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Country Guidance: Nigeria

Guidance note and common analysis

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

February 2019



Country Guidance: **Nigeria**

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The present common analysis and guidance note are based on current EU legislation. It should be noted that Member States may introduce or retain more favourable standards for qualification of international protection, so far as those standards are compatible with the respective EU legislation.

This does not in any way release Member States from the obligation to individually, objectively and impartially examine each application for international protection.

Each decision should be taken on the basis of the individual circumstances of the applicant and the situation in Nigeria at the moment of the decision, according to precise and up-to-date country information, obtained from various relevant sources (Article 10 of the Asylum Procedures Directive).

The analysis and guidance provided within this document are not exhaustive.

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Introduction

Why is this country guidance developed?

On 21 April 2016, the Council of the European Union agreed on the creation of a senior-level policy network, involving all Member States and coordinated by EASO, with the task to carry out a joint assessment and interpretation of the situation in main countries of origin.¹ The network supports EU-level policy development based on common country of origin information (COI), by jointly interpreting such information in light of the relevant provisions of the asylum acquis and taking into account the content of the EASO training material and practical guides where appropriate. The development of common analysis and guidance notes was also included as a key area in the new mandate of the European Union Agency for Asylum proposed by the European Commission.²

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

Is this guidance binding?

The country guidance, developed by the Member States and published by EASO, is not binding. The guidance note, accompanied by the common analysis, shall be taken into account by Member States when examining applications for international protection, without prejudice to their competence for deciding on individual applications.

Who was involved in the development of this country guidance?

This document represents the common assessment of the situation in Nigeria by the Country Guidance Network. The Country Guidance Network was set up by EASO in June 2016, in accordance with the Council conclusions. The first country guidance document was published in June 2018, in the context of a pilot development on Afghanistan.

The work of the Country Guidance Network was supported by a Drafting Team of selected national experts and by EASO.

The European Commission and UNHCR provided valuable input in this process.

The guidance note was endorsed by the EASO Management Board.³

¹ Council of the European Union, Outcome of the 3461st Council meeting, 21 April 2016, 8065/16, available at <http://www.consilium.europa.eu/media/22682/st08065en16.pdf>.

² European Commission, Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, 4 May 2016, 2016/0131 (COD), available at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160504/easo_proposal_en.pdf.

³ EASO Management Board 31st Meeting, 18-19 February 2019.

What is the applicable legal framework?

In terms of applicable legal framework, the common analysis and guidance note are based on the provisions of the Qualification Directive (QD)⁴ and the 1951 Geneva Convention Relating to the Status of Refugees, as well as jurisprudence of the Court of Justice of the European Union (CJEU); where appropriate, the jurisprudence of the European Court of Human Rights (ECtHR) is also taken into account.

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

The horizontal guidance framework applied in this analysis is based primarily on the '[EASO Practical Guide: Qualification for international protection](#)' and the '[EASO Practical Guide: Exclusion](#)'.⁵ It also takes into account relevant Judicial Analyses, published by EASO, and in particular those on 'Qualification for International Protection (Directive 2011/95/EU)', 'Article 15(c) Qualification Directive (2011/95/EU)', and on 'Exclusion: Articles 12 and 17 Qualification Directive (2011/95/EU)'.⁶ Relevant UNHCR guidelines are also taken into account.⁷

What country of origin information has been used?

The country information analysed hereby includes, in particular, the following EASO COI reports:⁸

- [Nigeria, Targeting of individuals \(November 2018\)](#)
- [Nigeria, Sex trafficking of women \(October 2015\)](#)
- [Nigeria, Security situation \(November 2018\)](#)
- [Nigeria, Actors of protection \(November 2018\)](#)
- [Nigeria, Key socio-economic indicators \(November 2018\)](#)
- [Nigeria, Country Focus \(June 2017\)](#)

References within this document are to the respective sections of these COI reports.⁹

See [Annex II. Country of origin information references](#).

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

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

⁴ 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.

⁵ EASO Practical Guides are available at <https://www.easo.europa.eu/practical-tools>.

⁶ Judicial analyses published by EASO are available at <https://www.easo.europa.eu/courts-and-tribunals>.

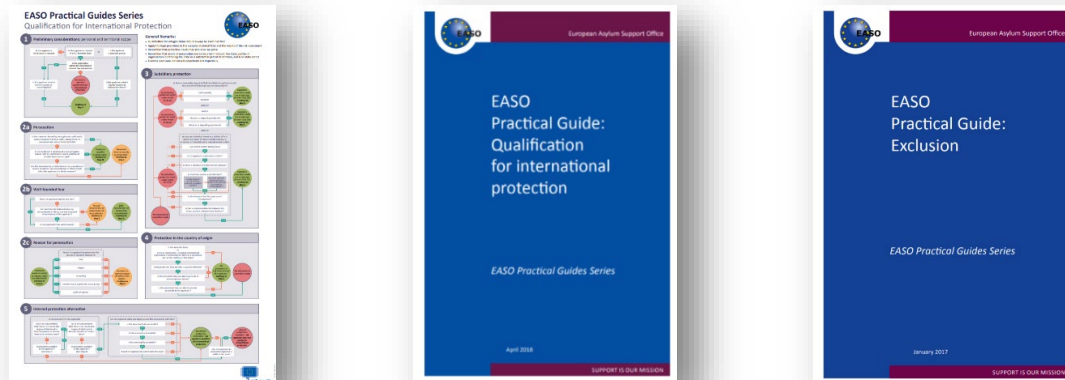
⁷ UNHCR Handbook and guidelines on procedures and criteria for determining refugee status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, as well as other guidance, policy documents and UNHCR ExCom and Standing Committee conclusions are available at <https://www.refworld.org/rsd.html>.

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

⁹ EASO COI reports are available at <https://www.easo.europa.eu/information-analysis/country-origin-information/country-reports>.

Its approach is consistent with, and should be read in conjunction with, the more detailed horizontal guidance.

For an outline and additional guidance on qualification for international protection and exclusion, see:



EASO Practical Guide: Qualification for international protection, Flowchart poster for practitioners¹⁰

EASO Practical Guide: Qualification for international protection¹¹

EASO Practical Guide: Exclusion¹²

How is this document structured?

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

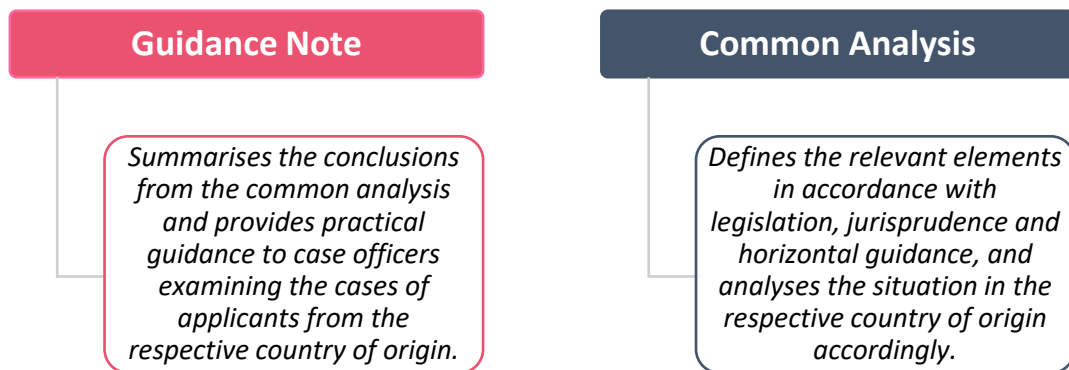


Figure 1. Country guidance elements

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

¹¹ 'EASO Practical Guide: Qualification for international protection', available at <https://www.easo.europa.eu/sites/default/files/easo-practical-guide-qualification-for-international-protection-2018.pdf>

¹² 'EASO Practical Guide: Exclusion', available at <https://www.easo.europa.eu/sites/default/files/EASO%20Practical%20Guide%20-%20Exclusion%20%28final%20for%20web%29.pdf>

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

Guidance note: Nigeria

- ▶ The Guidance Note summarises the conclusions of the common analysis and should be read in conjunction with it.

I. Actors of persecution or serious harm

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

According to [Article 6 QD](#), actors of persecution or serious harm include:

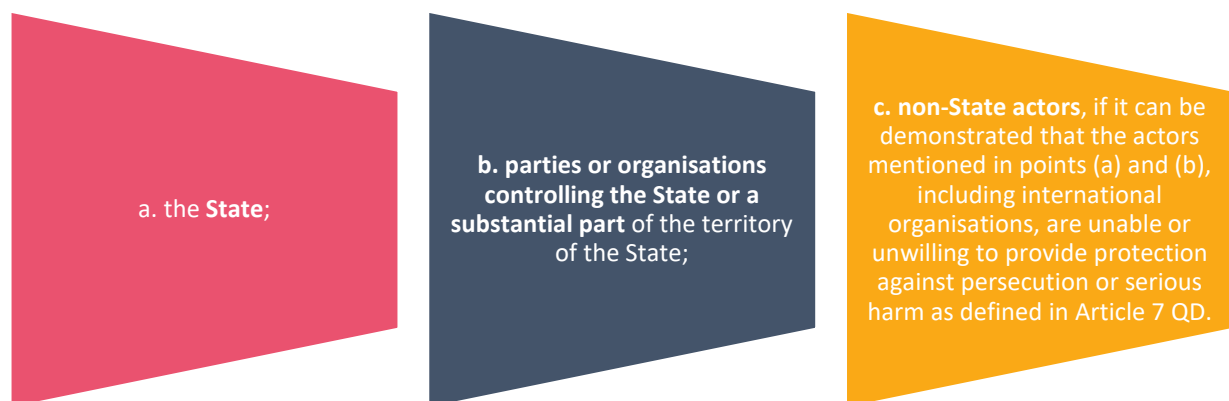


Figure 2. Actors of persecution or serious harm.

The following are the conclusions concerning some of the actors, as indicated in applications for international protection. It should be clarified that not all groups mentioned below are found to currently fall under the scope of [Article 6 QD](#).

- The **Nigerian State authorities and affiliated actors**, such as the Nigerian Armed Forces (NAF), the Civilian Joint Task Force (CJTF), the Nigeria Police Force (NPF) and the Islamic Police (*hisbah*), are accused of committing a wide range of human rights violations.

State authorities and state-affiliated groups in Nigeria may be considered actors of persecution or serious harm in specific situations.

- **Boko Haram** is a Salafi-jihadist group fighting for the replacement of the secular Nigerian state with an Islamic one. It operates in the North East of Nigeria. In 2016, Boko Haram split in Jama'atu Ahlis Sunna Lidda'adati wal-Jihad (JAS) and the Islamic State - West Africa (ISIS-WA). **JAS** is characterised by the use of more violent methods and continues to perpetrate systematic attacks against both Muslims and Christians. **ISIS-WA** focuses its attacks on Christians and persons not abiding by Sharia law ('infidels') and criticises the targeting of common Muslims; it has led 'less frequent but larger attacks' against military targets.

Boko Haram, including the two groups JAS and ISIS-WA, is considered an actor of persecution or serious harm in the areas where it operates.

- There are a number of **militant groups operating in the Niger Delta area**. Their members demand an improvement of the conditions in the region and protest against its environmental degradation due to oil exploitation. Currently, the most active group is the

Niger Delta Avengers (NDA). Previously and specially in the period 2006-2009, the Movement for the Emancipation of the Niger Delta (MEND) was particularly active.

Although MEND and NDA have perpetrated violent acts, those usually involve targeting infrastructure and do not result in harm to individuals. Therefore, in the context of the Niger Delta, the armed groups would rarely be considered actors of persecution or serious harm.

- In the South East of Nigeria there are several **separatist groups**, among which the two main groups currently are the Movement for the Actualization of the Sovereign State of Biafra (MASSOB) and the Indigenous People of Biafra (IPOB). Both organisations mostly engage in awareness-raising activities, marches, and other non-violent gatherings.

The activities of MASSOB and IPOB to-date do not involve acts of persecution or serious harm and, in general, they would not fall under the scope of [Article 6 QD](#).

- Among the non-State actors of persecution or serious harm, the **herders and farmers participating in armed groups** have become increasingly relevant. The origins of the conflict are rooted in the difficulties to access natural resources such as water and land. Nowadays, it also has profound ethnic and religious implications and is becoming more politicised.

In the context of the conflict between herders' and farmers' armed groups, both may be considered actors of persecution or serious harm.

- **Student cults** in Nigeria, also referred to as 'university cults' or 'confraternities', resemble criminal gangs, with violent initiation rites and illegal activities such as: killings, human trafficking, drugs trafficking, smuggling, extortions, kidnapping, forced recruitment, etc. Some of the most well-known cults are the Black Axe and Eiye.

Student cults operate mainly in the southern states of Nigeria and may be considered actors of persecution or serious harm in specific situations.

- Trafficking within Nigeria and to other countries, including in EU Member States, is a significant problem concerning applicants from Nigeria. The **traffickers** may use deception, such as false offers of jobs and promises of safe travel to destination countries, and manipulation through traditional beliefs (juju). In some circumstances, the victims' families support and encourage the trafficking for economic reasons. The exploitation can take different forms, such as prostitution or other forms of sexual exploitation, forced labour, slavery, removal of organs, etc.

Traffickers and trafficking networks are considered actors of persecution or serious harm.

- In specific situations, **other non-State actors** of persecution or serious harm may include the family (e.g. in the case of LGBT persons, child and forced marriage, FGM), FGM practitioners, criminal groups, mobs, etc.

II. Refugee status

All elements of the definition of a refugee in accordance with the QD should be fulfilled for the qualification of the applicant as a refugee:

Article 2(d) of the Qualification Directive Definitions
‘refugee’ means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 [exclusion] does not apply;

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

[Article 10 QD](#) provides further clarification on the different reasons for persecution. A link (nexus) between those reasons and the persecution or the absence of protection should be established in order for the applicant to qualify for refugee status.

Guidance on specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided below.

An individual assessment is required for every application. It should take into account the individual circumstances of the applicant and the relevant country of origin information. Factors to take into account in this assessment may include, for example:

- home area¹³ of the applicant and presence of the potential actor of persecution;
- nature of the applicant’s actions (whether or not they are perceived negatively and/or whether or not individuals engaged in such actions are seen as a priority target by the actor of persecution);
- visibility of the applicant (i.e. to what extent it is likely that the applicant is known to or could be identified by the potential actor of persecution), noting however that the applicant does not need to be individually identified by the actor of persecution, as long as his/her fear of persecution is well-founded.
- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals, network);
- etc.

The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant’s well-founded fear, unless there are good reasons to consider that such persecution will not be repeated ([Article 4\(4\) QD](#)).

¹³Protection needs are firstly assessed with regard to the applicant’s home area in the country of origin. The ‘home area’ in the country of origin is identified on the basis of the strength of the applicant’s connections with a particular area in that country. The home area may be the area of birth or upbringing or a different area where the applicant settled and lived, therefore having close connections to it.

Guidance on particular profiles with regard to qualification for refugee status

This section refers to some of the profiles of Nigerian applicants, encountered in the caseload of EU Member States. It provides general conclusions on the profiles and guidance regarding additional circumstances to take into account in the individual assessment. Please note that some profiles are further split in sub-profiles and may appear in several categories.

The tables below summarise the conclusions with regard to different profiles and sub-profiles and aim at providing a practical tool to case officers. The distinction between the three categories is based on the likelihood for an applicant to qualify for refugee status. However, it should be noted that the placement of a particular profile under a certain category is not conclusive as to the individual protection needs of the applicant and each case should be examined individually. While examples are provided with regard to sub-profiles at differentiated risk and of circumstances which may increase or decrease the risk, these examples are non-exhaustive and to be taken into account in light of all circumstances in the individual case.

Moreover, an individual applicant could fall under more than one profile included in this guidance note and common analysis. The protection needs associated with all such circumstances should be fully examined.

Persons who belonged to a certain profile in the past or family members of an individual falling under a certain profile may have protection needs similarly to those outlined for the respective profile. This is not explicitly mentioned in the tables below, however, it should be taken into account in the individual assessment.

For relevant information and analysis, follow the [links](#) to the sections on the respective profile within the common analysis. For ease of reference, the numbering of the profiles as per the common analysis is preserved herein.

The conclusions regarding each profile should be viewed without prejudice to the credibility assessment of the applicant's claims.

Based on available COI and analysis, it is concluded that individuals under the following profiles or sub-profiles would, in general, have a well-founded fear of persecution.

In these cases, nexus to a reason for persecution falling under the definition of a refugee (race, religion, nationality, membership of a particular social group or political opinion) is also, in general, substantiated.

Profiles / sub-profiles	Potential nexus
► (1) <u>Individuals targeted by Boko Haram</u> (referring to persons perceived as government supporters; persons considered as ‘infidels’, including those rejecting the insurgents’ strict interpretation of the Sharia; Christians, journalists; teachers and others working in education; health workers; IDPs) For women and girls, see profile (13) <u>Women and girls</u>	■ (imputed) political opinion (e.g. those perceived as supporting the government or opposing Boko Haram, journalists, teachers, children, and especially girls, attending school, health workers) ■ religion (e.g. Christians, those seen as ‘infidels’)
► (2) <u>Individuals perceived as Boko Haram members or supporters</u> *	■ (imputed) political opinion
► (11) <u>LGBT persons</u>	■ membership of a particular social group

* Please note that exclusion considerations could be relevant to this profile.

Based on available COI and analysis, it is concluded that individuals under the following profiles or sub-profiles may have a well-founded fear of persecution in relation to certain risk-enhancing circumstances.

The table below provides examples of circumstances which may be relevant to take into account in the individual risk assessment and indicates a potential nexus to a reason for persecution (race, religion, nationality, membership of a particular social group or political opinion).

