ([41]), those family members should be part of the consideration. An IPA location would not be reasonable if living there means permanent separation from immediate family. A normal life should include the possibility of the immediate family living together.

Health condition. The state of health and disabilities may affect the ability of the applicant to work. At the same time, depending on the health condition of the applicant, access to specialised healthcare might be necessary.

Socio-economic status. Available financial means can be taken into account when assessing the reasonableness of an IPA and in particular the access of the applicant to means of basic subsistence.

Support network. The family network and potentially also a broader network of friends, members of the same tribe, networks in relation to professional circles and other acquaintances can play an important role in terms of assisting the applicant in accessing basic subsistence. The nature of the support, and the

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([40]) According to Article 2(j) QD (recast), family members include:

'– the spouse of the beneficiary of international protection or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals

– the minor children of the couples referred to in the first indent or of the beneficiary of international protection, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law,

– the father, mother or another adult responsible for the beneficiary of international protection whether by law or by the practice of the Member State concerned, when that beneficiary is a minor and unmarried'.

([41]) Ibid.

willingness and ability to assist should be considered in the context of the country of origin and on a case-by-case basis.

Local knowledge. Local knowledge gained during the previous stay or long-term visit in the IPA location could help the applicant to settle in.

Ethnic/cultural/religious considerations. If the applicant belongs to an ethnic, cultural or religious group that are in the minority in the IPA location, it should be considered whether this would limit the applicant's access to basic means of subsistence or services. Lack of cultural ties might, for applicants in countries where close cultural ties are dominant in the daily life, result in isolation and/or discrimination.

Documentation. In certain countries, identification documents might be necessary in order to have access to public services such as education, healthcare, issuing of housing/land certificates and loans provided by an official bank. If the applicant lacks relevant documents, and is likely not to be able to obtain them, it has to be assessed how that will affect their possibilities to live a relatively normal life in the IPA location.

Assessment of the individual circumstances

The individual circumstances of the applicant can play an important role in the assessment of the reasonableness to settle. Some aspects, such as the existence of a support network and local knowledge, may support the applicant to navigate in otherwise difficult general circumstances and facilitate their settling in. On the contrary, certain individual factors can have a negative impact on the reasonableness of an IPA. For example, old age and disabilities might present additional obstacles to find employment. Similarly, language barriers may limit the applicant's prospects to overcome the necessary formalities and integrate in the IPA location. All aspects have to be considered before concluding on the reasonableness to settle.

For example, when assessing the reasonableness to settle in the IPA location for the individual applicant, the case officer has to assess the impact of any personal circumstances that may limit the applicant's prospects of reaching an adequate level of subsistence. However, limitations due to the individual circumstances of the applicant may have less of an impact if supporting factors alleviate the struggle to earn a living. Such supporting factors may be the assistance of family members or other networks, for example clans or further social connections. Support can also come from the state in the form of public services, social welfare, youth welfare, unemployment benefits, disability allowance or health insurance. Charity organisations may also be in place to support the applicant.

In a situation where the general conditions are favourable for the application of Article 8 QD (recast), but individual circumstances make it more difficult for the applicant to successfully relocate, the case officer will have to assess the individual and general elements one by one. This is in order to weigh up any limited prospects for the applicant in relation to any possible support the applicant may receive. For the IPA to be considered reasonable, the available support must balance out these individual circumstances that make it more difficult for the applicant to successfully relocate to such an extent that the well-being and sufficient subsistence of the applicant can be plausibly assumed.

6. Exploration of specific profiles and their challenges

This chapter presents some of the profiles that a case officer may come across to which particular attention must be paid. This is important in terms of assessing the criteria for the application of the IPA concept: safety, travel and admittance and reasonableness to settle, as elaborated in Chapter 5. The guidance does not offer conclusions or 'blueprint' solutions on how to decide on international protection applications that match these profiles. The decision will always depend on the **precise situation in the country of origin and on the individual situation of the applicant.**

Up-to-date and relevant COI is thus of the utmost importance as well as an in-depth clarification of the applicant's situation in the personal interview. While an IPA in a certain location may be applicable for one person within a certain profile, it may not meet all of the relevant requirements for another.

The applicability of the IPA will be dependent on the outcome of the assessment of the criteria elaborated in Chapter 5, taking into consideration the relevant COI and individual circumstances of the applicant. Furthermore, the IPA assessment should take into account the applicant's ability to cater for their basic needs, such as food, hygiene and shelter. The assessment should also consider their vulnerability to ill-treatment and the prospect of their situation improving within a reasonable timeframe ([42]).

