

INTERNAL PROTECTION ALTERNATIVE

GENERAL OVERVIEW AND CURRENT ISSUES

prepared by:

Nina Kren

Assistant Lawyer, Austrian Supreme Administrative Court



GENERAL OVERVIEW

THE IPA AS A CONCEPT



A. Origins and developments

I. The Refugee Convention (Art 1A (2))

- ✧ The IPA is part of the refugee status determination process
- ✧ Well-founded fear clause vs. protection clause

A. Origins and developments

II. The UNHCR Handbook & Guidelines

- ✧ 1979 Handbook, para. 91 → Source of the IPA concept
- ✧ Guidelines No. 4 (2003): „Internal Flight or Relocation Alternative“

“The 1951 Convention does not require or even suggest that the fear of being persecuted need always extend to the whole territory of the refugee's country of origin. (...)“

A. Origins and developments

II. The UNHCR Handbook & Guidelines

a) Relevance analysis

Is the proposed area safe and accessible?

b) Reasonableness analysis

Can the person lead a „relatively normal life without facing undue hardship“?

A. Origins and developments

III. The European Court of Human Rights

- ✧ *Salah Sheekh v. The Netherlands*, 11 January 2007
- ✧ *Sufi and Elmi v. The United Kingdom*, 28 June 2011
- ✧ *J.K. and Others v. Sweden* [GC], 23 August 2016

A. Origins and developments

III. The European Court of Human Rights

J.K. and Others v. Sweden [GC], § 82 → Guarantees:

- ✓ ability to travel,
- ✓ gain admittance,
- ✓ settle in the area concerned.

B. The Qualification Directive

I. Background

- ✧ Article 8 QD (2011/95/EU): „Internal Protection“
- ✧ Compatibility with Art. 3 ECHR & ECtHR case-law
- ✧ Common criteria (asylum and subsidiary protection)

B. The Qualification Directive

II. Prerequisites

- ✧ The identification of a 'home region'

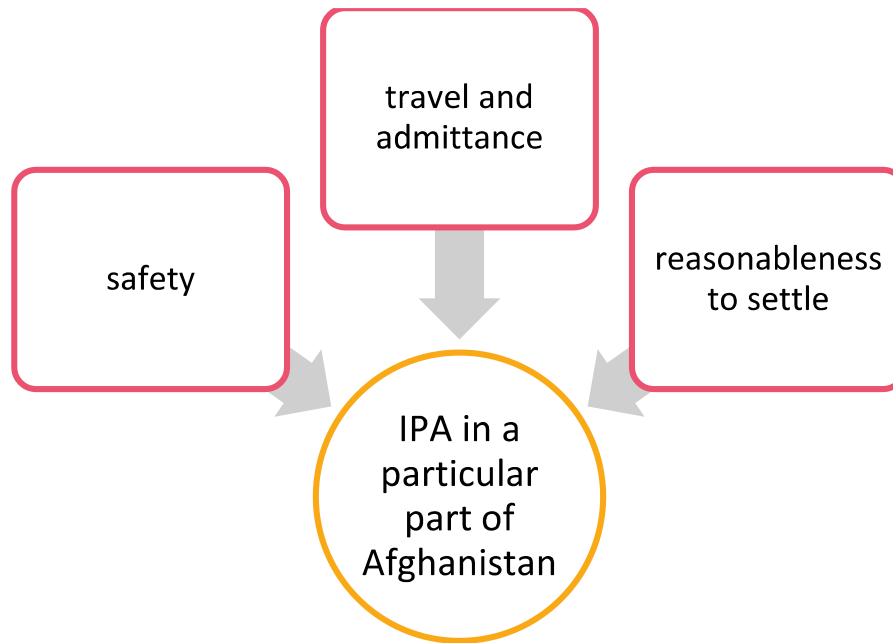
Issues: Internal displacement or relocation prior to departure

- ✧ Causes for the applicant's fear/risk

- ✧ The identification of an 'area of relocation'

B. The Qualification Directive

III. The quality of internal protection



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III. The quality of internal protection

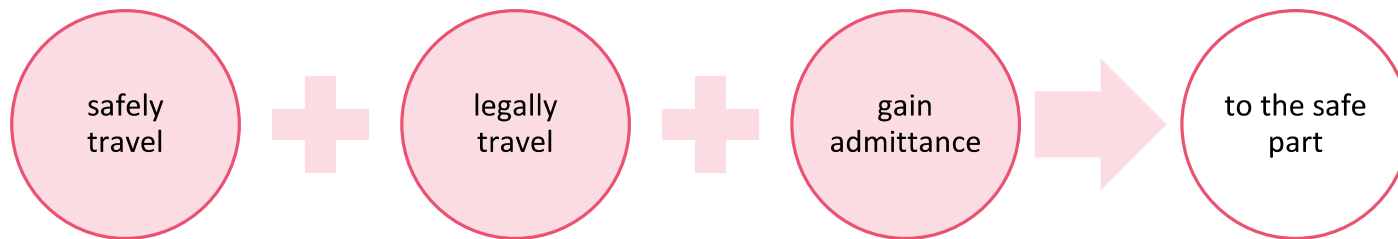
a) Safety

- ✓ Absence of the original or any new form of persecution/harm
- ✓ Persecutor (State vs. non-State actor)

B. The Qualification Directive

III. The quality of internal protection

b) Accessibility



B. The Qualification Directive

III. The quality of internal protection

c) Reasonableness to settle

✓ absence of a risk of treatment contrary to Art. 3 ECHR

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✓ absence of severe or undue hardship

✓ living conditions above the minimum subsistence level

✓ ability to cater for one's most basic needs

✧ Issues: Relocation to slums, IDP/refugee camps

B. The Qualification Directive

IV. Procedural requirements (Article 8 (2))

- ✧ Forward-looking assessment
- ✧ General circumstances
 - ✓ precise and up-to-date COI
- ✧ Personal circumstances
 - ✓ age, sex, health, support, vulnerabilities, religion...
- ✧ Burden of proof

Thank you for your attention!