Profiles / sub-profiles	Examples of circumstances to take into account in the risk assessment	Potential nexus
► (3) <u>Members of separatist movements and individuals perceived as supporting them</u>	■ level and nature of involvement ■ visibility of the applicant (e.g. high profile, prior arrest, media appearance) ■ participation in gatherings or manifestations ■ etc.	■ (imputed) political opinion

► (4) <u>Members of militant groups in the Niger Delta and individuals perceived as supporting them</u> *	- level of involvement with the militant organisation - activities of the applicant - etc. Former members of the militant groups participating in the DDR programme generally do not have a well-founded fear of persecution related to their past involvement.	(imputed) political opinion
► (5) <u>Members and perceived supporters of political parties</u>	- level of political activity - participating as a candidate in elections - etc.	(imputed) political opinion
► (6) <u>Individuals involved in and affected by conflicts between herders and farmers</u> *	- area of origin of the applicant - level of involvement with armed groups - ownership of land or cattle - etc.	- race (ethnicity, descent) - religion
► (7) <u>Human rights activists, bloggers, journalists and other media workers</u>	- place of work - nature of activities (e.g. those working with LGBT communities may be at a particular risk) - visibility of activities and public profile - gender - etc.	(imputed) political opinion - religion
► (8) <u>Christian and Muslim minorities in specific areas</u>	- area of origin - gender - in the case of the Shia minority – engagement with IMN - etc.	- religion - the case of the Shia minority: religion and/or (imputed) political opinion
► (9) <u>Individuals accused of witchcraft</u>	- area of origin - gender - age (children and elderly women are generally at a higher risk) - relevant events in the local community (e.g. death of a child, miscarriage of a pregnant woman) - visible disabilities ‘unusual’ behaviour or attributes (e.g. being intersex) - family status (e.g. widow, orphan) - barrenness - etc.	- religion - membership of a particular social group (e.g. twins, persons with visible physical and mental disabilities)

▶ (9) <u>Persons with albinism</u>	■ perception of the local community ■ perception of the family ■ etc.	■ membership of a particular social group
▶ (12) <u>Victims of human trafficking, including forced prostitution</u>	■ amount of 'debt' to traffickers ■ whether the applicant has testified against the traffickers ■ level of power/capability of the traffickers ■ the traffickers' knowledge about the victims' family and background ■ age ■ family status (e.g. orphan, single woman) ■ socio-economic background and financial means ■ level of education ■ availability of support network (family or other) ■ family's involvement in the trafficking ■ etc.	■ membership of a particular social group (e.g. victims of trafficking whose return is perceived by the surrounding society as a failure, or who return with health problems)

► (13) <u>Women and girls</u>	<i>Gender-based violence:</i> ■ area of origin ■ age ■ being an IDP living in a camp ■ family status (e.g. single mother) ■ being subjected to forced marriage ■ socio-economic status ■ level of education ■ support network (family or other) ■ etc. <i>Female genital mutilation/cutting (FGM/C):</i> ■ ethnic group ■ views of the parents/mother on the practice ■ age ■ level of education of the parents/mother ■ area of origin ■ etc. <i>Child / forced marriage:</i> ■ area of origin ■ ethnic group ■ religion ■ age ■ level of education of the individual ■ level of education of the family ■ socio-economic status of the family ■ etc.	■ membership of a particular social group (e.g. Yoruba girls under the age of 5 who have not been subjected to FGM/C, women and girls perceived to have had sex outside of marriage in the context of Boko Haram violence)
► (14) <u>Children</u>	Children that may be at particular risk in situations, such as under the following profiles: <u><i>Individuals targeted by student cults</i></u> ► <u><i>Individuals threatened in relation to witchcraft or ritual killings</i></u> <u><i>Women and girls</i></u> <u><i>Victims of human trafficking, including forced prostitution</i></u> Under the above mentioned profiles, being a child may generally be considered as an important risk-enhancing circumstance.	
► (15) <u>Persons with disabilities</u>	■ nature and visibility of the mental or physical disability ■ perception by the family ■ etc.	■ membership of a particular social group

▶ (16) <u>Individuals accused under the Sharia of acts not considered criminal according to international standards</u>	■ area of origin of the applicant and the prevalent legal system ■ act of which the applicant is or may be accused ■ envisaged punishment ■ etc.	■ religion ■ membership of a particular social group (e.g. link to LGBT persons)
▶ (16) <u>Individuals accused of crimes punishable by the death penalty</u> *	The death penalty amounts to persecution.	In general, no nexus. However, depending on the crime and legal system: ■ political opinion (e.g. treason and conspiracy to treason) ■ religion (in Sharia-implementing states) ■ membership of a particular social group (e.g. link to LGBT persons)

* Please note that exclusion considerations could be relevant to this profile.

Based on available COI and analysis, it is concluded that, in general, the following applicants would not have a well-founded fear of persecution for reason of race, religion, nationality, membership of a particular social group or political opinion, solely due to belonging to this profile or sub-profile.

However, in certain circumstances, such individuals could have a well-founded fear of persecution and could qualify for refugee status. The table below provides some examples of such circumstances where exceptions could apply.

Profiles / sub-profiles	Examples of circumstances to take into account in the risk assessment	Potential nexus
► (9) <u>Individuals threatened in relation to ritual killings</u>	The risk for an individual applicant would not normally reach a reasonable degree of likelihood.	In general, no nexus.
► (9) <u>Individuals who refuse chieftaincy titles</u>	There is no information of acts which would amount to persecution.	
► (10) <u>Individuals targeted by student cults</u>	Acts may amount to persecution or serious harm. Risk-impacting circumstances may include: ■ past membership to a cult* ■ intention of the applicant to reveal the secrets of the cult, etc.	In general, no nexus. However, cults may be used to commit violence against political opponents: (imputed) political opinion (see profile (5) <u>Members and perceived supporters of political parties</u>)
► (15) <u>Persons with severe medical issues</u>	In individual cases, such as if intentionally deprived of medical care, treatment could amount to persecution.	Depending on individual circumstances
► (16) <u>Individuals accused of ordinary crimes</u> *	Prosecution for an ordinary crime would generally not amount to persecution. However, certain considerations may apply: ■ area of origin of the applicant and the prevalent legal system ■ act of which the applicant is or may be accused ■ envisaged punishment ■ etc.	In general, no nexus.

* Please note that exclusion considerations could be relevant to this profile.

III. Subsidiary protection

Article 15(a) QD: death penalty or execution

Death penalty is envisaged under both, the Nigerian Criminal and Penal Code and the Sharia and it is reported that executions take place.

The following offences are punishable by death under the provisions of the Criminal and Penal Code of Nigeria: murder; treason; conspiracy to treason; treachery; fabricating false evidence leading to the conviction to death of an innocent person; aiding suicide of a child or 'lunatic'; armed robbery (under the Robbery and Firearms Decree 1984). Death sentences can be executed either by hanging or by shooting (firing squad).

Under the various Sharia penal laws in the 12 Northern states, death penalty is applicable when convicted for one of the following offences: adultery; rape; 'sodomy'; incest; witchcraft and juju offences. The execution of death sentences under Sharia law includes hanging, stoning and crucifixion. The latter two are applicable only to Muslims.

Death penalty is also applied by military courts.

Some profiles of applicants from Nigeria may be at risk of death penalty or execution. In such cases (for example, LGBT in the Sharia-implementing states, members of IPOB and MASSOB, those accused of adultery in states where the Sharia applies), there could be a nexus to a Convention ground, and those individuals would qualify for refugee status.

In cases where there is no nexus to a Convention ground (for example, in some cases of individuals accused of ordinary crimes), the need for subsidiary protection under [Article 15\(a\) QD](#) should be examined.

Please note that exclusion considerations could be relevant.

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

In the cases of applicants for which torture or inhuman or degrading treatment or punishment may be a real risk, there may often be a nexus to a Convention ground, and such individuals would, therefore, qualify for refugee status. However, with reference to cases where there is no nexus to a Convention ground and the applicant would not qualify for refugee status, the need for subsidiary protection under [Article 15\(b\) QD](#) should be examined.

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

- Cult and gang violence: Cult and gang violence is usually motivated by financial gain and power struggle. Where there is no nexus to a reason for persecution, being subjected to criminal acts, such as killing, armed robbery, kidnapping, destruction of property, extortion, cattle rustling (e.g. in Zamfara), etc. may qualify under [Article 15\(b\) QD](#).
- Health care unavailability and socio-economic conditions: It is important to note that serious harm must take the form of conduct on the part of a third party ([Article 6 QD](#)). In themselves, the general unavailability of health care, education or other socio-economic elements (e.g. the situation of IDPs, difficulties in finding livelihood opportunities, housing) are not considered to fall within the scope of inhuman or degrading treatment under [Article 15\(b\) QD](#), unless there is intentional conduct on the part of a third party; for example, the intentional deprivation of the applicant of appropriate health care.

- **Arbitrary arrests, illegal detention and prison conditions:** Special attention should be paid to the phenomena of arbitrary arrests and illegal detention, as well as to prison conditions. It can be assessed that in cases where the prosecution or punishment is grossly unfair or disproportionate, or where a person would be subjected to prison conditions which are not compatible with respect for human dignity, a situation of serious harm under [Article 15\(b\) QD](#) can occur. When assessing the conditions of detention, the following elements can, for example, be taken into consideration (cumulatively): number of detained persons in a limited space, adequacy of sanitation facilities, heating, lighting, sleeping arrangements, food, recreation or contact with the outside world. Reports mention overcrowding in prisons and poor prison conditions, long pre-trial detention periods, and cases of use of lethal and excessive force, as well as obtaining confessions through torture by the Nigerian security forces. Therefore, some cases may qualify under [Article 15\(b\) QD](#).

Please note that exclusion considerations could be relevant.

Article 15(c) QD: serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict

The necessary elements in order to apply [Article 15\(c\) QD](#) are:



Figure 3. Article 15(c) QD: elements of the assessment.

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

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

- Armed conflict:** Applying the low threshold introduced with the *Diakité* judgment, it is found that several armed conflicts in the meaning of Article 15(c) QD take place in Nigeria, in particular on the territory of the following states: Abia, Adamawa, Akwa Ibom, Bauchi, Bayelsa, Benue, Borno, Cross River, Delta, Edo, Ekiti, Gombe, Imo, Kaduna, Kogi, Kwara, Nasarawa, Niger, Ondo, Plateau, Rivers, Taraba, Yobe, as well as the Federal Capital Territory of Abuja.

These armed conflicts are presented in the map below.

Armed conflicts on the territory of Nigeria

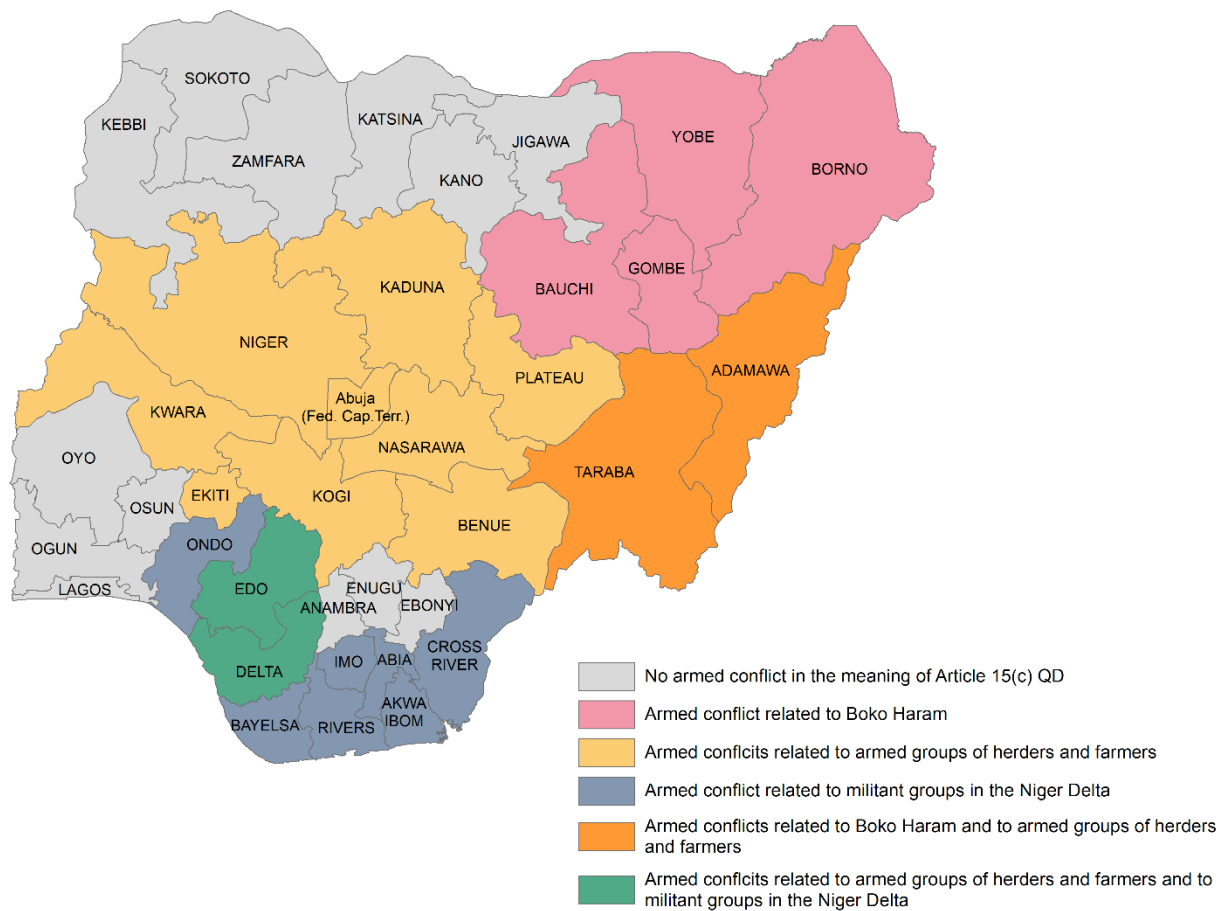


Figure 4. Armed conflicts on the territory of Nigeria (based on data as of September 2018).

b. Civilian: [Article 15\(c\) QD](#) applies to a person who is not a member of any of the parties to the conflict and is not taking part in the hostilities, potentially including former combatants who have genuinely and permanently renounced armed activity. The applications by persons under the following profiles should be examined carefully. Based on an individual assessment, such applicants may be found not to qualify as civilians under [Article 15\(c\) QD](#). For example:

- Boko Haram members
- Members of armed groups of farmers or herders
- Militant groups in the Niger Delta
- Members of the CJTF
- National security forces, including NAF, the Nigerian Navy, the Nigerian Air Force, and NPF.

It should be noted that actively taking part in hostilities is not limited to openly carrying arms, but could also include substantial logistical and/or administrative support to combatants.

It is important to underline that the assessment of protection needs is forward-looking. Therefore, the main issue at hand is whether the applicant will be a civilian or not upon return. The fact that the person took part in hostilities in the past would not necessarily mean that

Article 15(c) QD would not be applicable to him or her. For example, the assessment should further take into account whether the person had voluntarily taken part in the armed conflict; those who willingly joined the armed groups are unlikely to be considered civilians.

- c. **Indiscriminate violence:** Indiscriminate violence takes place to a different degree in different parts of the territory of Nigeria. The map below summarises and illustrates the assessment of indiscriminate violence per state in Nigeria, as well as the Federal Capital Territory of Abuja. This assessment is based on a holistic analysis, including quantitative and qualitative information for the reference period (generally, October 2017 – September 2018). Up-to-date country of origin information should always inform the individual assessment.

Nigeria: Level of indiscriminate violence

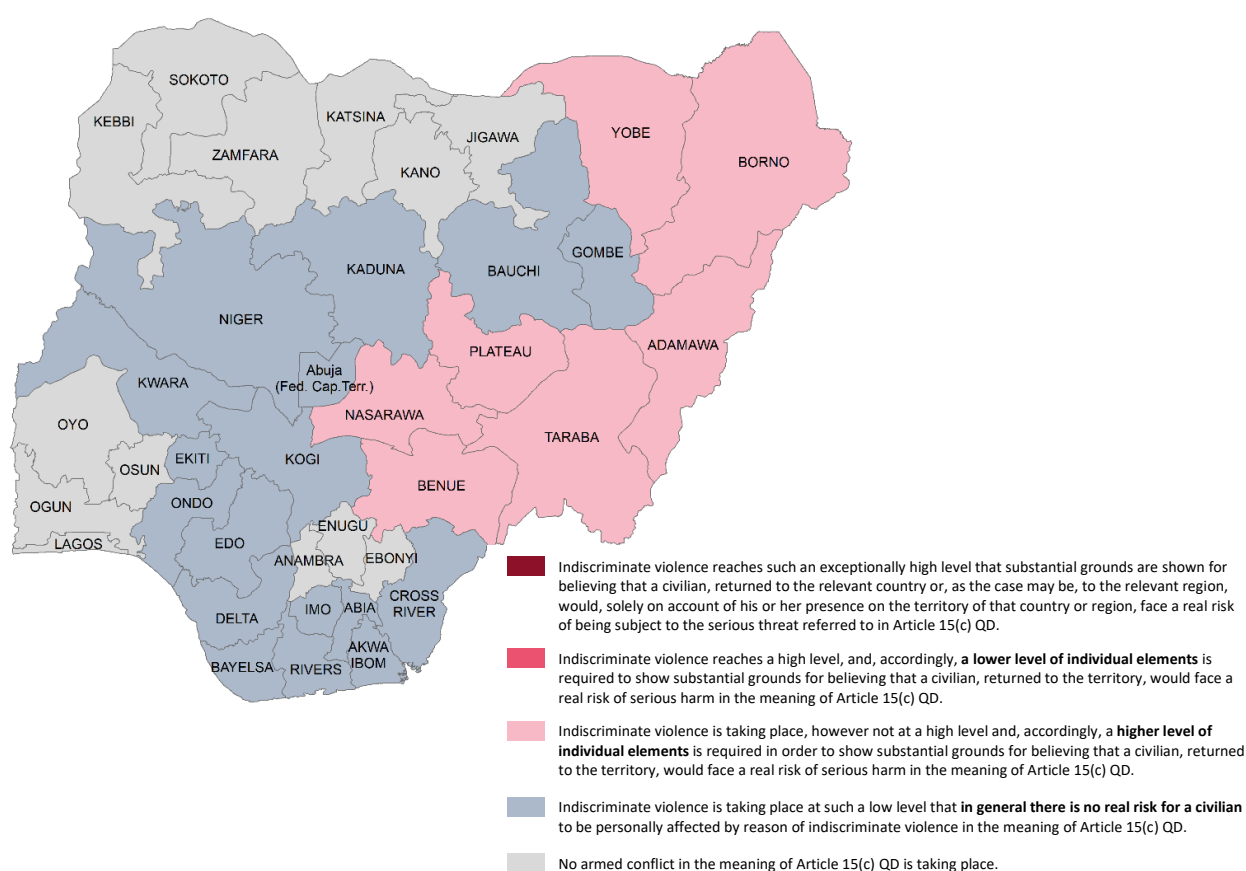


Figure 5. Level of indiscriminate violence in situations of armed conflict in Nigeria (based on data as of September 2018).