The profiles described in this chapter aim to present some of the elements the case officer will need to pay particular attention to when assessing the application of the IPA. Establishing that the requirements for IPA are met may be more challenging for couples and families with children. This is because case officers will need to include more individuals in the relevant assessment, while the individual circumstances of each family member may also vary. Elderly applicants and applicants living with health conditions, such as illnesses or disabilities, have more hurdles to overcome and are in need of more support. Applicants belonging to a minority group because of sexual orientation or gender identity may face restrictions and hostility in some countries. Children will, in general, be more vulnerable than other applicants and be at greater risk of mistreatment whilst traveling and relocating to another part of their country of origin. With regard to unaccompanied children, appropriate care and custodial arrangements in their best interests must also be taken into consideration.

6.1 Single, adult men with no disabilities

Listed below are individual circumstances that can be taken into account in order to find out if there are any vulnerabilities or other disadvantages that can impact the assessment of the IPA criteria for a single, adult man with no disabilities, in particular with regard to 'reasonableness to settle'.

The safety, travel and admittance criteria under Article 8 QD (recast) should be assessed in light of the individual circumstances of the applicant and in relation to the guidance provided in Sections 5.1 and 5.2. Certain risks may be particularly prevalent for single adult men with no disabilities and those should be carefully assessed. For example, applicants within this profile would face a risk of forced recruitment

([42]) ECtHR, 2011, *Sufi and Elmi*, op. cit., fn. 14. For specific paragraph references in the judgment, refer to para. 283 available in the ECtHR Hudoc database.

considerably more often than other profiles, or they may be particularly targeted at checkpoints in relation to suspicion of insurgency activity, etc.

Assessing individual circumstances are essential in order to find out if the applicant can live a relatively normal life without facing undue hardship in the IPA location. Attention should be paid in relation to the vulnerabilities detected, as well as to the available coping mechanisms that can have an impact on the reasonableness for the applicant to relocate. In this regard, apart from the personal circumstances mentioned in detail in Section 5.3.b., the following should be taken into consideration, in particular when assessing an IPA with regards to single, adult men with no disabilities.

Being of **working age** can assist the applicant to engage in employment in order to earn a living for himself. The **health** of the applicant is crucial when assessing the safe travel of the applicant to the IPA location. Health aspects should also be considered as it should be examined whether the applicant does not suffer from any serious health conditions or a disability that can make it more difficult for him to establish himself in the new location. Any vulnerabilities inherent in being **male** also need to be considered with regard to being able to reach the IPA location in safety, based on the available COI. **Local knowledge, education** and **previous work experience** can be an asset for the applicant in order to find work and to be able to sustain himself economically.

Depending on the situation in the IPA location, for single, adult men with no disabilities, a **support network** does not necessarily have to exist in the IPA location to meet the requirements of Article 8 QD (recast). However, a supporting network of family, relatives or friends can help the applicant ensure his subsistence when it comes to housing, financial support and access to work. A one-off financial contribution to help him settle may also be considered in this respect.

6.2 Married couples of working age without children

Regarding an IPA for a married couple of working age without children, the same individual elements mentioned in Section 6.1 should be taken into account in order to assess the availability of an IPA.

If only one of the people in the couple is able to work it has to be examined further whether the couple's basic subsistence can be ensured for the two of them based on only one income.

6.3 Single women without a male support network

Depending on the situation in the country of origin and in the particular IPA location, the situation of single women may present particular challenges in relation to all three criteria in the assessment of an IPA.

With regards to single women without a male support network, discriminatory restrictions might exist in certain countries. Furthermore, single women without a male support network may be at heightened risk of undergoing several forms of sexual and gender-based violence. In that context, an assessment of the individual conditions mentioned above (Section 5.3) based on the available COI is crucial when examining the application of the IPA criteria.

In some cases, a (male) support network can assist the single woman in overcoming the challenges related to relocating and settling in the IPA location. A male support network can consist of a male family member of the immediate family or a man from the extended family who can help and support the single woman. It needs to be assessed whether or not a male support network or a chaperone is needed for a single woman

to have access to social services and to be able to exercise her rights in society. Being a single woman in a country where a male support network is necessary can mean that the single woman will lack access to basic services, and she will not have the possibility to ensure her basic subsistence on her own.

Attention should be paid to social restrictions that can constrain a woman's ability to travel and resettle on her own and where a woman's freedom of movement can be limited by the requirement of male consent or a male chaperone. There can be variations in women's freedom of movement and dress code across the country. Women and girls in some countries of origin 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. What is more, women and girls may encounter additional difficulties in relation to education, work, housing, etc.

Determining authorities should also pay particular attention to possible additional vulnerabilities such as those related with previous trauma, trafficking indications, and pregnancy when assessing the application of an IPA.

6.4 Families with children

While assessing the IPA concept in cases of applications lodged by families with children, the situation of each child must be carefully examined while carrying out the individual assessment of the best interests of the child ([43]). The question of access to basic education should be assessed in relation to the general situation in the respective IPA location, as well as the individual circumstances of the family. The risk of child-specific forms of persecution in the IPA location, such as child marriage or child trafficking, should be also taken into account.

6.5 Profiles related to sexual orientation and gender identity

Sexual orientation is understood to refer to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender. Gender identity is understood to refer to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms ([44]). With regards to the biological sex and gender, they can be seen as innate characteristics, even when one's sex and gender are not immutable and can change ([45]).

([43]) 'Best interests of the child' should be a primary consideration of Member States when implementing this Directive, in line with the 1989 United Nations Convention on the Rights of the Child. In assessing the best interests of the child, Member States should in particular take due account of the principle of family unity, the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity' (recital 18 of QD recast). The best interests of the child should be a primary consideration of Member States when applying this Directive, in accordance with the Charter of Fundamental Rights of the European Union (the Charter) and the 1989 United Nations Convention on the Rights of the Child. In assessing the best interest of the child, Member States should in particular take due account of the minor's well-being and social development, including his or her background' (recital 33 APD (recast)).

([44]) On the definitions of the concepts in title, see further in the Yogyakarta Principles, available at: principles_en.pdf (yogyakartaprinciples.org) and at: A5_yogyakartaWEB-2.pdf (yogyakartaprinciples.org).

([45]) See further on the relevant notions in EASO, *Practical guide on membership of a particular social group*, 2020.

In that context, it needs to be highlighted that sexual orientation and gender identity form characteristics so fundamental to the identity or conscience that a person should not be forced to renounce them. Nor should they be expected to conceal or exercise reserve in the expression of this characteristic or belief ([46]). Consequently, an applicant cannot be expected to conceal their sexual orientation or gender identity ([47]). For the assessment of the applicability of the IPA, it must be noted that applicants cannot be expected to change their behaviour or to live in concealment, for example, in relation to their sexual orientation, in order to avoid persecution or serious harm in the IPA location. ([48]). There might be cases where applicants have not fled their country of origin due to their sexual orientation and/or gender identity, however, in the proposed IPA location they might face marginalisation which could place such a heavy burden on the applicant that they could not be asked to reasonably settle there.

Furthermore, attention should be paid to assessing the situation in the IPA location beyond the official state position, based on available COI. Case officers should base their decisions on the COI and corresponding to the relevant legal framework and its application in practice. Case officers should also examine aspects such as the respective social attitudes, the current situation and persecution of violators of the respective legal framework in practice.

When examining the application of an IPA for applicants of a given profile, attention should be paid to the general situation in the IPA location where the applicant will not suffer undue hardship because of their sexual orientation and/or gender identity. Religious, traditional or social norms could be different in the respective part of the country of origin and could make it impossible for the applicant to settle. In some countries, the social norms and attitudes existing in big cities may be different from the ones existing in the countryside. Therefore, an applicant from a village or a small town where they faced persecution for reasons of their sexual orientation or gender identity may be able to find safety and reasonably settle in a big city.

6.6 Unaccompanied children

The best interests of the child must be a primary consideration of national administrations. The procedures on the implementation of that principle also depend on the national legislation. In that context, a best interests assessment, which covers positive and negative factors related to an IPA, should be carried out in light of both their vulnerability as well as the legal and other restrictions that minors in general are subjected to. Children who are not accompanied by their parents or another legal guardian may face particular risks and challenges in settling in a new location.

In addition to this, the presence of family members or other strong support networks may be crucial to determine whether the IPA can be taken into consideration. The right to life, survival and development for the child should also be assessed in relation to the IPA, and these rights have to be ensured to

([46]) CJEU, 2013, *X, Y and Z*, op. cit., fn. 22. For specific paragraph references in the judgment, refer to paras. 70-76 available in the CJEU Curia database.

([47]) Ibid.

([48]) Ibid.; CJEU, judgment of 5 September 2012, *Y and Z* v *Bundesrepublik Deutschland*, joined cases C-71/11 and C-99/11, EU:C:2012:518. For specific paragraph references in the judgment, refer to para. 80 available in the CJEU Curia database.

maximum extent possible for every child ([49]). In addition, when the assessment of IPA concerns a child, their views must be taken into consideration in accordance with their age and maturity.

Article 2(l) QD (recast)

'Unaccompanied minor' means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States.'

Regarding the safety of travel, the vulnerability of unaccompanied minors raises the likelihood of mistreatment during the child's journey to the IPA location and upon their arrival. In general, the risk of physical and mental harm should be considered too high for cases of unaccompanied children in order to apply Article 8 QD (recast).

In the same context, the reasonableness to settle is also severely impacted in cases of unaccompanied children and depending on their individual circumstances. Children are vulnerable in an internal protection situation due to their young age and because they depend on others to provide for their basic subsistence. In particular, an unaccompanied child is therefore dependent on the availability of appropriate care and custodial arrangements, family members or a supporting network that can cater for their best interests in an IPA location. On their own, children may often lack to access to basic subsistence, further exacerbating the risks of child marriage, child trafficking and prostitution and involvement in child labour. This is detrimental to the physical or mental health of the child and could lead to drug abuse, involvement in crime, etc. Facilities for children without their parents or a legal guardian may be lacking or limited in the IPA location and the conditions they provide may be unable to meet the needs of the child, as well as the overall best interests of the child. The age of the child can also be taken into account while gender is also relevant in this regard, depending on the respective COI.