It should be noted that there are no states in Nigeria where the degree of indiscriminate violence reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of his or her presence on the territory of that country or region, face a real risk of being subject to the serious threat referred to in [Article 15\(c\) QD](#).

For the purposes of the guidance note, the territories of Nigeria are categorised as follows:

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

These territories are:

Adamawa, Benue, Borno, Nasarawa, Plateau, Taraba, and Yobe.

Territories where indiscriminate violence is taking place at such a low level that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

These territories are:

Abia, Akwa Ibom, Bauchi, Bayelsa, Cross River, Delta, Edo, Ekiti, Gombe, Imo, Kaduna, Kogi, Kwara, Niger, Ondo, Rivers, as well as the Federal Capital Territory of Abuja.

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

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

- Civilians who may be substantially and materially affected by violence because of their geographical proximity to a possible target (e.g. those living in proximity to known Boko Haram targets, such as markets, schools, hospitals, religious buildings, IDP camps, military bases; those living in villages of farmers or herders' communities in the LGAs particularly affected by the violence between herders and farmers).
 - Civilians who are less able to avoid risks of indiscriminate violence by way of seeking temporary shelter from fighting or attacks (e.g. persons with disabilities or serious illnesses; elderly; children; those in an extremely dire economic situation).
- e. Threat to life or person: The risk of harm as per Article 15(c) QD is formulated as a 'threat to a civilian's life or person' rather than as a (threat of) a specific act of violence. Some of the commonly reported types of harm to a civilian's life or person in Nigeria include killings, injuries, abductions, forced displacement, rape, famine caused by food insecurity, etc. The assessment of the harm should be forward-looking.
- f. Nexus: The nexus 'by reason of' refers to the causal link between the indiscriminate violence and the harm (serious threat to a civilian's life or person) and includes:
- Harm which is directly caused by the indiscriminate violence or by acts that emanate from the actors in the conflict, *and*
 - Harm which is indirectly caused by the indiscriminate violence in a situation of armed conflict. Indirect effects are only considered to a certain extent and as long as there is a demonstrable link with the indiscriminate violence, for example: widespread criminal violence as a result of a complete breakdown of law and order, destruction of the necessary means to survive. Armed clashes and/or closure or destruction of roads can also lead to food supply problems that cause famine or to limited or no access to healthcare facilities in certain areas of Nigeria.

IV. Actors of protection

[Article 7 QD](#) stipulates that protection can be provided by:

a. the **State**;

b. parties or organisations controlling the State or a substantial part of the territory of the State;

provided they are **willing and able** to offer protection, which must be:

effective and of a **non-temporary nature**.

Such protection is generally provided when the actors mentioned take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by **operating an effective legal system for the detection, prosecution and punishment** of acts constituting persecution or serious harm,

and when the applicant has **access to such protection**.

The State: It can be concluded that in some parts of the country, the capacity of the Nigerian State to provide effective protection is limited, in particular in the states of Borno, Adamawa, Yobe, Plateau, Benue, Nasarawa, Taraba, and Zamfara. The Nigerian State and its institutions may also prove inaccessible or ineffective in certain situations, such as for women and children victims of violence, for the prevention of FGM/C, forced and child marriage, for victims of trafficking, etc. Moreover, the Nigerian state may be an actor of persecution, for example in cases of LGBT persons or when implementing the Sharia in cases of adultery in the North.

Age, gender, area of origin and socio-economic status are among the factors that affect the accessibility of protection for the individual.

Parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State: No such actors are identified in Nigeria.

In case protection needs have been established in the home area, and if it is established that there is no actor who can provide protection in the meaning of [Article 7 QD](#), the examination may continue with consideration of the applicability of internal protection alternative (IPA).

V. Internal protection alternative

The required elements in order to apply [Article 8 QD](#) are:

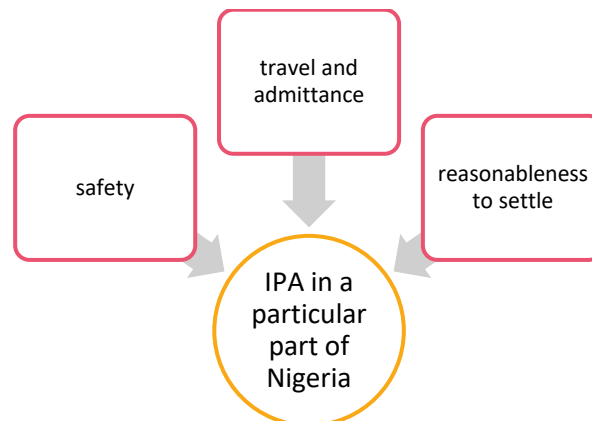


Figure 6. Internal protection alternative: elements of the assessment.

In relation to these elements, when assessing the applicability of internal protection alternative (IPA), the case officer should consider the general situation in the respective part of Nigeria, as well as the individual circumstances of the applicant. The burden of proof lies with the determining authority, while the applicant remains under an obligation to cooperate. The applicant is also entitled to submit elements to indicate that IPA should not be applied to him or her.

a. Part of the country

The demographics of the area should be taken into account, including its prominent religion, ethnicity, etc. Large cities, such as Lagos, could generally be considered as a possible IPA for different profiles of applicants, due to being more ethnically and religiously diverse.

When choosing a particular part of Nigeria with regard to which to examine the applicability of IPA, where relevant, existing ties with the place, such as previous experience and/or existence of a support network could, for example, be taken into account.

b. Safety

The criterion of safety would be satisfied where there is no well-founded fear of persecution or real risk of serious harm, or where protection is available.

Absence of persecution or serious harm

The assessment should take into account:

► **general security situation**

The general security situation should be considered in light of the analysis under [Article 15\(c\) QD](#) in relation to armed conflicts taking place, and [Article 15\(b\) QD](#) in relation to criminal violence.

► **actor of persecution or serious harm and their reach**

In case where the person fears persecution or serious harm by the [Nigerian State](#), there is a presumption that IPA would not be available ([Recital 27 QD](#)). Relevant examples include LGBT persons, high-profile members of IPOB/MASSOB, etc.

The presence of other actors of persecution or serious harm, including Boko Haram, herders' and farmers' armed groups, student cults, trafficking networks, etc. is generally geographically limited.

When assessing the availability of IPA in case of persecution or serious harm by [Boko Haram](#), particular consideration should be given to the individual circumstances of the applicant, the way the applicant is perceived by Boko Haram, their capacity to track and target individuals in other areas or states, etc.

For individuals who fear persecution or serious harm by [other armed groups](#), the reach of the particular group should be assessed; in most cases IPA could be available.

In some cases, where the applicant faces persecution or serious harm for reasons related to the prevalent social norms in Nigeria and the actor of persecution or serious harm is [Nigerian society](#) at large (e.g. persons with noticeable mental or physical disabilities), IPA would in general not be available.

For certain particularly vulnerable categories, such as children (e.g. regarding risk of FGM/C) and persons with visible mental or physical disabilities, if the actor of persecution or serious harm is the [family](#) of the applicant, IPA may not be available.

► **whether or not the profile of the applicant is considered as a priority target by the actor of persecution or serious harm**

The profile of the applicant could make him or her priority target, increasing the likelihood that the actor of persecution or serious harm would attempt to trace the applicant in the potential IPA location. Examples may include high-profile members of separatist movements, religious leaders and politicians targeted by Boko Haram, etc.

► **other risk-enhancing circumstances**

The information under the section [Analysis of particular profiles with regard to qualification for refugee status](#) should be used to assist in this assessment.

► **behaviour of the applicant**

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

Availability of protection against persecution or serious harm

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

c. Travel and admittance

As a next step, the case officer should establish whether the applicant can:

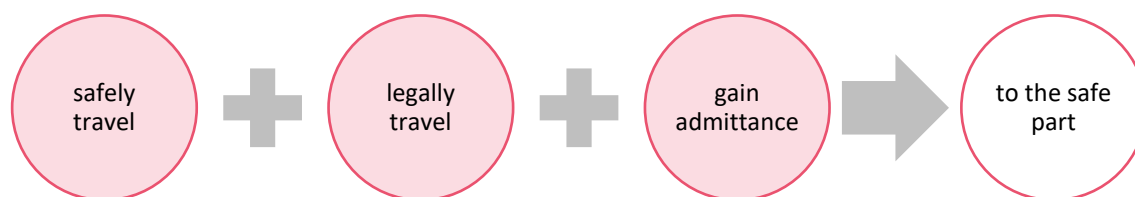


Figure 7. Travel and admittance as requirements for IPA.

- ✓ **Safely travel:** Travelling the roads from the airport to Lagos and most of the areas/states in Nigeria (except those with security problems in the North East, the Middle Belt or Zamfara) is considered to be generally safe.
- ✓ **Legally travel:** There are no legal or administrative restrictions for Nigerians to travel in Nigeria
- ✓ **Gain admittance to:** There are no legal or administrative restrictions or requirement for Nigerians to be admitted in any part of the country. Indigeneity facilitates settling in a given area; however, it does not constitute a requirement.

The individual circumstances of the applicant should also be taken into account in this context.

d. Reasonableness to settle

According to [Article 8 QD](#), IPA can only apply if the applicant 'can reasonably be expected to settle' in the proposed area of internal protection.

✓ **general situation**

The following elements should be examined based on available country of origin information:

- the situation with regard to food security;
- the availability of basic infrastructure and services, such as:
 - shelter and housing;
 - basic health care;
 - hygiene, including water and sanitation;
- the availability of basic subsistence that ensures access to food, hygiene and shelter, such as through employment, existing financial means, support by a network or humanitarian aid.

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

Based on the available COI, it is found that in order to establish the reasonableness of IPA, the analysis should take into account the individual circumstances of the applicant, such as socio-economic background, education, profession, etc. Support by state authorities, NGOs and social networks, including but not limited to the family (for example, it could also include colleagues, friends) could also be an important consideration, especially with regard to certain profiles.

✓ **individual circumstances**

In addition to the general situation in the area of potential IPA, the assessment whether it is reasonable for the applicant to settle in that part of the country should take into account the individual circumstances of the applicant, such as religion, ethnicity, status of 'indigenes' vs 'settlers', local knowledge, age, gender, state of health (illness or disabilities), social, educational and economic background, support network, etc.

The individual considerations could relate to certain vulnerabilities of the applicant as well as to available coping mechanisms, which would have an impact when determining to what extent it would be reasonable for the applicant to settle in a particular area. It should be noted that these factors are not absolute and they would often intersect in the case of the particular applicant, leading to different conclusions on the reasonableness of IPA.

Conclusions on reasonableness: commonly encountered profiles

The list below includes general conclusions with regard to some profiles, which are commonly encountered in practice. For further guidance on elements which are to be assessed in this regard, see the common analysis section [*Conclusions on reasonableness: particular profiles encountered in practice*](#).

The individual circumstances of the applicant should always be taken into account. In cases where the applicant is a child or the applicant is accompanied by a child, the best interests of the child shall be a primary consideration.

In general, IPA in Lagos or elsewhere in Nigeria (excluding states/areas with security problems) may be considered reasonable for these profiles, including where they have no support network in the IPA area.

- *Single able-bodied men*
Although the situation related to settling in the IPA area entails certain hardship, it can still be concluded that such applicants are able to ensure their basic subsistence, shelter and hygiene, taking into account the fact that their individual circumstances do not pose additional vulnerabilities.
- *(Married) couples of working age*
The individual assessment should further take into account whether in the situation of the couple sufficient basic subsistence can be ensured for both.

IPA in Lagos or elsewhere in Nigeria (excluding states/areas with security problems) may be considered reasonable, depending on the individual circumstances of the applicant.

- *Single able-bodied women*
Women may encounter additional difficulties in relation to education, work, housing, etc. The assessment should take into account factors such as age, family status, socio-economic background, religion and ethnicity, local knowledge, support network, etc.
- *Elderly applicants*
Elderly people may face difficulties in accessing means of basic subsistence, in particular through employment. The availability of financial means and/or a support network should be taken into account, as well as the age and state of health of the applicant.
- *Victims of trafficking*
The assessment should take into account factors such as the age, state of health, socio-economic background of the applicant, the availability of support network, etc.

In general, IPA would not be considered reasonable for these profiles in case they have no support network in the IPA area.

- *Unaccompanied children*
Due to their young age, children are particularly vulnerable and in general need to depend on other providers for their basic subsistence.
- *Applicants with severe illnesses or disabilities*
Individual circumstances, such as the availability of sufficient financial means, should, however, be taken into account.

VI. Exclusion

Given the serious consequences that exclusion may have for the individual, the exclusion grounds should be interpreted restrictively and applied with caution.

The examples in this chapter are non-exhaustive and non-conclusive. Each case should be examined on its own merits.

Applying the exclusion clauses where there are serious reasons to consider that the applicant has committed any of the relevant acts, is mandatory.

Exclusion should be applied in the following cases:

Grounds for exclusion			
Refugee status	▪ a crime against peace, a war crime, or a crime against humanity ▪ a serious non-political crime outside the country of refuge prior to his or her admission as a refugee ▪ acts contrary to the principles and purposes of the United Nations	Subsidiary protection	▪ a crime against peace, a war crime, or a crime against humanity ▪ a serious crime ▪ acts contrary to the principles and purposes of the United Nations ▪ constituting a danger to the community or to the security of the Member State in which the applicant is present ▪ other crime(s) (under certain circumstances)

It should be underlined that the determining authority has the burden of proof to establish the elements of the respective exclusion grounds and the individual responsibility of the applicant; while the applicant remains under an obligation to cooperate in establishing all facts and circumstances relevant to his or her application.

In the context of Nigeria, the need to examine possible exclusion issues may arise, in particular, in cases of applicants who may have been involved in the following:

- armed conflict involving Boko Haram and the Nigerian security forces
- crimes committed during violent clashes between herders and farmers
- crimes committed by student cults and criminal gangs
- crimes committed by trafficking networks
- etc.

The following subsections provide guidance on the potential applicability of the exclusion grounds in the context of Nigeria.

a. Crime against peace, war crime, crime against humanity

[Article 12\(2\)\(a\) QD](#) and [Article 17\(1\)\(a\) QD](#) refer to specific serious violations of international law, as defined in the relevant international instruments.¹⁴

The ground of ‘crime against peace’ is not found to be of particular relevance in the cases of applicants from Nigeria.

With regard to ‘war crime’ and ‘crime against humanity’, it can be noted that several investigations by the Office of the Prosecutor of the International Criminal Court (ICC) are currently ongoing. These investigations refer to potential violations in the context of the conflict between Boko Haram and the Nigerian security forces, actions of the Nigerian security forces against the Islamic Movement in Nigeria (IMN), operations of the Nigerian security forces against pro-Biafra protesters.¹⁵

In the Middle Belt and in the East of Nigeria, the violent clashes between herders and farmers have escalated in recent years, resulting in an increasing number of deaths on both sides and serious human rights violations, including rape, abduction and attacks leading to the destruction of entire villages. Taking into account the evolution of the conflict, crimes committed in this context could also give rise to considerations under [Article 12\(2\)\(a\) QD/Article 17\(1\)\(a\) QD](#) as ‘crimes against humanity’.

b. Serious (non-political) crime

Criminal violence constitutes a serious security and public safety concern in Nigeria, especially crimes committed by organised groups, such as cults, traffickers in human beings, bandits engaged in cattle rustling, etc. An increasing level of violence and firearms proliferation is noted across the country, particularly manifesting in ransom kidnapping along highways, armed robbery and other forms of violent crime committed by gangs.

The cases of several profiles must be carefully examined, taking into account the applicant’s activities, role, responsibilities, etc. Examples include members of student cults, traffickers or members of other criminal organisations, members of militant groups in the Niger Delta, etc.

The personnel of some Nigerian authorities and of the *hisbah*, may also be found responsible for serious (non-political) crimes.

Child marriages, domestic violence, FGM/C, and other widespread practices in Nigeria could also potentially amount to serious (non-political) crimes under [Article 12\(2\)\(b\) QD/Article 17\(1\)\(b\) QD](#).

c. Acts contrary to the purposes and principles of the United Nations

This exclusion ground may apply to certain acts which constitute serious and sustained human rights violations and/or acts specifically designated by the international community as contrary to the purposes and principles of the UN (for example, terrorist acts in light of relevant UN Security Council resolutions).