In that context and following the logic of recital 27 QD (recast), an IPA could only be seen as **suitable for unaccompanied children if appropriate care arrangements are available and realisable** in practice. This might be the case if the unaccompanied child is joined by their parents, by other legally responsible adults according to the law of the country of origin, or received by a public authority charged with taking care of the minor (e.g. youth welfare service, orphanage, etc.) in the IPA location and where this is considered to be in the best interests of the child. The arrangement should make sure that the child would be able to rely on a sufficient support network, so as to ensure reasonableness to settle. The necessary arrangement would also have to include the travel of the child to the IPA location. The necessary travel to the IPA location and the settling in the IPA location cannot be expected from an unaccompanied child if it would entail concluding contracts or gaining administrative approval through legal acts. This is because children may lack the legal capacity in the country of origin, and this lack of legal capacity might also prevent the child from gaining adequate financial or other resources.

6.7 Elderly applicants

The age of the applicant is of particular importance for an IPA assessment. Elderly people may indeed face serious problems in reaching a safe area and being expected to settle there. In general, elderly people have reduced mobility and require more assistance. Furthermore, health factors are particularly

([49]) For more information, refer to the UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577.

relevant in their situation. For these reasons, it is necessary to conduct an individual assessment of the situation of and access to medical care for elderly applicants in the suggested area of their country of origin to which they can relocate. Some elderly people might not be able to work and benefit from social assistance. Their ability to integrate in another part of the country, which might differ significantly from their area of origin (e.g. language, culture) can also be a great challenge. The presence of a supporting network (e.g. family members) is another important factor in assessing an IPA for elderly people.

6.8 Applicants with severe illnesses or disabilities

This profile refers to people with severe illnesses, mental disorders and/or disabilities ([50]). A definition of 'disability' can be found in the Article 1 of the United Nations Convention on the Rights of Persons with Disabilities. 'Persons living with a disability include those who have long-term physical, mental, intellectual or sensory impairments, which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.' ([51])

In some countries, people with mental disabilities can be stigmatised by healthcare providers and as a result can face discrimination while accessing adequate medical treatment and healthcare.

In some countries of origin, access to healthcare can be limited, making the health status of the applicant an important consideration when assessing the reasonableness of the IPA for those who require medical treatment. It is also important to take into account that the applicant's state of health may affect their ability to work and travel on their own. The location of appropriate infrastructure should also be taken into account as existing infrastructure could be concentrated only in certain urban areas. An IPA location should thus provide the medical and/or social infrastructure needed in order to care for the illness and/or disability of the applicant.

A case-by-case assessment is crucial in the assessment of the IPA for applicants with severe illnesses, mental disorders or disabilities. For applicants within this profile, access to basic subsistence such as through employment would be further limited. The social and economic background, access to family members and support network of the individual should also be taken into consideration as access to healthcare largely depends on the financial means of the person or the means accessible through a support network. If the applicant is dependent on treatment, medicines, or any other necessary means in order to be able to live a normal life without facing undue hardship, up-to-date COI needs to be consulted in order to find out what is available to the applicant in the IPA location.

Applicants who fall under this profile may be accompanied by an adult who is assisting them (support person or a caregiver) with whom they share a situation of dependency. The IPA should therefore be assessed in relation to the support required in the suggested IPA location.

([50]) On identification of persons with special needs see also the EASO IPSN tool at the following link: https://ipsn.easo.europa.eu/

([51]) UN General Assembly, Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106.

7. Specific considerations

7.1 Cessation because of ceased circumstances

The IPA and cessation are two separate concepts applied according to the provisions of the APD (recast) and QD (recast) and the relevant conditions that are set out ([52]). The applicable conditions, however, are often confused because there are some apparent similarities, in particular in the context of cessation due to a change of circumstances. This section aims to outline the distinction between the IPA and cessation in the context of ceased circumstances in order to prevent any potential confusion during their application.

IPA will be assessed after having shown that there is a well-founded fear for being persecuted or a real risk of serious harm in the area of origin. From that point it is assessed if the applicant does not face a well-founded fear of being persecuted or real risk of serious harm in an area other than their area of origin. It is assessed whether the applicant can safely and legally travel to and gain admittance to that part of the country and can reasonably be expected to settle there.

The cessation will be assessed after the applicant has been granted international protection. From that point it will be assessed if there were significant and non-temporary changes to the circumstances that led to the recognition of status, which are such that the well-founded fear for persecution and/or the real risk for serious harm has ceased to exist.

Article 11 QD (recast): Cessation of refugee status because of ceased circumstances

'1. A third-country national or a stateless person shall cease to be a refugee if he or she: (…)

(e) can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality; or

(f) being a stateless person, he or she is able, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.