¹⁴ The [Rome Statute of the International Criminal Court](#) is a particularly relevant instrument in this regard. See also the ‘Grave Breaches’ provisions of the 1949 Geneva Conventions and Additional Protocol I, common Article 3 and relevant provisions of Additional Protocol II, the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) and Statute of the International Criminal Tribunal for Rwanda (ICTR).

¹⁵ See <https://www.icc-cpi.int/nigeria>.

Although the Nigerian government has proclaimed many organisations as terrorist, the assessment should take into account the objective situation and the acts of the group and the individual applicant.

(Former) membership in armed groups such as Boko Haram could trigger relevant considerations and require an examination of the applicant's activities under [Article 12\(2\)\(c\) QD](#)/[Article 17\(1\)\(c\) QD](#), in addition to the considerations under [Article 12\(2\)\(a\) QD](#)/[Article 17\(1\)\(a\) QD](#).

The application of exclusion should be based on an individual assessment of the specific facts in the context of the applicant's activities within that organisation. The position of the applicant within the organisation would constitute a relevant consideration and a high-ranking position could justify a (rebuttable) presumption of individual responsibility. Nevertheless, it remains necessary to examine all relevant circumstances before an exclusion decision can be made.

d. Danger to the community or the security of the Member State

In the examination of the application for international protection, the exclusion ground under [Article 17\(1\)\(d\) QD](#) is only applicable to persons otherwise eligible for subsidiary protection.

Unlike the other exclusion grounds, the application of this provision is based on a forward-looking assessment of risk. Nevertheless, the examination takes into account the past and/or current activities of the applicant, such as association with certain groups considered to represent a danger to the security of the Member States or criminal activities of the applicant.

Common analysis: Nigeria

General remarks

[Key socio-economic indicators, 1; Country focus, 6.5.4]

Nigeria is a Federal Presidential Republic. It is divided into 36 states, and Abuja, which has the status of Federal Capital Territory (FCT). The 36 states and the FCT are grouped into six geopolitical zones:

- North Central (7 states): Niger, Kogi, Benue, Plateau, Nasarawa (Nassarawa), Kwara and FCT
- North East (6 states): Bauchi, Borno, Taraba, Adamawa, Gombe and Yobe
- North West (7 states): Zamfara, Sokoto, Kaduna, Kebbi, Katsina, Kano and Jigawa
- South East (5 states): Enugu, Imo, Ebonyi, Abia and Anambra
- South South (6 states): Bayelsa, Akwa Ibom, Edo, Rivers, Cross River and Delta
- South West (6 states): Oyo, Ekiti, Osun, Ondo, Lagos and Ogun



Figure 8. Map 2: @DFAT 2018¹⁶

Nigeria is the most populated country in Africa, with an estimated population of 193 million. It is a highly diverse country with regard to ethnic groups and languages. There are more than 250 ethnic groups of which the largest groups are: Hausa-Fulani, Yoruba, Igbo (Ibo), Ijaw, Kanuri, Ibibio, Tiv, Edo/Bini. The main spoken languages, of the 519 living languages in the country, include English, pidgin

¹⁶ Australia, DFAT, Country Information Report Nigeria, 9 March 2018, [url](#), p. 2.

English, Hausa, Yoruba, Igbo, Fulani, Ijaw. English or pidgin English and Hausa are used for inter-ethnic communication.

In the north, the main ethnic groups are Hausa and Fulani, and several other groups such as Kanuri in the North East. The Middle Belt has many smaller, differing but related groups. Nigeria's south is divided into a Yoruba-speaking area in the west and an Igbo-speaking area in the east. The main group in the Niger Delta are the Ijaw, although there are several other smaller ethnic groups. It should also be noted that parts of Nigeria are multi-ethnic, especially the urban areas.

The religious adherence of the population is nearly equally divided between Christians and (predominantly Sunni) Muslims, while a minority is composed of practitioners of indigenous religions or persons with no religious affiliation. Religious syncretism, the mix of religious practices from different traditions, is also common.

I. Actors of persecution or serious harm

[Article 6 QD](#) defines ‘actors of persecution or serious harm’ as follows:

Article 6 of the Qualification Directive Actors of persecution or serious harm
Actors of persecution or serious harm include: a) the State; b) parties or organisations controlling the State or a substantial part of the territory of the State; c) non-State actors, if it can be demonstrated that the actors mentioned in points (a) and (b), including international organisations, are unable or unwilling to provide protection against persecution or serious harm as defined in Article 7.

Risks to which a population of a country or a section of the population is generally exposed do not normally create in themselves an individual threat which would qualify as serious harm ([Recital 35 QD](#)). Generally, persecution or serious harm must take the form of conduct on the part of a third party ([Article 6 QD](#)). For example, it cannot simply be the result of general shortcomings in the health system of the country of origin.¹⁷

The notion of State within the meaning of [Article 6\(a\) QD](#) should be broadly interpreted. It encompasses any organ exercising legislative, executive, judicial or any other function(s) and acting at any level, be it central, federal, regional, provincial or local. It could, for example, include the civil service, armed forces, security and police forces, etc. In some cases, private entities may also be given State powers and therefore be considered a State actor of persecution or serious harm.

Parties or organisations controlling the State or a substantial part of the territory of the State can refer to two possible scenarios:

- ▶ Parties or organisations amounting to de facto State actors because they exercise elements of governmental authority; or
- ▶ Parties or organisations controlling a substantial part of the State’s territory in the context of an armed conflict.

Non-State actors against whom protection is not effectively provided are also recognised as actors of persecution or serious harm in the meaning of [Article 6 QD](#). Non-State actors could, for example, include individuals and groups, such as militant groups, extremist religious groups, ethnic groups, criminals, political parties, and family members, including members of the extended family, etc.

A wide range of different groups and individuals could be actors of persecution or serious harm in Nigeria. Specific relevant examples include Boko Haram, student cults, armed groups of farmers and herders, traffickers, etc.

The following subsections highlight, in a non-exhaustive manner, some actors in Nigeria and analyse whether they would qualify as actors of persecution or serious harm:

¹⁷ CJEU, *Mohamed M'Bodj v État belge*, C-542/13, Judgment of 18 December 2014, C-542/13, paras. 35-36.

The Nigerian State and state-affiliated actors

Some Nigerian State authorities and affiliated actors, such as the Nigerian Armed Forces (NAF), the Nigeria Police Force (NPF), the Islamic Police (*hisbah*), and the Civilian Joint Task Force (CJTF), are accused of committing a wide range of human rights violations.

NAF is accused of extrajudicial executions, mass deaths in custody, torture, fumigation, arbitrary arrests, unlawful detention. The Military Special Board was set up to investigate the alleged human rights violations related to events of 30 May 2016 in South East Nigeria, but did not find any wrongdoing by the army [Targeting, 2.5.1.1]. NAF was found guilty of killing hundreds of members of the Islamic Movement in Nigeria (IMN) in 2015, according to the Kaduna State Judicial Commission of Inquiry [Targeting, 3.8.3.1].

The **NPF** has been involved in abuses of human rights such as acts of extortion, beatings, illegal detention, sexual harassment. According to the Amnesty International research, the Special Anti-Robbery Squad (SARS) arrests and tortures detainees until they ‘confess’ or pay a bribe to be released [Targeting, 2.5.2.1]. In response to allegations of extrajudicial killings and other abuses, the NPF introduced a voluntary Code of Conduct in January 2013, which provides a set of guiding principles and standards of behaviour for police officers. The NPF has also introduced human rights officers at all police stations, however their ability to prevent human rights abuses is limited for various reasons, including due to lack of authority at the local level [Actors of protection, 3.3].

There are a number of groups formally or informally linked to state authorities. One prominent example are the **Islamic police (*hisbah*)**, operating in the Sharia-implementing states. They are reported to arrest and torture LGBT persons, and women accused of immorality, and to target Christians sporadically [Targeting, 2.5.3.2]. *Hisbah* also have coercive disciplinary functions, such as forcibly preventing persons of different sexes to mix in the public transport system; enforcing a dress code, especially on women in educational institutions; preventing the performance of music and films; seizing and destroying alcoholic drinks, etc.

CJTF is a state-sponsored and state-aligned paramilitary group. It cooperates with the Nigerian security forces and has the task of protecting local populations and internally displaced persons (IDPs) from Boko Haram’s attacks [Targeting, 2.5.4.2]. It is reported that CJTF has committed serious human rights violations, such as extrajudicial killings, arbitrary arrests, acts of torture and recruitment of children [Targeting, 2.5.4.4].

State authorities and state-affiliated groups may be considered actors of persecution or serious harm in specific situations.

Non-State actors

Boko Haram, including JAS and ISIS-WA

[Targeting, 2.1]

A number of armed groups are operating on the territory of Nigeria, among which Boko Haram is considered the most powerful one. Boko Haram is a Salafi-jihadist group fighting for the replacement of the secular Nigerian state with an Islamic one based on a strict compliance to the Sharia law, throughout the country. It operates in the North East of Nigeria, exerting violence against westerners, Christians, and Muslims considered ‘infidels’.

Since 2011 and as of April 2018, the reported deaths resulting from Boko Haram violence were approximately 17 000; another 14 645 persons had lost their lives in the clashes between Boko Haram and State actors. The group was added to the UN Security Council sanctions list in 2014.

The indiscriminate killings of civilians and in particular of Muslims caused divisions within the Boko Haram. In 2016 Boko Haram split into two groups: Jama'atu Ahlis Sunna Lidda'adati wal-Jihad (JAS), led by Abubakar Shekau, and the Islamic State - West Africa (ISIS-WA), led by Abu Musab al Barnawi. However, this distinction is often not reflected in media reports, which refer to Boko Haram.

JAS is characterised by the use of more violent methods and continues to perpetrate systematic attacks against both Muslims and Christians. Anyone who does not support the group is perceived as a supporter of the government and may be targeted. It is reported that the group is more active near the border with Cameroon and it is present in South and Central Borno state.

ISIS-WA criticises the targeting of common Muslims, focusing its attacks on Christians and persons not abiding by Sharia law ('infidels'). Since the 2016 split, ISIS-WA has led 'less frequent but larger attacks' against military targets. This faction is considered to be more active near the border with Niger, in the areas north and west of Damboa and in Yobe state around Buni Yadi.

In its insurgency Boko Haram has committed widespread human rights violations across Northern Nigeria, such as: suicide bombings, massacres, burning down of entire villages, attacks on places of worship and schools, and the slaughter of people in such sites, attacks on IDP camps, cruel and degrading treatment following sentences by its 'courts', extrajudicial executions, political assassinations, abduction on a massive scale, including of children, forced displacement, child recruitment, grave violation of the rights of women and girls such as slavery, sexual violence, forced marriages and forced pregnancy, etc.

Boko Haram has a decentralised structure composed by a number of cells and hierarchical layers. The primary sources of funding of Boko Haram are extortions, robberies and looting, cattle and livestock rustling, Islamic donations, local enterprises, kidnappings for ransom, arms smuggling and bank robberies.

Several incidents and killings of those who tried to leave or refuse to join Boko Haram are reported.

Boko Haram, including JAS and ISIS-WA, is considered an actor of persecution or serious harm in the areas where it operates.

Militant groups in the Niger Delta

[Targeting, 2.2]

The Niger Delta comprises of the states of Ondo, Edo, Delta, Bayelsa, Rivers, Imo, Abia, Akwa Ibom and Cross River. A number of militant groups operate in the area. Their members demand an improvement of the conditions in the region and protest against its environmental degradation due to oil exploitation.

Between 2006 and 2009, after the decline of the Niger Delta People's Volunteer Force (NDPVF), the most active militant group was the Movement for the Emancipation of the Niger Delta (**MEND**). MEND is an umbrella organisation whose political objectives have focused on demanding local control over oil resources and development of the region. The group has made use of kidnapping and car bombing with the aim of kidnapping of foreign oil workers, attacks against oil pipelines, oil bunkering.

Currently, MEND has a limited presence due to the imprisonment of some of its leaders and due to a large-scale amnesty and Disarmament, Demobilisation, and Reintegration (DDR) programme introduced in 2009. The DDR has also provided financial benefit for approximately 30 000 former militants.

The cut to the programme funding in 2015, along with the government's failure to improve the socio-economic conditions in the Delta region, and actions by security guards of oil installations, led to a

new insurgency in 2016 and to the emergence of several militant groups, in particular of the Niger Delta Avengers (**NDA**). NDA is currently active in the Niger Delta. Although it shares the same objectives as MEND, it distances itself from the latter, and calls for the autonomy of the region. In 2016, the group launched a large number of attacks on oil infrastructures. The tactics of NDA mainly focus on attacks on oil and gas installations.

Although MEND and NDA perpetrate violent acts, those usually involve the targeting of infrastructure and do not result in harm to individuals. Therefore, in the context of the Niger Delta, the armed groups would rarely be considered actors of persecution or serious harm.

Separatist movements

[*Targeting*, 3.3]

In the South East of Nigeria there are several groups aiming for secession, among which the two main groups currently are the Movement for the Actualization of the Sovereign State of Biafra (**MASSOB**) and the Indigenous People of Biafra (**IPOB**). Both organisations claim to be non-violent and aim to reach secession through referendum. They mostly engage in awareness-raising activities, marches, and other gatherings. However, the leader of IPOB has reportedly endorsed violence as means for resuscitating Biafra.

In March 2016, MASSOB and IPOB issued a joint statement that all Fulani herdsman should retreat to northern Nigeria, as ‘their safety [could] no longer be guaranteed’.

MASSOB was banned by the Nigerian authorities in 2001 and its members were accused of being ‘armed criminals and robbers’. In 2017, the Nigerian authorities declared IPOB a terrorist organisation. However, there are no confirmed reports of violence by the two organisations.

The activities of MASSOB and IPOB to-date do not involve acts of persecution or serious harm and, in general, they would not fall under the scope of [Article 6 QD](#).

Herders and farmers

[*Security situation*, 2.3.9, 3.2.2; *Targeting*, 3.7.2]

Among the non-State actors of persecution or serious harm, herders and farmers participating in armed groups have become increasingly relevant. Herders’ groups are mainly composed of Fulani Muslims, while the farmers are mainly Christian. The origins of the conflict are rooted in the difficulties to access natural resources such as water and land. Nowadays, it also has profound ethnic and religious implications and is becoming more politicised.

The conflict escalated in January 2018. In the first six months of the year, more than 1 300 fatalities and 300 000 people fleeing their homes have been reported. Severe violations of human rights are reportedly committed by both, herders’ and farmers’ groups, including massive killings and massive destruction of houses, crops, cattle, etc. Fulani herders are also reported to have committed rape, abduction, robbery, etc. The violence has affected numerous states across Nigeria, but in particular Adamawa, Taraba, Plateau, Nasarawa and Benue.

In the context of the conflict between armed herder and farmer groups, both may be considered actors of persecution or serious harm.

Student cults

[*Targeting*, 2.3]

Student cults in Nigeria, also referred to as ‘university cults’ or ‘confraternities’, resemble criminal gangs. Some of the most well-known cults are the Black Axe and Eiyé.

Student cults are characterised by violent initiation rites and conduct illegal activities such as: killings, human trafficking, drug trafficking, smuggling, extortions, kidnapping, forced recruitment, etc. Approximately 1 863 deaths are likely to be connected to student cults between 2006 and 2014. Cult-related violence in 2017 reportedly resulted in 442 fatalities and 290 victims of kidnapping.

Political parties often recruit cult members and use them to kill or attack political opponents or to exercise violence during elections [*Targeting*, 2.3.3].

Some sources report that it is ‘extremely difficult’ to leave a cult after being initiated. Persons who quit the confraternities or cults may be killed, out of fear of revealing the cult’s secrets [*Targeting*, 3.11.1.1].

Student cults mostly operate in the southern states of Nigeria and are particularly strong in Rivers, Bayelsa, Delta and Edo.

Student cults may be considered actors of persecution or serious harm in specific situations.

Traffickers and trafficking networks

[*Targeting*, 2.4]

Trafficking in human beings (THB) is defined in the EU Anti-Trafficking Directive as: ‘The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.’¹⁸

The exploitation can take different forms, such as prostitution or other forms of sexual exploitation, forced labour, slavery, removal of organs, etc. Trafficking occurs within Nigeria as well as to third countries.

Traffickers may use deception, such as false offers of jobs and promises of safe travel to destination countries, and manipulation through traditional beliefs (*juju*). In some circumstances, the victims’ families support and encourage the trafficking for economic reasons.

Traffickers and trafficking networks are considered actors of persecution or serious harm.

Other non-State actors

Besides the non-State actors mentioned above, the family or family members can be an actor of persecution or serious harm, such as in the case of domestic violence, violence against lesbian, gay, bisexual, trans (LGBT) persons, forced and child marriages, female genital mutilation or cutting

¹⁸ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

(FGM/C), etc. FGM/C practitioners, including traditional circumcisers and health care professionals, are another potential example of non-State actors of persecution or serious harm, due to the violation of the rights of the child and dignity of the woman that the practice involves.

Human rights violations may also be committed by other non-State actors, such as mobs and criminal groups, etc. The situation in Zamfara state is a relevant example. It is largely driven by cattle rustling and banditry as purely criminal activities, separate from the herder-farmer violence in the Middle Belt [*Security situation*, 3.4].

Non-State actors, such as those mentioned above, may be considered actors of persecution or serious harm in specific situations.

The reach of a specific non-State actor and their ability to trace and target the applicant depend on the individual case. The individual power positions of the applicant and the actor of persecution or serious harm should be assessed, taking into consideration their social status, wealth, connections, gender, level of education, etc.

Finally, it should be noted that persecution or serious harm by non-State actors has to be assessed in light of the availability of protection according to [Article 7 QD](#).

II. Refugee status

All elements of the definition of a refugee in accordance with the QD should be fulfilled for the qualification of the applicant as a refugee:

Article 2(d) of the Qualification Directive Definitions
‘refugee’ means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 [exclusion] does not apply;

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

Article 9(1) of the Qualification Directive Acts of persecution
In order to be regarded as an act of persecution within the meaning of Article 1(A) of the Geneva Convention, an act must: a) be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in point (a).

In order for a person to qualify as a refugee, there must be a connection (nexus) between one or more of the specific reasons for persecution (race, religion, nationality, political opinion or membership of a particular social group), on the one hand, and the acts of persecution under [Article 9\(1\) QD](#) or the absence of protection against such acts ([Article 9\(3\) QD](#)), on the other.

The applicability of the respective reason(s) should be assessed in relation to [Article 10 QD](#).

Common analysis on specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided below. An individual assessment is required for every application. It should take into account the individual circumstances of the applicant and the relevant country of origin information. Factors to take into account in this assessment may include, for example:

- home area¹⁹ of the applicant and presence of the potential actor of persecution;
- nature of the applicant’s actions (whether or not they are perceived negatively and/or whether or not individuals engaged in such actions are seen as a priority target by the actor of persecution);
- visibility of the applicant (i.e. to what extent it is likely that the applicant is known to or could be identified by the potential actor of persecution), noting however that the applicant does

¹⁹Protection needs are firstly assessed with regard to the applicant’s home area in the country of origin. The ‘home area’ in the country of origin is identified on the basis of the strength of the applicant’s connections with a particular area in that country. The home area may be the area of birth or upbringing or a different area where the applicant settled and lived, therefore having close connections to it.

not need to be individually identified by the actor of persecution, as long as his/her fear of persecution is well-founded.

- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals, network);
- etc.

The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant's well-founded fear, unless there are good reasons to consider that such persecution will not be repeated ([Article 4\(4\) QD](#)). On the other hand, it should be noted that in order to establish well-founded fear of persecution there is no requirement of past persecution or threats. The risk assessment should be forward-looking.

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

Once the required level of persecution as well as nexus have been established in relation to the home area of the applicant, the availability of protection in accordance with [Article 7 QD](#) should be explored (see the chapter [Actors of protection](#)). Where such protection is not available, the examination may continue with consideration of the applicability of internal protection alternative under [Article 8 QD](#), if applicable according to national legislation and practice (see the chapter [Internal protection alternative](#)).

In some cases, where the applicant would otherwise qualify for refugee status, exclusion grounds would be applicable (see the chapter [Exclusion](#)). The sections below make specific references to the relevance of exclusion considerations for certain profiles.

Where the applicant does not qualify for refugee status, the examination should proceed in order to determine his or her eligibility for subsidiary protection (see the chapter [Subsidiary protection](#)).

Analysis of particular profiles with regard to qualification for refugee status

This chapter refers to some of the profiles of Nigerian applicants, encountered in the caseload of EU Member States. **It represents a non-exhaustive list and the fact that a certain profile is included in it or not is without prejudice to the determination of their protection needs.**

While the conclusions under this common analysis could provide general guidance, the protection needs of each applicant should be examined individually. The non-exhaustive examples with regard to sub-profiles at a differentiated risk and of circumstances which would normally increase or decrease the risk are to be taken into account in light of all circumstances in the individual case.

In some cases, even if the applicant no longer belongs to a certain profile, they may still be targeted and have a well-founded fear of persecution related to their past belonging to such a profile.

Family members, merely due to their relation to the refugee, may be at risk of persecution in such a manner that could be the basis for refugee status. It should also be noted that individuals belonging to the family of a person qualifying for international protection could have their own protection needs.

It should be highlighted that an individual applicant could fall under more than one profile included in this common analysis. The protection needs associated with all such circumstances should be fully examined.

The considerations under each profile should, furthermore, be viewed without prejudice to the credibility assessment of the applicant's claims. This common analysis deals solely with issues of risk analysis and qualification.

For each profile, the sections below provide:

- ▶ **COI summary:** brief summary and analysis of the available common COI, as referenced.
- ▶ **Risk analysis:** analysis whether the treatment of individuals under this profile may amount to persecution; and assessment of the level of risk, which highlights some of the risk-impacting circumstances, where relevant.
- ▶ **Nexus to a reason for persecution:** where individuals under the respective profile may have a well-founded fear of persecution, this sub-section analyses the presence of nexus to a reason for persecution in general. However, it should be underlined that more and/or different grounds may apply depending on the actor of persecution and/or the individual circumstances of the applicant.

1. Individuals targeted by Boko Haram

This section looks into the situation of the following sub-profiles in the areas where Boko Haram operates:

- persons perceived as government supporters
- persons considered as ‘infidels’, including those rejecting the insurgents’ strict interpretation of Sharia
- Christians
- journalists
- teachers and others working in education
- health workers
- IDPs

For the targeting of women and girls by Boko Haram, see under [Women and girls](#).

COI summary

[*Targeting*, 2.1, 3.1]

The activities of Boko Haram concentrate in Borno, Yobe and Adamawa, although incidents are also reported in other places in the country.

Boko Haram, especially the faction of JAS, uses violence indiscriminately against civilians in the areas where it operates. However, some profiles are particularly targeted by the group. These include:

- **Perceived government supporters:** Both JAS and ISIS-WA are known to target those associated with the government, including government officials and civil servants, politicians, traditional leaders, CJTF members, etc. For example, Boko Haram fighters have attacked communities where CJTF militia were formed and killed anyone they suspected to be a member of the CJTF, and in some cases all young men and boys in these communities [*Targeting*, 2.5.4.6, 3.1.2].
- **Christians:** There are numerous reports of destruction of churches and killing of Christians, including reports of beheading of Christians who refuse to convert to Islam. In an incident in 2014, Boko Haram reportedly beheaded those Christian men who refused to convert and married off the women to Boko Haram fighters [*Targeting*, 3.1.4].
- **Persons considered ‘infidels’, including those rejecting the insurgents’ strict interpretation of Sharia:** Muslims opposing Boko Haram are considered ‘infidels’. For Boko Haram, and especially JAS, Muslim religious leaders expressing disagreement with the group’s methods, are a priority target. There are reports of attacks and destruction of mosques, and the killing of Muslim worshippers. There are indications that since 2015, the group has attacked more mosques than churches; there is no clarity on the reasoning behind that change [*Targeting*, 3.1.3].
- **Journalists:** Nigerian media outlets reporting on Boko Haram have been attacked and threatened by Boko Haram. In practice, media outlets do not send reporters in the areas controlled by Boko Haram unless they volunteer; this is due to the lack of protection by the Nigerian security forces. A number of attacks and killings of media workers have also been reported in Kano and in Abuja [*Targeting*, 3.1.9].
- **Teachers and others working in education and children attending school:** Targeting of teachers and students is due to the group’s opposition to western education. Since 2009 and until September 2017, Boko Haram is reported to have killed 2 259 teachers, and to have led to the displacement of 19 000, leaving almost 1 400 schools destroyed in the North East of Nigeria. It has also attacked universities, including the Maiduguri University. School children

are also particularly targeted. In February 2018, Boko Haram abducted 110 children, 104 of them were school girls. In March 2018, most of the children were released, however, five girls died and one Christian girl who refused to convert to Islam remained in captivity [*Targeting*, 3.1.5, 3.1.7].

- **Health workers:** Boko Haram has openly condemned the use of western medicine, including vaccinations. A large number of healthcare facilities have been destroyed, in particular in Yobe and Borno. Health workers, especially those involved in immunisation campaigns, have been targeted and killed. Many health workers have fled the region [*Targeting*, 3.1.6].
- **IDPs:** Attacks are also perpetrated on IDP camps, including by suicide bombings. There are indications that IDP or refugee sites are a direct target. This jeopardises the safety of displaced people, aid workers and military staff [*Targeting*, 3.1.8].

For the targeting of women and girls by Boko Haram, see under [Women and girls](#).

Risk analysis

The acts to which individuals under these sub-profiles could be exposed are of such severe nature that they would amount to persecution (e.g. killing, abduction).

Individuals targeted by Boko Haram would in general have a well-founded fear of persecution. It should, however, be noted that the activities of JAS and ISIS-WA concentrate in the North East of the country.

Nexus to a reason for persecution

Available information indicates that the persecution of this profile may be for reasons of (imputed) political opinion (e.g. those perceived as supporting the government or opposing Boko Haram, journalists, teachers, children, and especially girls, attending school, health workers) and/or religion (e.g. Christians, those seen as 'infidels').

2. Individuals perceived as Boko Haram members or supporters

This profile refers to (perceived) Boko Haram members or supporters.

COI summary

[*Targeting*, 2.5.1.1, 2.5.4.4]

The Nigerian Army has been accused of human rights violations in the context of the fight against Boko Haram. There are reports of extrajudicial executions, mass deaths in custody, torture, fumigation, unlawful detention and arrest and starvation of over 8 000 people by the State. In one incident in January 2017, the Air Force attacked a settlement camp for IDPs, causing the death of between 170 and 236 civilians and leaving hundreds injured. According to a senior official in the Nigerian military, the Air Force was acting on 'faulty information' that the area was populated by insurgents associated with Boko Haram.

The CJTF is also involved in the fight against Boko Haram. It relies on information from local residents and uses their knowledge to try to identify Boko Haram members, bringing suspects to the Nigerian security forces. There are reports of extrajudicial killings, arbitrary arrest and acts of torture by the CJTF of individuals considered to be members or sympathisers of Boko Haram.

Risk analysis

The legitimate response of the authorities to Boko Haram cannot be considered persecution. However, certain acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. extrajudicial executions, arbitrary arrests, torture).

In the case of individuals perceived as Boko Haram members or supporters, well-founded fear of persecution could, in general, be substantiated.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

3. Members of separatist movements and individuals perceived as supporting them

This profile focuses on members of the Movement for the Actualization of the Sovereign State of Biafra (MASSOB) and of the Indigenous People of Biafra (IPOB), the two main groups aiming for the independence of Biafra.

COI summary

[*Targeting*, 3.3]

MASSOB emerged in the late 1990s. The movement has actively pursued independence by organising rallies, hoisting Biafran flags, using its own identity cards and currency, etc. Although it defines itself as non-violent, the movement has been repeatedly involved in clashes with the police. MASSOB was banned by the Nigeria authorities in 2001. Over the years, police and security agencies have clashed with MASSOB members, arresting and killing many, in particular during manifestations and rallies.

IPOB grew out of MASSOB in 2014. Nowadays, the movement is more active than MASSOB. IPOB's activities include distribution of flyers, awareness-raising among the population, marches and other gatherings. Despite the fact that the actions of IPOB have been largely non-violent, it was banned by the Nigerian government as a terrorist organisation in September 2017.

The Nigerian authorities tend to respond to MASSOB and IPOB meetings and demonstrations in the same way, including through arbitrary arrests, extrajudicial killings, etc.

Clashes between the security forces and IPOB predominantly take place in Anambra, Abia, Rivers, Imo and Delta. Violent incidents mainly occur during meetings, in particular related to the Biafra Day (23th or 30th May, according to the different factions). In one particular incident, which occurred during the celebrations of the Biafra Remembrance Day on 30 May 2016, security forces in Onitsha raided homes the night before the event, and shot at a crowd of around 1 000 people, killing 'at least' 60 persons. In the gathering on 23 May 2018 in Rivers state, more than 100 protesters from a MASSOB faction were arrested by the security forces.

Supporting separatist movements, including by displaying Biafra symbols, such as flags and other insignia, may lead to arrest and ill-treatment.

Based on the ban on IPOB from 2017, all its activities were declared illegal and can lead to arrest and prosecution. Several members of IPOB have been charged with treason, which is punishable by the death penalty.

The government reported having deployed soldiers under special operations to Abia state and Rivers state to tackle ‘violent agitation and kidnapping’.

Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing, death penalty, arbitrary arrests).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: level and nature of involvement, visibility of the applicant (e.g. high profile, prior arrest, media appearance), participation in gatherings or manifestations, etc.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

4. Members of militant groups in the Niger Delta and individuals perceived as supporting them

Currently, the most active militant groups are the Niger Delta Avengers (NDA) and, to a lesser extent, the Movement for the Emancipation of the Niger Delta (MEND). There are other smaller and less known groups. Local communities and their leaders, who protest against the environmental impact of the oil production, may be perceived as supporters of the militant groups.

COI summary

[Targeting, 3.2]

A large-scale amnesty and Disarmament, Demobilisation, and Reintegration (DDR) programme is in place since 2009. It was initially envisaged for 5 years, however it has been extended several times and in 2018 it is ongoing (although cut by 70% in 2015).

In relation to the increased attacks on oil and gas installations in 2016, President Buhari announced that ‘militants in the Niger Delta will be given the Boko Haram treatment if they continue with their nefarious acts’.

The level of armed violence remained low due to the reinstated amnesty programme, new deployments of troops and peace initiatives by local, regional, and national leaders. However, local Ijaw representatives claimed that the operations unjustly targeted and demolished their communities.

There are also reports of arbitrary arrests on suspicion of having links with militant groups and prolonged detention without trial, including of individuals whose release has been ordered by court.

Risk analysis

Criminal prosecution in itself does not amount to persecution. However, some of the acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. arbitrary arrest and detention).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: level of involvement with the militant organisation, activities of the applicant, etc.

Former members of the militant groups participating in the DDR programme generally do not have a well-founded fear of persecution related to their past involvement.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

5. Members and perceived supporters of political parties

In this profile, the focus is on members and perceived supporters of the People's Democratic Party (PDP) and the All Progressives Congress (APC), being the main political parties in Nigeria. Similar issues may occur with regard to members and supporters of other political parties.

COI summary

[*Targeting*, 3.4]

The PDP was the ruling party from 1999 until 2015, after which the APC came to power. In February 2013, the APC was formed by the merge of the All Nigeria Peoples Party (ANPP) with the Action Congress of Nigeria (ACN), the All Progressives Grand Alliance (APGA), and the Congress for Progressive Change (CPC).

In some states, there are reports of incidents involving supporters of the parties. These mostly occur during election periods.

There are reports that both parties use criminal gangs or cult members against each other.

Intra-party violence also takes place. Such incidents mostly occurred during primaries and party congresses, and include political assassinations of rival candidates, skirmishes, and riots between opposing factions within a party.

There is no record of political prisoners or detainees.

Risk analysis

Some of the acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. assassination).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: level of political activity, participating as a candidate in elections, etc.

Nexus to a reason for persecution

Available information indicates that persecution of this profile is for reasons of (imputed) political opinion.

6. Individuals involved in and affected by conflicts between herders and farmers

This profile refers to members of armed groups of herders and farmers, as well as to (unarmed) individuals in the herders' and farmers' communities affected by the conflict between those armed groups.

*COI summary**[Targeting, 3.7; Security situation, 3.2]*

The conflict between herders and farmers is related to the increasing shortage of land and water, propelled by desertification, insecurity and the loss of grazing land to expanding settlements. The above mentioned factors lead to increased migration of herders from northern and middle Nigeria southwards. These herder communities are mostly Fulani, but other ethnicities are also represented. The conflict has acquired three dimensions: ethnic (Fulani vs other Nigerian ethnicities), religious (Muslim herders vs Christian southerners), and cultural (nomadic vs sedentary). It also has an increasing political dimension as President Buhari, a Fulani himself, is accused of tribalism and of looking away from the conflict. In the background of the herders-farmers conflict there are also the nation-wide legal and social differences between the 'indigenes' or 'natives' (those whose fathers were born in the area and who are granted preferential land rights over settlers) and the 'settlers' (those who settled in the area later).

Several farmer and herder communities in the South and in the Middle Belt have formed self-defence vigilante groups, allegedly in response to the lack of protection from the government. The conflict has escalated in the recent years and leads to killings on both sides, as well as to significant displacement. It has been reported that in the first six months of 2018, approximately 300 000 people have fled their homes and more than 1 300 people have been killed. The conflicts also lead to rape, abduction, robbery, destruction of houses, crops, and cattle, etc. The conflicts have affected more than 20 states across the country, but in particular Adamawa and Taraba (North East zone) and Plateau, Nasarawa and Benue (North Central zone).

Several states have passed anti-grazing law in order to avoid clashes between herders and farmers.

Risk analysis

Individuals under this profile, including armed and unarmed farmers and herders in the regions where the clashes take place, could be exposed to acts of such severe nature that they would amount to persecution (e.g. killing, rape, abduction).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: area of origin of the applicant, level of involvement with armed groups, ownership of land or cattle, etc.

Nexus to a reason for persecution

Available information indicates that persecution of this profile may be for reasons of race (ethnicity, descent) and/or religion.

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

7. Human rights activists, bloggers, journalists and other media workers

This profile refers to human rights activists, bloggers, journalists and others working in the media.

*COI summary**[Targeting, 3.5, 3.6, 3.12.5]*

- **Human rights activists**

Civil society organisations involved in human rights advocacy are free to investigate and express their opinion and findings, although they may be harassed and threatened when they criticise State authorities. In 2018 Amnesty International faced a smear campaign, accusing them of supporting Boko Haram, due to a report concerning sexual violence committed by Nigerian soldiers and militias against women and girls living in satellite camps.

Civil society organisations have also expressed concerns that draft legislation to regulate NGOs is an attempt to crack down and monitor NGOs, by providing the government with an opportunity to use State power without accountability.

Human rights defenders are frequently subjected to threatening phone calls or messages, visits from security agents, surveillance, intimidation and summons to police stations.