2. In considering points (e) and (f) of paragraph 1, Member States shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded.

3. Points (e) and (f) of paragraph 1 shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.'

([52]) According to UNHCR, the internal flight alternative concept can be applied only in the context of assessments of eligibility for international protection within Article 1A (2) Refugee Convention. It cannot be applied in the context of cessation of refugee status in accordance with Article 1C (5) and (6) Refugee Convention. See further UNHCR, *Amicus curiae of the United Nations High Commissioner for Refugees in case number 20-121835SIV-HRET regarding F.K. and others against the State/the Norwegian Appeals Board before the Supreme Court of Norway (Norges Høyesterett)*, 16 December 2020.

Article 16 QD (recast): cessation of subsidiary protection status because of ceased circumstances

'1. A third-country national or a stateless person shall cease to be eligible for subsidiary protection when the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required.

2. In applying paragraph 1, Member States shall have regard to whether the change in circumstances is of such a significant and non-temporary nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.

3. Paragraph 1 shall not apply to a beneficiary of subsidiary protection status who is able to invoke compelling reasons arising out of previous serious harm for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.'

In the abovementioned context, the notions of IPA (Article 8 QD (recast)) and of cessation due to a 'change of circumstances' (Article 11(1)(e) and Article 16 QD (recast)), can be differentiated as follows.

IPA	Cessation ceased circumstances
The application of the IPA concept is optional for the Member States according to the QD (recast).	The application of the cessation provisions of the QD (recast) are mandatory for the Member States.
The IPA is assessed at the stage of the qualification for international protection.	Cessation clauses concern persons who have already been granted an international protection status ([53]).
To apply the IPA, safety, travel, admittance and the reasonableness to settle have to be assessed.	To apply the cessation clause, the nature of the change of circumstances has to be assessed.
The concept of 'compelling reasons' is not mentioned for IPA. Nevertheless, the applicant can invoke reasons against the application of an IPA.	The concept of 'compelling reasons' is examined and assessed in the application of cessation clauses.

For further detailed guidance on the application of cessation clauses please refer to the *EASO Practical guide on the application of cessation clauses* (forthcoming 2021).

([53]) According to UNHCR, refugees and others in need of international protection are entitled to a secure status. Anything else would be detrimental to refugees' sense of security, which international protection is intended to provide. UNHCR's Executive Committee has called upon states to support refugees' ability to attain local integration through the timely grant of a secure legal status and residence rights, and to facilitate their naturalisation. Short-term residence permits and frequent reviews thereof are counter-productive to integration objectives. See UNHCR, *Comments on the European Commission Proposal for a Qualification Regulation – COM(2016), 466*, February 2018.

7.2 Subsequent applications

In accordance with Article 40(2) APD (recast) every subsequent application should first be subject to a preliminary examination.

Article 40(2) APD (recast): [Preliminary examination of subsequent applications]

'2. For the purpose of taking a decision on the admissibility of an application for international protection pursuant to Article 33(2)(d), a subsequent application for international protection shall be subject first to a preliminary examination as to whether new elements or findings have arisen or have been presented by the applicant which relate to the examination of whether the applicant qualifies as a beneficiary of international protection by virtue of Directive 2011/95/EU.'

The goal of the preliminary examination is to check if new elements unknown in previous proceedings that relate to the examination of whether the applicant can qualify as a beneficiary of international protection have arisen. Otherwise, the subsequent application could be assessed as inadmissible.

In cases where the IPA was applied in the previous proceedings, it should be assessed during the preliminary examination if there are any new elements that cast doubt on the applicability of IPA. This requires the use of up-to-date information obtained from relevant sources as evidence. If an IPA was applied in a previous application, the applicant may invoke the deterioration of the situation in the IPA location in a subsequent application. In these cases, the determining authority will need to examine the current general situation in the country of origin based on relevant, updated COI, paying special attention to the IPA location.

Furthermore, in the preliminary examination of the subsequent application, the personal circumstances of the applicant are also verified as their situation might have changed (e.g. family members left country of origin, the applicant fell ill). The time lapse may result in differences between the applicant's situation when applying for international protection the first time and when applying subsequently.

It is also important to remember that an IPA could be used to assess a subsequent application even if the negative decision in the previous proceedings was taken for another reason. However, in a situation such as this, the IPA will not be assessed as part of the preliminary examination but during the examination of the subsequent application on the merits. In this case, the fear for being persecuted or the real risk of serious harm in the area of origin will be reassessed before looking into a possible IPA location.

Annex 1. Case law

European case law

Below are two official summaries and an extract of a judgement of the relevant ECtHR case law that has been taken into consideration for the purpose of this guidance.