Organisations which are perceived as supporting LGBT persons are particularly targeted. Their activity is criminalised, with the registration, operation or participation in gay clubs, societies and organisations being punishable by up to 10 years of imprisonment in accordance with the Same Sex Marriage (Prohibition) Act (SSMPA) of 2014. At least three organisations working on HIV, health and human rights have reported that their offices had been raided by police due to their work with LGBT communities.

In North East Nigeria, human rights defenders often face intimidation, arrests, physical harm, risk of being kidnapped or killed by Boko Haram, and women workers are reported to face an additional risk of gender-based violence.

■ **Bloggers, journalists and other media workers**

The Nigerian Constitution provides for freedom of expression and press. The country has an active media landscape.

The World Press Freedom Index 2018 ranked Nigeria 119th out of 180 countries with regard to press freedom, based mainly on the ‘climate of permanent violence’, the threats, physical abuse and denial of access to information faced by journalists.

There are limitations to the freedom of speech in the 12 Sharia-ruled states and in general journalists struggle to cover stories on politics, terrorism and embezzlement.

The 2015 Cybercrimes (Prohibition, prevention, etc.) Act is said to have been used against several bloggers in an arbitrary manner. In August 2017, the Nigerian government announced the monitoring of social media to identify and deal with hate speech, anti-government and anti-security information.

There are reports of threat, harassment and arrests of media workers by governmental officials when they deal with topics such as corruption, human rights, terrorism, separatist movements or communal violence.

During 2017, three journalists were killed by unknown attackers. The impunity of perpetrators of such violence enhances the potential to intimidate journalists.

Journalists are also particularly targeted by Boko Haram (see [*Individuals targeted by Boko Haram*](#)).

Risk analysis

Some actions perpetrated against human rights activists, bloggers, journalists and other media workers may amount to persecution (e.g. killing, kidnapping, gender-based violence, (arbitrary) arrests, imprisonment).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of

likelihood for the applicant to face persecution should take into account risk-impacting circumstances such as: place of work, nature of activities (e.g. those working with LGBT communities may be at a particular risk), visibility of activities and public profile, gender, etc.

Nexus to a reason for persecution

Available information indicates that, depending on the nature of the individual's activities, persecution of this profile may be for reasons of (imputed) political opinion and/or religion.

8. Christian and Muslim minorities in specific areas

These profiles focus on the situation of Christians and Muslims in areas where they represent a religious minority.

COI summary

[*Targeting*, 3.8; *Country focus*, 6.5]

According to the Nigerian Constitution, Nigeria is a secular state and freedom of religion is guaranteed.

According to a 2010 survey, the shares of Muslims and Christians were 48.8 % and 49.3 % of the population, respectively, while 1.9 % was mainly composed of 'either practitioners of indigenous religions or no affiliations'. Although the North is largely Muslim and the South is largely Christian, there is also 'a sizable Christian minority in several northern states', mainly as a consequence of internal migration. At the same time, there is a considerable population of Muslims in the South, especially in the South West. The mix of practices from different religions is also common.

Both Muslims and Christians report discrimination in areas where they form a minority.

The Constitution recognises the possibility to implement Sharia for civil proceedings involving questions of Islamic personal law, such as marriage, inheritance, and other family matters, and where all the parties involved are Muslims. Between 2000 and 2002, twelve Northern states extended Sharia to criminal cases, although a number of constitutional questions arose (e.g. the rights of religious minorities and of women, the punishment of apostasy). In particular, it has been reported that religious minorities in Sharia-declared states are suffering widespread discrimination and harsh penalties that violate Nigeria's international human rights obligations.

Non-Muslims can opt to have their cases heard by Sharia courts, when they are involved in civil or criminal disputes with Muslims. This often occurs as the Sharia courts are generally considered cheaper and more efficient than civil courts. However, Sharia courts do not have the authority to compel the participation by non-Muslims [*Actors of protection*, 6.2.1.1].

Conflicts involving Christian and Muslim communities are concentrated in northern cities, in the Middle Belt (around Jos) and in Kaduna state, where farmers are predominantly Christian and herders are predominantly Muslim. These clashes are often caused or exacerbated by other tensions, such as tensions between local host communities ('indigenes') and internal migrant communities ('settlers'). In these conflicts, religious factors intertwine with socio-economic and ethnic ones.

Christians face a particularly difficult situation in the North East of Nigeria because of the presence of Boko Haram, although the group also targets moderate Muslims. See the profile [*Individuals targeted by Boko Haram*](#).

Christians further reported a lack of protection by the authorities for churches and Christian communities, especially in the Central and Northern Sharia states, and in admission to universities, as well as in acquiring land permission to build churches.

Muslims living in areas where they are a minority have reported discrimination by the authorities, in particular against women wearing hijab. In May 2017, the use of hijab was banned in public schools in Lagos state.

It can also be noted that, in March 2016, IPOB and MASSOB issued an announcement to the Fulani (Muslim) herders to retreat to northern Nigeria. See the profile [*Individuals involved in and affected by conflicts between herders and farmers*](#).

Tensions related to religious factors do not only concern the relationships between Christians and Muslims. Nigeria has a small Shia population, estimated at 4 million, which is located mainly in northern Sunni Nigeria. The main Shia organisation is the Islamic Movement in Nigeria (IMN), active since the 1980s. The leader of the organisation called for a revolution similar to the Islamic revolution in Iran and has been detained several times on charges of ‘seditious speech and calls to revolution’. In Kaduna State, the tension between the military and the IMN has been mounting. On 12 December 2015 in Zaria (Kaduna State), the Nigerian Army killed more than 350 men, women and children, considered supporters of IMN. The events are under investigation by the International Criminal Court (ICC) because of excessive use of force, mass killings and burials. The Kaduna State Government declared IMN unlawful in December 2016. On 15 May 2018, the IMN leader and his wife were charged with illegal assembly, criminal conspiracy and culpable homicide, punishable by death. Members of IMN and supporters staged protests in Abuja, Kaduna and some other cities for their release. Clashes between police and protesters resulted in a number of deaths and many protesters have been held in detention since.

Risk analysis

Some acts, to which individuals under these profiles could be exposed, are of such severe nature that they would amount to persecution (e.g. killing, rape, abduction, forced conversion, forced marriage, illegal detention). When the acts in question are (solely) discriminatory measures, the individual assessment of whether or not discrimination could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances such as: area of origin, gender, in the case of the Shia minority – engagement with IMN, etc.

Nexus to a reason for persecution

Available information indicates that persecution of these profiles is for reasons of religion. In the case of the Shia minority, persecution may be for reasons of religion and/or to (imputed) political opinion.

9. Individuals accused of witchcraft or threatened in relation to ritual killings

Belief in witchcraft (or *juju*) is widespread in Nigeria. Traditionally, witchcraft and cult groups served as social control and conflict-resolution mechanisms in Africa. ‘Witches’ are regarded as the common cause of misfortune.

This profile refers to persons that might be accused of being ‘witches’. It also refers to the issue of ritual killings. In addition, reference is made to persons with albinism and to persons refusing chieftaincy titles.

COI summary

[*Targeting*, 3.9]

- **Accusations of witchcraft:** People, and in particular elderly women, children, or those 'who are somehow 'different', feared or disliked' might be accused of being witches. The phenomenon is more widely reported in the South of Nigeria, but also exists in the North. It is reported that churches, especially those belonging to the Pentecostal and prophetic movement, play an important role in the legitimisation of fears related to witchcraft, and in particular, child witches. Exorcism of evil spirits is practiced during services.

Witchcraft accusations are often directed towards persons who are related, such as neighbours, extended family members, even own children or parents. In some communities, twins (sometimes called 'badly born babies') are believed to have bad spirits that will bring misfortune upon their communities. Therefore, in several communities, twin babies (sometimes only one of them) are killed to avoid bad luck for their families. In other communities, the powers attributed to twins are regarded more ambiguously, as twins can see through hidden things and are respected and feared, being close to gods. Persons with visible physical disabilities (such as kyphosis) or severe mental disabilities are also potential targets. Elderly women may also be accused of witchcraft, for example in the case of the death of a child in the local community, miscarriage of a pregnant woman, 'eccentric' behaviour, outliving a deceased husband. Punishment may involve severe beating, burning or stoning, naked parading, being compelled to drink lethal 'medicines', lynch mob. Children accused of witchcraft may face infanticide, abandonment, physical and sexual violence, stigmatisation. They may be denied schooling and risk being exposed to drugs and prostitution. They may also have to do illegal work or beg.

- **Albinism:** In Nigeria, some people with albinism suffer from discrimination, stigma and social exclusion, including by their families. However, in relation to accusations of witchcraft, skin colour (albinism) does not seem to represent a major factor.
- **Ritual killing:** Ritual killings occur in order to obtain human body parts for use in rituals. It appears to be an increasing phenomenon. It is reported that in the first five months of 2018, there have been 72 deaths related to ritual killings. Victims of ritual killings can include anyone, although reports often concern the ritual killing of women (specifically virgins) and babies.

It has been reported that deaths due to witchcraft and ritual killings account for 1% of all violent deaths between 2006 and 2014.

- **Persons refusing chieftaincy titles:** There are different levels of 'traditional' chiefs and some are part of the state administrative system and are appointed by the state government. The role is well-respected and sought-after. Nowadays, initiation rites do not include dangerous elements for the participants. There is strong competition for certain chieftaincy titles, and titles are rarely refused. However, some people do refuse them. Sources agree that there are no consequences when a title is refused. Being coerced into chieftaincy is conceivable, but not likely.

Risk analysis

Individuals accused of witchcraft could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. killing, physical violence, sexual violence). Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to be accused of witchcraft and face persecution should take into account risk-impacting circumstances, such as: area of origin, gender, age (children and elderly women are generally at a higher risk), relevant

events in the local community (e.g. death of a child, miscarriage of a pregnant woman), visible disabilities, ‘unusual’ behaviour or attributes (e.g. being intersex), family status (e.g. widow, orphan), barrenness, etc.

The act of **ritual killing** is of such severe nature that it amounts to persecution, however ritual killing may affect people indiscriminately and the risk for the individual applicant would normally not reach a reasonable degree of likelihood.

In the case of **persons with albinism**, the individual assessment whether or not discrimination could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures. Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: perception of the local community, perception of the family, etc.

For **persons refusing chieftaincy titles** there is no information of acts which would amount to persecution.

Nexus to a reason for persecution

In relation to **individuals accused of witchcraft**, available information indicates that in the specific local context, persecution may be for reasons of religion and/or membership of a particular social group. Relevant particular social groups could be defined, for example, with regard to their innate characteristics (e.g. twins, persons with visible physical or mental disabilities); and the distinct identity of these groups in Nigeria, because they are perceived as being different by the surrounding society.

In relation to **ritual killings**, available information indicates that there is in general no nexus to a reason for persecution, since the crimes are committed for profit and can affect anyone. This is without prejudice to individual cases where nexus could be established based on additional circumstances.

In relation to **persons with albinism**, available information indicates that persecution may be for reasons of membership of a particular social group, in particular with regard to an innate characteristic (albinism); of this group in Nigeria, because they are perceived as being different by the surrounding society.

10. Individuals targeted by student cults

This profile refers to individuals targeted by student cults (e.g. Eiyé, Black Axe), including a specific reference to the situation of former members of such student cults. In addition, reference is made to secret societies (e.g. Ogboni).

COI summary

[*Targeting*, 3.10, 3.11]

Student cults thrive in the Southern states of Nigeria. Nowadays, they often operate outside universities, where the phenomenon originated.

Cults use several distinctive signs, such as bodily decorations (e.g. tattoos or piercing), clothing with specific colours, and coded language.

Around 100 cults were banned in 2004 under the Secret Cult and Cult Related Activities (Prohibition) Bill.

Student cults currently operate similarly to gangs. They have violent initiation rites, and engage in illegal activities, including killings, human trafficking, drugs trafficking, etc. Cults are also used by political parties and party members to commit violence during elections, and against political rivals [*Targeting*, 2.3.3].

Cults-related violence reportedly accounted for 442 fatalities and 290 victims of kidnapping in 2017.

Recruitment and initiation rites may be forced, including following a kidnapping. Initiation often involves violence, such as beating and rape. Potential members may also be forced to commit crimes. According to some sources, it can be 'extremely difficult' to leave a cult after being initiated, and former members may be killed for fear of revealing the cult's secrets. There is no information on the consequences of refusing to join a student cult.

Secret societies are known to operate in Nigeria. There are no particular accusations of human rights violations by and against actual or former members. However, if a person reveals the secrets of the society it is reported that there may be repercussions.

Risk analysis

Individuals targeted by **student cults**, including former members, could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. killing, physical violence, rape). With regard to former members of student cults, it should be clarified that the legitimate law enforcement and prosecution response by the authorities would not amount to persecution.

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: past membership to a cult, intention of the applicant to reveal the secrets of the cult, etc.

There is no reliable information indicating risk of human rights violations by **secret societies**, including with regard to former members.

Nexus to a reason for persecution

According to available information, the targeting of **victims of the cult's criminal activity** is generally without nexus to a Convention reason for persecution, since the crimes are committed for profit and can affect anyone. This is without prejudice to individual cases where nexus could be established based on additional circumstances. For example, in relation to the use of cults to commit violence against political rivals, see the profile [*Members and perceived supporters of political parties*](#).

Although it can be found that **former and current members of student cults** have a common background that cannot be changed (past participation in a cult) and a distinct identity in Nigeria, because they are perceived as being different by the surrounding society, it is found that the potential persecution which former members face by the cult is not for reasons of such membership of a particular social group. Therefore, the nexus requirement would generally not be satisfied in the case of former members of student cults.

 Exclusion considerations could be relevant to the sub-profile of former members of student cults (see the chapter on [*Exclusion*](#) below).

11. LGBT persons

This profile refers to persons who are perceived as not conforming to social norms because of their actual or perceived sexual orientation and/or gender identity.

COI summary

[*Targeting*, 3.12]

State legislation, the Nigerian Criminal Code of 1916 and the Same Sex Marriage (Prohibition) Act (SSMPA) of 2014, criminalise same-sex unions and acts. These are punishable with a maximum of 14 years of imprisonment. In addition, anyone who supports the LGBT community or ‘registers, operates or participates in gay clubs, societies and organizations’ may face prosecution, with a maximum of 10 years of imprisonment.

It is reported that the police make use of the SSMPA as a tool to humiliate and extort alleged LGBT persons, by arbitrary (mass) arrests, torture, and ‘parading’ the arrested persons, often stripped naked, to the public and the media.

Northern Nigerian states have adopted the Sharia, which criminalises sexual activities between persons of the same sex. The maximum penalty for such acts between men (‘sodomy’) is death penalty, while the maximum penalty for such acts between women is a whipping and/or imprisonment.

The heated debate in society linked to the SSMPA and the increased media attention have made sexual orientation more visible and LGBT persons more vulnerable.

The main religions in Nigeria, Christianity and Islam, are both opposed to same-sex relations and activities. In particular, the growing evangelical Christian movements are spreading hatred and intolerance towards LGBT persons.

There is a considerable increase of violence and extortions by police and society, with numerous reports of mob attacks, torture and rape (including under custody or in prison), battery and assault, theft, defamation, threat to life, humiliation and ill-treatment, including by the NPF and the *hisbah* in the North. Homophobic violence is occurring without fear of consequences.

Risk analysis

Individuals under this profile could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. death penalty in the Sharia-implementing states, imprisonment, mob violence, (attempted) murder, torture, rape, battery).

LGBT individuals would in general have a well-founded fear of persecution.

It has to be noted that an applicant cannot be expected to conceal their sexual orientation or gender identity.²⁰

Nexus to a reason for persecution

Available information indicates that the persecution of this profile is for reasons of membership of a particular social group, based on a shared characteristic that is so fundamental to the identity of the applicant, that he or she should not be forced to renounce it; and based on their distinct identity in Nigeria, because they are perceived as being different by the surrounding society.²¹

²⁰ CJEU, *Minister voor Immigratie en Asiel v X and Y and Z v Minister voor Immigratie en Asiel*, joined cases C-199/12 to C-201/12, Judgment of 7 November 2013 (X, Y and Z), paras. 70-76.

²¹ X, Y and Z, paras. 45-49.

12. Victims of human trafficking, including forced prostitution

Trafficking in human beings (THB) is defined in the EU Anti-Trafficking Directive as: ‘The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.’

This profile focuses on persons who have been subjected to trafficking, whether or not exploitation has occurred.

COI summary

[Targeting, 2.4, 3.15; Sex trafficking]

Nigeria is the top nationality of third-country victims of THB in the EU. Trafficking also occurs to other countries, as well as within Nigeria, especially to Lagos state, which is the main transit and destination state. Trafficking mostly affects women, but also children. The great majority of victims trafficked to Europe for prostitution belong to the Edo/Bini ethnic group. In addition, women from Yoruba, Igbo and several ethnic groups from the Niger Delta have also been registered as victims of THB. The majority of THB cases involve sexual exploitation and labour exploitation. Domestic servitude is a form of trafficking for labour exploitation that is particularly difficult to detect. It primarily affects women and girls. Another form of trafficking are the ‘baby factories’, occurring in several parts of the country. Young girls are recruited to bear and give birth to children that are then sold in ‘black markets’. Baby factories involve breeding, trafficking, and abuse of infants and their biological mothers.

A study has shown that although many victims are trafficked by people in their close proximity (family members, partners), sustainable cross-border trafficking depends on the existence of a structured organisation.

Recruitment is mainly conducted in Nigeria by national criminal groups. These groups continue to exploit their victims in the destination country, with the occasional support of local traffickers. Victims are recruited with promises of safe travel and entry into destination countries. Recruitment also occurs within the victim’s family (close or extended); traffickers take advantage of those trust relations, and often women and girls are encouraged to leave by their family members. The recruitment of victims of trafficking occurs throughout Nigeria.

While anti-trafficking legislation exists and officials have made efforts to address trafficking cases, enforcement is considered ineffective in many parts of the country. Insufficient resources and jurisdictional problems between state and federal governments are reported to hamper efforts in this regard.

Victims of human trafficking often fear retaliation by the traffickers or ‘madams’, especially in case of a remaining ‘debt’. Some sources find it more likely for the victim to be re-trafficked than subjected to physical violence as retaliation. However, reported examples of reprisals include physical violence, kidnapping, intimidation, burning of the victim’s home, killing of family members, etc. Victims of trafficking may be unwilling to testify against traffickers due to fear of reprisals.

Most victims do not want to return to their home region in Nigeria to avoid being re-trafficked; however, many victims of trafficking may return to a trafficking situation. They may do so on their own initiative or be forced by the trafficker or the ‘madam’, or by their family. This is in particular the case when they have not repaid their ‘debt’ or they have not fulfilled the expectation of becoming wealthy.

Women who return wealthy generally do not encounter negative societal attitudes and may enjoy high socio-economic status and greater influence within their family. On the other hand, returning

victims of trafficking may be discriminated against and be marginalised, when their return is perceived as a failure to become wealthy in Europe. The social stigmatisation is also high if the victim returns with health problems.

Returning migrants have no access to services from Nigerian authorities, except when they are defined as victims of human trafficking. As victims of trafficking, they receive very limited assistance from authorities and local organisations, mainly in the form of vocational training provided by local NGOs collaborating with the Nigerian National Agency for Prohibition of Trafficking in Persons (NAPTIP).

NAPTIP is Nigeria's principal agency to combat human trafficking. NAPTIP's main tasks are to suppress human trafficking, investigate and prosecute its perpetrators and offer a range of protection services to victims of the crime, including temporary shelter, counselling, rehabilitation, reintegration and access to justice. In 2017, NAPTIP received significantly more funding from the government compared to previous years. Despite this increase, the agency did not have sufficient resources, given the scale of the problem. For example, NAPTIP did not have resources to carry out sufficient proactive anti-trafficking operations, and its officers were often concentrated in state capitals, thereby hindering identification and investigation of trafficking in rural areas [*Actors of protection*, 9.1, 9.2].

Risk analysis

Individuals under this profile could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. violence, re-trafficking). Where the risk is of discrimination and/or mistreatment by society and/or by the family, the individual assessment of whether or not this could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: amount of 'debt' to traffickers, whether the applicant has testified against the traffickers, level of power/capability of the traffickers, the traffickers' knowledge about the victims' family and background, age, family status (e.g. orphan, single woman), socio-economic background and financial means, level of education, availability of support network (family or other) or the family's involvement in the trafficking, etc.

Nexus to a reason for persecution

Available information indicates that for this profile, the individual circumstances of the applicant need to be taken into account to determine whether or not a nexus to a reason for persecution can be substantiated.

In individual cases, persecution of individuals under this profile may be for reasons of membership of a particular social group, based on a common background which cannot be changed (the past experience of having been trafficked); and a distinct identity in Nigeria, because they are perceived as being different by the surrounding society (e.g. victims of trafficking whose return is perceived by the surrounding society as a failure, or who return with health problems).

13. Women and girls

This profile refers to specific human rights violations Nigerian women and girls may be exposed to, particularly:

- gender-based violence or violence against women and girls, including domestic violence, sexual violence, and, specifically, violence against women and girls by Boko Haram

- female genital mutilation or cutting (FGM/C)
- forced marriage and child marriage

For guidance on women and girls victims of trafficking, see the profile [Victims of human trafficking, including forced prostitution](#).

COI summary

[*Targeting*, 3.13; *Country focus*, 4]

- **Gender-based violence or violence against women and girls, including domestic violence and sexual violence, and, specifically, violence against women and girls by Boko Haram:**

A Demographic and Health Survey study in 2013 has shown that 28 % of all women between 15 and 49 have experienced some form of physical violence since they turned 15. The percentage of those who experienced violence in the year before the survey was 11 %, decreasing from 15 % in 2008.

It is reported that the incidents of gender-based violence have increased significantly with the insurgency of Boko Haram in the North East. In the period from 2009 to 2016, Boko Haram has abducted approximately 2 000 women and girls, subjecting them to sexual abuses, including rape, forced marriage to their captors, being sold in the market as 'war booty', forced participation in insurgent operations, including as suicide bombers, as well as to forced labour. Some women who have been forced to marry Boko Haram fighters, or who have been abducted, raped or enslaved, have been rejected by their families, stigmatised and faced difficulties reintegrating in their societies, where sex outside marriage is not acceptable. Women with children from Boko Haram members are reported to face even more difficulties. However, stigmatisation varies between families, individuals, and communities and other women who had escaped Boko Haram have been re-integrated [*Targeting*, 3.1.7, *Country focus*, 4.4.3].

Trafficking to other countries, as well as within the border of Nigeria, is a phenomenon which predominantly affects women and girls [*Targeting*, 3.15; *Sex trafficking*; see also [Victims of human trafficking, including forced prostitution](#)].

It is reported that young single IDP women face a higher risk of sexual abuse, including reports of abuse by soldiers and CJTF in camps.

Women with no support network and female-headed households, especially in some areas, may have additional vulnerabilities [*Key socio-economic indicators*, 2.4.3, 2.9.1].

In 2015, Nigeria passed new legislation, the Violence Against Persons Prohibition (VAPP) Act, which aims to provide legal framework for the prevention of violence, especially against women and girls. Rape and other forms of violence are penalised. However, this is a federal act and only applies to the Federal Capital Territory. 13 states have similar laws in place.

- **FGM/C:**

Federal legislation prohibits FGM/C of a girl or a woman and relevant state legislation is in place in several Nigerian states. However, no legal action to curb the practice is reported.

The persons who perform the practice on girls aged 0 - 14 are in large majority traditional circumcisers (86.6 %). However, health care personnel may also be involved, especially nurses and midwives (10.4 %), and the share of FGM performed by these actors increases.

The general prevalence rate of FGM/C in Nigeria shows a downward trend. According to a survey carried out in 2017, of the women aged 45 - 49, 27.6 % had undergone FGM/C, while this was 20.1 % for women aged 30 - 34, and 12.3 % of women aged 15 - 19.

FGM/C prevalence rates vary significantly across the country, depending on the area and the predominant ethnic group. According to a 2016-2017 survey, the South West and South East zones have the highest prevalence (41.1 % and 32.3 % respectively), followed by the South South and North West zones (23.3 % and 19.3 % respectively). The North East has the lowest prevalence of FGM/C: 1.4 %. The practice is more prevalent in rural areas.

Some of the ethnic groups with highest prevalence rate of FGM/C are Yoruba (52 – 90 % in different studies), Edo/Bini (69 – 77 %), Igbo (45 – 76 %). The prevalence rate for the Hausa-Fulani is estimated at 13 – 30 %.

The age when FGM/C is conducted and the type of FGM/C also depend on the ethnic group. According to a 2013 survey, of the women having undergone FGM/C, 91.6 % of Hausa, 88.7 % of Yoruba and 90.2 % of Igbo report that they were subjected to FGM/C before the age of 5. On the other hand, 34 % in the North East zone and 25.8 % in the South South (Ibibio and Ijaw/Izon) were subjected to FGM/C aged 15 or older. In rare cases, FGM is practiced prior to a woman's marriage, during her first pregnancy or upon her death.

Social factors, such as the level of education of the parents, further influence the practice of FGM/C.

The most widespread justification for FGM/C in Nigeria is the concern that contact between the clitoris and the baby's head during birth is lethal or harmful for the baby. Other cultural considerations are cleanliness or hygiene, prevention of promiscuity, enhancing fertility and fulfilled womanhood. There are also concerns that men refuse to marry women who have not been circumcised.

The final decision whether or not to circumcise their daughter is most often with the parents, but there is a considerable variation both individually and among different ethnic groups whether it is the father or the mother who makes this decision. The grandparents or the eldest female on the paternal side may also have a decisive role.

When other relatives try to influence the decision, they may pressure the parents by threats to withhold support due to their 'wrong' decisions. However, it is considered a 'family issue' and parents are usually not subjected to violence or threats of violence. A few cases of relatives disregarding the parents' decision and subjecting the girl to FGM/C are reported, although this is considered to be very unusual.

■ **Child marriage and forced marriage:**

Marriage before the age of 18 is prohibited by law in Nigeria. However, according to the Nigerian government's 2016 strategy, northern Nigeria has among the highest rates of child marriage in the world, particularly in the North East and the North West, with 48 % of girls marrying by the age of 15 and 78 % marrying by the age of 18.

The effects of early marriage are severe, often both for the girls or young women and for their children.

There is a strong link between education, poverty and early marriage: girls with no primary education are often married by the age of 15 and girls with primary education marry on average by the age of 18. Child marriage may also be linked to the socio-economic situation of the family, as parents and fathers especially receive a bride price. Another reason for child marriage is to prevent 'indecent' associated with premarital sexual relations or teen

pregnancy. The motives for child marriage and the prevalence of the practice vary according to region, ethnicity and religion.

Forced marriages also occur in Nigeria, especially among the Muslim communities in the North, where the practice is prevalent due to cultural and religious practices linked to polygamy. In the North, forced marriage is common among urban and rural poor population, but not very common among the more educated. Forced marriage is not common in the South. According to relevant reports, there are several factors that play a major role with regard to forced marriages, which include culture, religion, area of origin, socio-economic status and ethnic group belonging.

Reported consequences of refusal to marry include neglect and ostracism, physical violence and rape.

The ability of women to avoid a forced marriage depends on their income and education.

In addition to the gender-specific risks above, it is also reported that women in Nigeria, and especially single women, face discriminatory practices, concerning work, education and living conditions [*Key socio-economic indicators*, 2.3.3, 2.4.3 and 2.6.3].

Risk analysis

Women and girls could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. sexual violence, trafficking, FGM/C, child marriage). Girls are considered to be especially vulnerable in relation to such violations. Where the risk is of discrimination and/or mistreatment by society and/or by the family, the individual assessment of whether or not this could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Gender-based violence or violence against women and girls, including domestic violence and sexual violence: Not all women and girls would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: area of origin, age, being an IDP living in a camp, family status (e.g. single mother), being subjected to forced marriage, socio-economic status, level of education, support network (family or other), etc.

FGM/C: Not all women and girls would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: ethnic group, views of the parents/mother on the practice, age, level of education of the parents/mother, area of origin, etc.

Child marriage and forced marriage: Not all women and girls would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: area of origin, ethnic group, religion, age, level of education of the individual and the family, socio-economic status of the family, etc.

Nexus to a reason for persecution

Available information indicates that in the case of women and girls, the individual circumstances of the applicant need to be taken into account in order to determine whether or not a nexus to a reason for persecution can be substantiated. In individual cases, persecution may be for reasons of membership of a particular social group. Specific examples could include: Yoruba girls under the age of 5 who have not been subjected to FGM/C, based on their innate characteristics (age, gender, ethnicity) and a common background (not having been subjected to FGM/C); and their distinct identity

in the respective area of Nigeria, because they are perceived as being different by the surrounding society; women and girls perceived to have had sex outside of marriage in the context of Boko Haram violence, based on their innate characteristic (gender) and common background which cannot be changed (past experience); and their distinct identity in the context of the North East of Nigeria, because they are perceived as being different by the surrounding society).

14. Children

[*Targeting*, 3.14]

Nigerian children that may be at particular risk in situations, such as the following:

- **Children involved in student cults:** The phenomenon of student cults nowadays may also affect young primary or secondary school pupils [*Targeting*, 2.3.4]. See the profile [*Individuals targeted by student cults*](#).
- **Children accused of being witches:** Children are one of the profiles at particular risk of being accused of witchcraft. See the profile [*Individuals accused of witchcraft or threatened in relation to ritual killings*](#).
- **Violence against children, including domestic violence and sexual violence:** With regard to violence against girls, see the profile [*Women and girls*](#). Violence also affects boys. For example, in the North East, boys may be kidnapped and recruited as child soldiers by Boko Haram. The assessment of well-founded fear of persecution for reasons of a ground under Article 10 QD should take into account the individual circumstances of the child.
- **FGM/C:** FGM/C affects girls in various parts of Nigeria. See the profile [*Women and girls*](#).
- **Child marriage:** Despite the legal age of 18 years, child marriage occurs in Nigeria. See the profile [*Women and girls*](#).
- **Trafficking in human beings:** Children are vulnerable to trafficking situations. They may be victims of trafficking themselves or be vulnerable as children of victims of trafficking. See the profile [*Victims of human trafficking, including forced prostitution*](#).

Under the above mentioned profiles, being a child may generally be considered as an important risk-enhancing circumstance.

15. Persons with disabilities or severe medical issues, including mental health issues

This profile refers to people with disabilities, including mental disabilities, as well as those who have severe medical issues.

COI summary

[*Targeting*, 3.16; *Key socio-economic indicators*, 2.8]

The Nigerian healthcare system is organised into primary, secondary and tertiary healthcare levels and is also divided into a private and public health network. Public healthcare provision is a concurrent responsibility of the three tiers of government: the federal, states and local governments. The primary health care system is managed by the Local Government Areas (LGAs), the secondary health care system by the State ministries of health. The tertiary health care is provided by specialist and teaching hospitals. The LGA level is the least funded and organised level of government and therefore has not been able to properly finance and organise primary healthcare, creating a weak base for the healthcare system. Generally, relevant reports show shortage and uneven distribution of medical facilities and personnel across Nigeria, limited access to treatment because of structural deficiencies (including high medical cost), limited access to medication (over 60 % of the Nigerian population lack access to medication).

Persons with mental or physical disabilities often suffer from social stigma, exploitation, and discrimination. Medical care for persons with disabilities is scarce, particularly for those with mental health problems. Persons with mental or physical disabilities are often accused of witchcraft, see also the profile [*Individuals accused of witchcraft or threatened in relation to ritual killings*](#).

Risk analysis

The lack of personnel and adequate infrastructure to appropriately address the needs of people with (severe) medical issues would not meet the requirement that an actor of persecution or serious harm is identified in accordance with Article 6 QD, unless the third country national is intentionally deprived of health care.²²

In the case of persons living with mental and physical disabilities, the individual assessment whether or not discrimination and mistreatment by society and/or by the family could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Not all persons with disabilities would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: nature and visibility of the mental or physical disability, perception by the family, etc.

Nexus to a reason for persecution

Available information indicates that the persecution of persons living with noticeable mental or physical disabilities may be for reasons of membership of a particular social group, defined by an innate characteristic (disability); and distinct identity in the context of Nigeria, because they are perceived as being different by the surrounding society (e.g. linked to [*Individuals accused of witchcraft or threatened in relation to ritual killings*](#)).

16. Individuals accused of crimes in Nigeria

This profile refers to people who are accused of crimes in Nigeria, specifically:

- ordinary crimes, such as crimes against life, physical integrity, property, etc., recognised as crimes within the jurisdictions of EU Member States;
- criminalisation of acts not considered criminal according to international standards (e.g. adultery, 'sodomy' in the framework of the Sharia).

It also addresses the use of the death penalty according to the different legal regimes in Nigeria and the prison conditions in the country.

COI summary

[*Targeting*, 2.6]

The Nigerian criminal law system is characterised by its pluralism, where English common law, Islamic law (Sharia) in 12 Northern states, and customary law coexist.

The **death penalty** in Nigeria is applied in different manners, depending on whether the states apply secular or Islamic law.

²² CJEU, *M'Bodj*, paras. 35-36.

The following offences are punishable by death under the provisions of the **Criminal and Penal Code of Nigeria**: murder; treason; conspiracy to treason; treachery; fabricating false evidence leading to the conviction to death of an innocent person; aiding suicide of a child or ‘lunatic’; armed robbery (under the Robbery and Firearms Decree 1984). Death sentences can be executed either by hanging or by shooting (firing squad).

According to Amnesty International, in 2016 Nigeria executed three persons by hanging in Benin Prison (Edo State). It registered 527 death sentences, representing a significant surge when compared to previous years, bringing the total number of people sentenced to death in the country to 1 979. The authorities pardoned 33 prisoners, exonerated another 32 and commuted a total of 105 death sentences.

It is reported that in July 2017, ‘state governors agreed to either sign execution warrants or commute death sentences as a way of addressing overcrowding in prisons’, including in Ogun state, for example, where there previously was an informal commitment to refrain from authorising executions.

Under the various **Sharia penal laws** in the 12 Northern states, death penalty is applicable when convicted for one of the following offences: adultery; rape; ‘sodomy’; incest; witchcraft and *juju* offences. The execution of death sentences under Sharia law includes hanging, stoning and crucifixion. The latter two are applicable only to Muslims.

In terms of **prison conditions**, reports mention overcrowding in prisons and poor conditions [*Actors of protection*, 7.1]. A lack of funding and low human resource capacity leads to a significant backlog of cases, which results to, amongst other things, extremely long pre-trial detention periods [*Actors of protection*, 6.1.2]. As of 16 July 2018, of the total prison population (73 631), 68.1 % were pre-trial detainees [*Actors of protection*, 6.2.2].

With regard to **law enforcement practices**, consulted sources mention several accounts of the NPF, the army, and other security services using lethal and excessive force to disperse protesters and to apprehend criminals and suspects; as well as committing extrajudicial killings, and obtaining confessions through torture. Police officers are also reported to repeatedly mistreat individuals in their custody in order to extort money [*Actors of protection*, 3.3.2].