ECtHR, 2011, *Sufi and Elmi* v *the United Kingdom* ([54])

'Facts– Both applicants were Somali nationals. Mr Sufi (the first applicant) arrived in the United Kingdom in 2003 and claimed asylum on the ground that he was a member of a minority clan which was persecuted by militia who had killed his father and sister and seriously injured him. His application was refused and his appeal dismissed on the grounds that his account was not credible. In 2008 he was diagnosed as suffering from post-traumatic stress disorder. Mr Elmi (the second applicant) is a member of the majority Isaaq clan. He arrived in the United Kingdom in 1988 and was granted leave to remain as a refugee. Following convictions for a number of serious criminal offences both applicants were issued with deportation orders. They appealed unsuccessfully.

Somalia is comprised of three autonomous areas: the self-declared Republic of Somaliland in the north west, the state of Puntland in the north east, and the remaining southern and central regions. Somali society has traditionally been characterised by membership of clan families. The country has been without a functioning central government since 1991 and is beset by lawlessness, civil conflict and clan warfare. Although the Transitional Federal Government was established in October 2004 and is recognised by the United Nations, it currently controls only a small section of Mogadishu and is dependent on African Union troops for its survival. A group known as al-Shabaab, which began as part of the armed wing of the Union of Islamic Courts, has emerged as the most powerful and effective armed faction on the ground, especially in southern Somalia and has steadily been moving forces up towards the capital, Mogadishu.

In their applications to the European Court, the applicants complained that they would be at risk of ill-treatment if they were deported to Somalia.

Law– Article 3: The sole question in an expulsion case was whether, in all the circumstances of the case, substantial grounds had been shown for believing that the applicant would, if returned, face a real risk of treatment contrary to Article 3*.1 If the existence of such a risk was established, the applicant's removal would necessarily breach Article 3, regardless of whether the risk emanated from a general situation of violence, a personal characteristic of the applicant, or a combination of the two. However, not every situation of general violence would give rise to such a risk. On the contrary, a general situation of violence would only be of sufficient intensity to create such a risk "in the most extreme cases". The following criteria** were relevant (but not exhaustive) for the purposes of identifying a conflict's level of intensity: 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; whether the use of such methods and/or tactics was widespread among the parties to the conflict; whether the fighting was localised or widespread; and finally, the number of civilians killed, injured and displaced as a result of the fighting.

([54]) ECtHR, Information Note on the Court's case-law No 142 June 2011, *Sufi and Elmi* v *the United Kingdom* – 8319/07, Judgment 28.6.2011 [Section IV].

Turning to the situation in Somalia, Mogadishu, the proposed point of return, was subjected to indiscriminate bombardments and military offensives, and unpredictable and widespread violence. It had substantial numbers of civilian casualties and displaced persons. While a well-connected individual might be able to obtain protection there, only connections at the highest level would be able to assure such protection and anyone who had not been in Somalia for some time was unlikely to have such connections. In conclusion, the violence was of such a level of intensity that anyone in the city, except possibly those who were exceptionally well-connected to "powerful actors", would be at real risk of proscribed treatment.

As to the possibility of relocating to a safer region, Article 3 did not preclude the Contracting States from placing reliance on the internal flight alternative provided that the returnee could travel to, gain admittance to and settle in the area in question without being exposed to a real risk of ill-treatment. The Court was prepared to accept that it might be possible for returnees to travel from Mogadishu International Airport to another part of southern and central Somalia. However, returnees with no recent experience of living in Somalia would be at real risk of ill-treatment if their home area was in – or if they was required to travel through – an area controlled by al-Shabaab, as they would not be familiar with the strict Islamic codes imposed there and could therefore be subjected to punishments such as stoning, amputation, flogging and corporal punishment.

It was reasonably likely that returnees who either had no close family connections or could not safely travel to an area where they had such connections would have to seek refuge in an Internally Displaced Persons (IDP) or refugee camp. The Court therefore had to consider the conditions in these camps, which had been described as dire. **In that connection, it indicated that where a crisis was predominantly due to the direct and indirect actions of parties to a conflict – as opposed to poverty or to the State's lack of resources to deal with a naturally occurring phenomenon, such as a drought – the preferred approach for assessing whether dire humanitarian conditions had reached the Article 3 threshold was that adopted in *M.S.S. v. Belgium and Greece****, which required the Court to have regard to an 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** ([55]). Conditions in the main centres – the Afgooye Corridor in Somalia and the Dadaab camps in Kenya – were sufficiently dire to amount to treatment reaching the Article 3 threshold. IDPs in the Afgooye Corridor had very limited access to food and water, and shelter appeared to be an emerging problem as landlords sought to exploit their predicament for profit. Although humanitarian assistance was available in the Dadaab camps, due to extreme overcrowding, access to shelter, water and sanitation facilities was extremely limited. The inhabitants of both camps were vulnerable to violent crime, exploitation, abuse and forcible recruitment and had very little prospect of their situation improving within a reasonable time frame. Moreover, the refugees living in – or, indeed, trying to get to – the Dadaab camps were also at real risk of *refoulement* by the Kenyan authorities.

([55]) Emphasis added.

As regards the applicants' personal circumstances, the first applicant would be at real risk of ill-treatment if he were to remain in Mogadishu. Since his only close family connections were in a town under the control of al-Shabaab and as he had arrived in the United Kingdom in 2003, when he was only sixteen years old, there was also a real risk of ill-treatment by al-Shabaab if he attempted to relocate there. Consequently, it was likely that he would find himself in an IDP or refugee camp where conditions were sufficiently dire to reach the Article 3 threshold and the first applicant would be particularly vulnerable on account of his psychiatric illness.

The second applicant would be at real risk of ill-treatment if he were to remain in Mogadishu. Although it was accepted that he was a member of the majority Isaaq clan, the Court did not consider this to be evidence of connections powerful enough to protect him. There was no evidence that he had any close family connections in southern and central Somalia and, in any case, he had arrived in the United Kingdom in 1988, when he was nineteen years old, and had had no experience of living under al-Shabaab's repressive regime. He would therefore be at real risk if he were to seek refuge in an area under al-Shabaab's control. Likewise, if he were to seek refuge in the IDP or refugee camps. Lastly, the fact that he had been issued with removal directions to Mogadishu rather than to Hargeisa appeared to contradict the Government's assertion that he would be admitted to Somaliland.

Conclusion: deportation would constitute a violation (unanimously).

Article 41: No claim made in respect of damage.

* See *NA. v. the United Kingdom*, no. 25904/07, 17 July 2008, Information Note no. 110.

** Criteria identified by the United Kingdom Asylum and Immigration Tribunal in the case of *AM and AM (armed conflict: risk categories) Somalia CG* [2008] UKAIT 00091.

*** [GC], no. 30696/09, 21 January 2011, Information Note no. 137.'

ECtHR, 2007, *Salah Sheekh* v *the Netherlands* ([56])

'Facts: The applicant, a Somali national born in 1986, left Somalia on a false passport in May 2003 and asked for asylum on arriving at Amsterdam Schiphol Airport. He explained that his family, who were members of the minority Ashraf population group, had left Mogadishu in 1991 because of the civil war and taken refuge in a village 25 kilometres away, where they had been robbed of their remaining possessions. The village was controlled by the Agbal clan, whose armed militia persecuted the applicant and his family and three other Ashraf families, knowing that they had no means of protection. In various incidents ranging over several years the militia had killed his father and brother, violently assaulted him and his brothers and twice abducted and raped his sister. His request for asylum was refused in June 2003, as the Minister for Immigration and Integration considered, *inter alia*, that he did not qualify for refugee status, there being no evidence that he had made himself known as an opponent to the (local) regime, was a member or sympathiser of a political party or movement or had ever been arrested or detained. The Minister found that the applicant's problems were not the result of major, systematic acts of discrimination, but a consequence of the general unstable situation in which criminal gangs frequently, but arbitrarily, intimidated and threatened people. There was, therefore, no real risk of his being subjected to treatment proscribed by Article 3 upon his return to Somalia and arrangements could be made for him to settle in one of the areas which the Netherlands authorities classified as "relatively safe". An appeal by the applicant to a regional court was dismissed. After being informed that he was to be issued with a European Union travel document and deported to one of the "relatively safe areas", the applicant lodged an objection with the Minister and requested the regional court to stay his deportation pending the hearing of the objection. He argued, *inter alia*, that, as a member of a minority unable to obtain protection from one of the ruling clans, even if he went to one of the "relatively safe areas' he would be forced to live in a camp for internally displaced persons where conditions were appalling. The applicant's objection to the Minister's decision and his request for a stay were dismissed. However, in the interim the Netherlands authorities cancelled the arrangements for the applicant's expulsion and released him from detention after receiving an indication under Rule 39 from the Court. The applicant was subsequently permitted to apply for a residence permit under temporary arrangements that had been adopted in the interim by the Minister for certain categories of asylum seeker from Somalia. He was granted asylum in March 2006.

Law: Article 37(1)(c) – While the applicant was in no danger of immediate expulsion, the Court nevertheless found that the temporary arrangements that had been put in place for certain categories of asylum seeker from Somalia did not constitute a solution of the matter, as the authorities had unambiguously stated that these would be reviewed once the Court had decided the merits of the cases concerning Somali nationals in which it had indicated an interim measure. Continuing with the examination of the application thus appeared to be the most efficient way of proceeding, especially bearing in mind that if the application was struck out and the arrangements were then withdrawn, the applicant would in all probability seek the restoration of his application to the list: *no reason to strike out*.

([56]) ECtHR, Information Note on the Court's case-law No 93 of January 2007, *Salah Sheekh* v *the Netherlands* – 1948/04, Judgment 11.1.2007 [Section III].

Article 3 – The Court noted that it was not the government's intention to expel the applicant to areas in Somalia other than those they considered "relatively safe'. Although such areas were generally more stable and peaceful than those in other parts of the country, there was a marked difference between the position of individuals who originated from those areas and had clan and/or family there and individuals from elsewhere in Somalia who did not have such links. It was most unlikely that the applicant, who fell into the latter category, would be able to obtain clan protection in one of the "relatively safe" areas. The chances were, therefore, that he would end up in a settlement for internally displaced persons, whose occupants were marginalised, isolated and vulnerable to crime. However, irrespective of whether the applicant would be exposed to a real risk of proscribed treatment within those areas, his expulsion was in any event precluded by Article 3, as the guarantees that had to be in place as a precondition for relying on an internal flight alternative – the person to be expelled had to be able to travel to the area concerned, gain admittance and be able to settle there – were missing.

The authorities in the "relatively safe areas' had informed the respondent government that they were opposed to the forced deportation of various classes of refugee and did not accept the EU travel document. Thus, even if the Government succeeded in removing the applicant to one of the "relatively safe" areas, this by no means constituted a guarantee that, once there, he would be allowed to stay, and in the absence of monitoring, the Government would have no way of verifying whether he had succeeded in gaining entry ([57]).

Consequently, there was a real danger of his being removed, or of having no alternative but to go to areas of the country which both the Government and the UNHCR considered unsafe. As to whether the applicant would run a real risk of being exposed to proscribed treatment if he ended up outside one of the "relatively safe areas', the treatment to which he alleged he had been subjected prior to leaving Somalia could be classified as inhuman within the meaning of Article 3 and the vulnerability of the minority group to which he belonged to human rights abuses was well-documented.
The respondent Government's assertion that the problems experienced by the applicant were a consequence of a general unstable situation in which criminal gangs frequently, but arbitrarily, intimidated and threatened people was insufficient to remove the treatment meted out to the applicant from the scope of Article 3, as that provision could thus also apply in situations where the danger emanated from persons who were not public officials The relevant factor was whether the applicant would be able to obtain protection against and seek redress for the acts perpetrated against him and the Court considered that he would not. Given that there had been no significant improvement in the situation in Somalia, there was no indication that the applicant would find himself in a significantly different situation from the one he had fled. Nor had the treatment been meted out arbitrarily: the applicant and his family had been specifically targeted because they belonged to a minority and were known to have no means of protection. The applicant could not be required to establish that further special distinguishing features, concerning him personally, existed in order to show that he was, and continued to be, personally at risk. While a mere possibility of ill-treatment was insufficient to give rise to a breach of Article 3, the Court considered that there was a foreseeable risk in the applicant's case.

([57]) Emphasis added.

Conclusion: expulsion would violate Article 3 (unanimously).

Article 13 – The applicant had applied to a regional court for a stay of expulsion pending a decision on his objection, but it had ruled that his expulsion would not violate Article 3. Bearing in mind that the word "remedy' within the meaning of Article 13 did not mean a remedy that was bound to succeed, and that the compatibility of the scheduled removal with Article 3 had been examined, the applicant had been provided with an effective remedy as regards the manner in which his expulsion was to be carried out.

Conclusion: no violation (unanimously)'.

ECtHR, 2014, *A.A.M* v *Sweden* ([58])

'Internal relocation inevitably involves certain hardship. Nevertheless, the evidence before the Court suggests that there are jobs available and that settlers have access to healthcare as well as financial and other support from the UNHCR and local authorities. In any event, there is no indication that the general living conditions in the KRI for an Arab Sunni Muslim settler would be unreasonable or in any way amount to treatment prohibited by Article 3. Nor is there a real risk of his or her ending up in other parts of Iraq.'

Para. 73

National case law

Below is a list of judgements of the relevant national case law that has been taken into consideration for the purpose of this guidance:

- Federal Administrative Court (Germany), judgment of 1 February 2007, *Applicant (Chechnya)* vs *Federal Office of Migration and Refugees (Bundesamt für Migration und Flüchtlinge – BAMF)*, Bundesverwaltungsgericht n. 1 C 24.06, ECLI:DE:BVerwG:2007:010207U1C24.06.0.
- Supreme Administrative Court (Czechia), judgment of 30 September 2013, *Ij v Minister of the interior*, 4 Azs 24/2013-34.
- Council for Alien Law Litigation (Belgium), decision of 30 June 2011, *X v Office of the Commissioner General for Refugees and Stateless Persons (Commissaire général aux réfugiés et aux apatrides – CGRS)*, No 64 233
- Supreme Administrative Court (Finland), judgment of 18 March 2011, *A v Finnish Immigration Service*, KHO:2011:25.

For more national jurisprudence related to IPA, consult the EASO Case Law Database at https://caselaw.easo.europa.eu/pages/searchresults.aspx?. The search has been filtered using the keyword 'internal protection alternative / flight alternative'.

([58]) ECtHR, 2014, *A.A.M*, op. cit., fn. 16. For specific paragraph references in the judgment, refer to para. 73 available in the ECtHR Hudoc database.

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