Risk analysis

Prosecution for an **ordinary crime** would generally not amount to persecution.

However, the prosecution for **acts which are not considered criminal according to international standards** (e.g. adultery, ‘sodomy’) would amount to persecution.

Death penalty, irrespective of the nature of the crime, is considered to amount to persecution.

Violations of the due process of law and/or **disproportionate or discriminatory punishments** could also amount to such severe violations of basic human rights.

Not all individuals accused of crimes in Nigeria would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: the area of origin of the applicant and the prevalent legal system, the act of which the applicant is or may be accused, the envisaged punishment, etc.

Nexus to a reason for persecution

Available information indicates that in the case of individuals accused of **ordinary crimes**, there is in general no nexus to a Convention reason for persecution. This is without prejudice to cases where nexus could be established based on additional circumstances.

In the case of criminalisation of **acts which are not considered criminal according to international standards**, such as adultery and ‘sodomy’ in the Sharia-implementing states, persecution may be for reasons of religion or membership of a particular social group (see also [LGBT persons](#)).

With regard to **some crimes punishable by the death penalty under the Criminal and Penal Code** of Nigeria, persecution may be for reasons of political opinion (e.g. treason and conspiracy to treason).

 Exclusion considerations could be relevant to this profile (see the chapter on [Exclusion](#) below).

III. Subsidiary protection

Article 15(a) QD

As noted in the chapter above, some profiles of applicants from Nigeria may be at risk of death penalty or execution. For a list of the crimes punishable by the death penalty according to the Criminal and Penal Code of Nigeria and the Sharia, see [Individuals accused of crimes in Nigeria](#).

In such cases (for example, LGBT, members of IPOB and MASSOB, those accused of adultery in states where Sharia applies), there could be a nexus to a Convention ground, and those individuals would qualify for refugee status.

In cases where there is no nexus to a Convention ground (for example, in some cases of individuals accused of ordinary crimes), the need for subsidiary protection under Article 15(a) QD should be examined.

Under Article 15(a) QD, serious harm consists of the death penalty or execution.

The death penalty is as such, and under any circumstances, considered as a serious harm under Article 15(a) QD. The sentence does not need to have already been imposed. A real risk that on return a death penalty may be imposed on an applicant could be considered sufficient to substantiate the need of subsidiary protection.

As the addition of the term ‘execution’ suggests, Article 15(a) QD also encompasses the intentional killing of a person by non-State actors exercising some kind of authority. It may also include extrajudicial killings, but an element of intentional and formalised punishment needs to be present.

Death penalty is envisaged under both, the Nigerian penal law and the Sharia in the North. The latest available data is for 2016, when the Nigerian authorities executed three persons by hanging in Benin Prison in Edo state, and 527 death sentences were registered, bringing the total number of people sentenced to death in the country to 1 979. Death penalty is also applied by military courts [[Targeting](#), 2.6].

There is no information in the consulted sources about execution conducted in a formalised way by non-State actors. However, it can be noted that some killings by Boko Haram may be considered as ‘punishment’, such as for refusal to join the group or for defying the ‘Sharia police’ [[Targeting](#), 2.1.5.1, 2.1.6, 3.1.3].

If there is a reasonable degree of likelihood of death penalty or execution, subsidiary protection under Article 15(a) QD shall be granted, unless the applicant is to be excluded in accordance with Article 17 QD.

 In some cases, the death penalty would have been imposed for a serious crime committed by the applicant, or for other acts falling within the exclusion grounds (Article 17 QD). Therefore, although the criteria of Article 15(a) QD would be met, exclusion considerations should be examined (see the chapter on [Exclusion](#) below).

Article 15(b) QD

As noted in the chapter on *Refugee status*, some profiles of applicants from Nigeria may be at risk of torture or inhuman or degrading treatment or punishment. In such cases, there would often be a nexus to a Convention ground, and those individuals would qualify for refugee status. However, with reference to cases where there is no nexus to a Convention ground, the need for subsidiary protection under Article 15(b) QD should be examined.

Under Article 15(b) QD, serious harm consists of torture or inhuman or degrading treatment or punishment of an applicant in the country of origin.

Article 15(b) QD corresponds in general to Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The jurisprudence of the European Court of Human Rights (ECtHR), therefore, provides relevant guidance in order to assess whether a treatment may qualify under Article 15(b) QD.

Torture is an aggravated and deliberate form of cruel, inhuman or degrading treatment to which a special stigma is attached.

According to relevant international instruments, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), torture is understood as:

- ✓ an intentional act
- ✓ that inflicts severe pain or suffering, whether physical or mental
- ✓ for such purposes as obtaining from the person subjected to torture or from a third person information or a confession, punishing the former for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind.

The distinction between torture and inhuman or degrading treatment or punishment is more a difference of degree than of nature. These terms cover a wide range of ill-treatment that reach a certain level of severity.

- Inhuman: refers to treatment or punishment which deliberately causes intense mental or physical suffering (which does not reach the threshold of torture).
- Degrading: refers to treatment or punishment which arouses in the victim feelings of fear, anguish and inferiority capable of humiliating or debasing them.

The assessment whether a treatment or punishment is inhuman or degrading further implies a subjective consideration by the person who suffers such treatment or punishment. No specific purpose on the part of the perpetrator (e.g. obtaining information or a confession, punishing, intimidating) is required in this regard.

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

- Cult and gang violence: Cult and gang violence is usually motivated by financial gain and power struggle. Where there is no nexus to a reason for persecution, being subjected to criminal acts, such as killing, armed robbery, kidnapping, destruction of property, extortion, cattle rustling (e.g. in Zamfara), etc. may qualify under Article 15(b) QD.
- Health care unavailability and socio-economic conditions: It is important to note that serious harm must take the form of conduct on the part of a third party (Article 6 QD). In themselves, the general unavailability of health care, education or other socio-economic elements (e.g.

situation of IDPs, difficulties in finding livelihood opportunities, housing) are not considered to fall within the scope of inhuman or degrading treatment under Article 15(b) QD, unless there is intentional conduct on the part of a third party; for example, the intentional deprivation of the applicant of appropriate health care.^{23,24}

See also the profile [*Persons with disabilities or severe medical issues*](#).

- Arbitrary arrests, illegal detention and prison conditions: Special attention should be paid to the phenomena of arbitrary arrests and illegal detention, as well as to prison conditions. It can be assessed that in cases where the prosecution or punishment is grossly unfair or disproportionate, or where a person is subjected to prison conditions which are not compatible with respect for human dignity, a situation of serious harm under Article 15(b) QD can occur. When assessing the conditions of detention, the following elements can, for example, be taken into consideration (cumulatively): number of detained persons in a limited space, adequacy of sanitation facilities, heating, lighting, sleeping arrangements, food, recreation or contact with the outside world.

Reports mention overcrowding in prisons and poor prison conditions, long pre-trial detention periods, and cases of use of lethal and excessive force, as well as obtaining confessions through torture by Nigerian security forces. Therefore, some cases may qualify under Article 15(b) QD.

See also the profile [*Individuals accused of crimes in Nigeria*](#).

 In some cases, those at risk of torture or inhuman or degrading treatment or punishment (for example, because of mistreatment in prisons) may also have committed or contributed to excludable acts as defined in Article 17 QD. Therefore, although the criteria of Article 15(b) QD would be met, exclusion considerations should be examined (see the chapter on [*Exclusion*](#) below).

²³CJEU, *M'Bodj*, paras.35-36.

²⁴Recent jurisprudence of the CJEU, furthermore, addresses the case of an applicant who has been tortured by the authorities of his country of origin and who no longer faces a risk of being tortured if returned to that country, but whose physical and psychological health could, if so returned, seriously deteriorate, leading to a serious risk of him committing suicide on account of the trauma resulting from the torture. In this case, the CJEU considers that Article 15(b) QD is applicable if there is a real risk of the applicant being intentionally deprived, in his or her country of origin, of appropriate care for the physical and mental after-effects of that torture (CJEU, *MP v Secretary of State for the Home Department*, case C-353/16, judgment of 24 April 2018, para.59).

Article 15(c) QD

Preliminary remarks

Reference period

The following assessment is based on the EASO COI report on the security situation in Nigeria [*Security situation*]. The general reference period for this chapter is **1 October 2017 – 30 September 2018** and events taking place after September 2018 are not taken into account in the common analysis. Certain information used within this chapter may refer to a different reference period; this is clarified within the text.

This guidance should be considered valid as long as current events and developments fall within the trends and patterns of violence observed within the reference period of the mentioned COI report. New events and developments that cause substantial changes, new trends or geographical shifts in the violence, may lead to a different assessment. The security situation of a given territory should always be assessed in light of the most up-to-date COI available.

Legal framework

Article 15(c) QD defines the third type of harm that constitutes a ground for qualification for subsidiary protection. It covers a more general risk of harm and the protection needs which may arise from armed conflict situations.

Under Article 15(c) QD, serious harm consists of serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

In addition to the applicable EU legal instruments, this guidance builds on the most relevant European case law. Two judgments of the CJEU and one judgment of the ECtHR have been taken into account in particular:

- ▶ CJEU, *Diakité* judgment:²⁵ The judgment is of particular importance for the interpretation of relevant concepts, and in particular of 'internal armed conflict'.
- ▶ CJEU, *Elgafaji* judgment:²⁶ The judgment is of importance with regard to the appreciation of the degree of indiscriminate violence and in particular with regard to the application of the 'sliding scale'. In this judgment, the CJEU further discusses the 'serious harm' under the provision of Article 15(c) QD in comparison to the other grounds for granting subsidiary protection and considers the relation between Article 15(c) QD and the ECHR, in particular Article 3 ECHR.
- ▶ ECtHR, *Sufi and Elmi* judgment:²⁷ It should be noted that ECtHR jurisprudence on Article 3 ECHR is not of direct applicability when discussing the scope and elements of Article 15(c) QD. However, the elements outlined in *Sufi and Elmi* with regard to the assessment of the security

²⁵ CJEU, *Aboubacar Diakité v. Commissaire général aux réfugiés et aux apatrides*, C-285/12, Judgment of the Court (Fourth Chamber) of 30 January 2014.

²⁶ CJEU, *Elgafaji v. Staatssecretaris van Justitie*, C-465/07, Judgment of the Court (Grand Chamber) of 17 February 2009.

²⁷ ECtHR, *Sufi and Elmi v. United Kingdom*, Applications nos. 8319/07 and 11449/07, Judgment of 28 June 2011.

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

The elements to examine under Article 15(c) QD are:

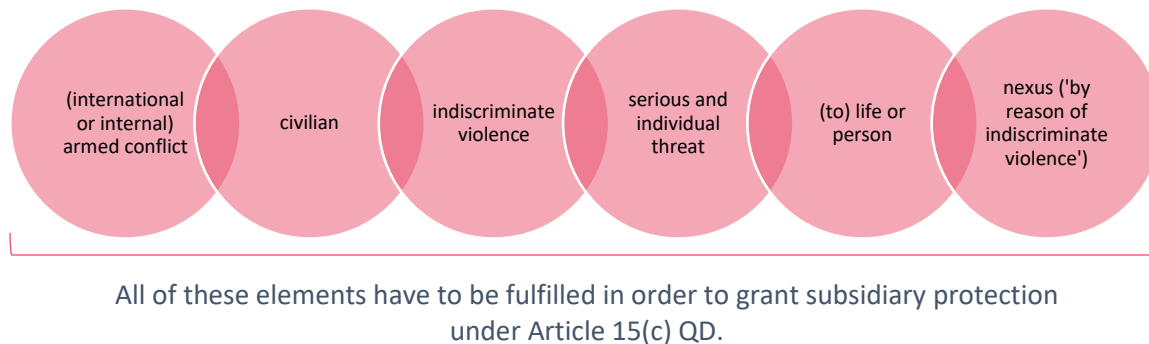


Figure 9. Elements of the legal provision of Article 15(c) QD.

Common analysis and assessment of the factual preconditions for the possible application of Article 15(c) QD with regard to the situation in Nigeria is provided below.

a. Armed conflict (international or internal)

A definition of an international or an internal armed conflict within the meaning of Article 15(c) QD is not provided by the Qualification Directive itself. In *Diakité*, the CJEU interprets the concept of ‘internal armed conflict’ under Article 15(c) QD and concludes that it must be given an interpretation, which is autonomous from international humanitarian law:

...internal armed conflict exists, for the purposes of applying that provision, if a State’s armed forces confront one or more armed groups or if two or more armed groups confront each other. It is not necessary for that conflict to be categorised as ‘armed conflict not of an international character’ under international humanitarian law;²⁸

In *Diakité*, the CJEU sets a low threshold to assess whether an armed conflict is taking place, noting that,

nor is it necessary to carry out, in addition to an appraisal of the level of violence present in the territory concerned, a separate assessment of the intensity of the armed confrontations, the level of organisation of the armed forces involved or the duration of the conflict.²⁹

Furthermore, in the context of Article 15(c) QD, differentiation between ‘international’ or ‘internal’ armed conflict is not necessary, as the provision is equally applicable in situations of international and internal armed conflict.

It should also be noted that an armed conflict can be taking place only in parts of the territory.

According to COI, and applying the low threshold introduced in the *Diakité*, it is concluded that the following distinct armed conflicts in the meaning of Article 15(c) QD take place in Nigeria:

²⁸ *Diakité*, para 35.

²⁹ *ibid.*

Armed conflicts on the territory of Nigeria

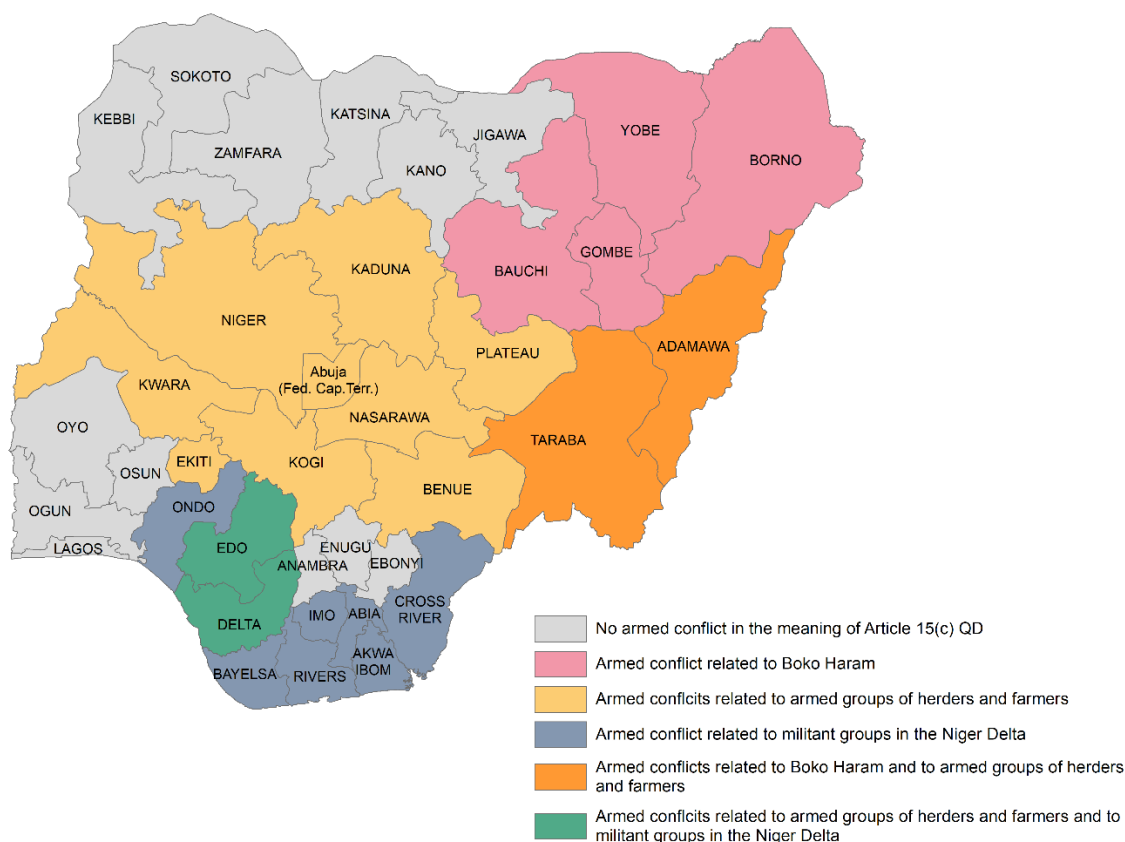


Figure 10. Armed conflicts on the territory of Nigeria (based on data as of September 2018).

- **Armed conflict between Boko Haram, on the one hand, and the Nigerian Army, the Multi-National Joint Task Force (MNJTF), and the CJTF, on the other:** The territorial scope of this conflict includes the states of Borno, Yobe, Adamawa. Its impact also extends to the neighbouring states of Bauchi, Gombe and Taraba. Although the Nigerian government has announced several times since December 2015 that Boko Haram has been ‘technically defeated’ and no longer hold any territory, reports show that some areas across the Lake Chad Basin are still under the control of the different factions of the group. JAS seems to be most active in the North East towards Cameroon, while ISIS-WA operates mostly near the border with Niger.
- **Armed conflicts involving armed groups of farmers and herders, ethnic militias and the Nigerian security forces:** The conflicts have affected numerous states across the country, in particular Adamawa, Taraba, Plateau, Nasarawa and Benue, but also Kogi, Kwara, Kaduna, Niger, as well as the Federal Capital Territory of Abuja, etc.
- **Armed conflict between the Joint Task Force (JTF) and the NPF, and the NDA:** This conflict takes place in the Niger Delta states, including Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, and Rivers.

It should be noted that some states are affected by several armed conflicts. In particular, Adamawa and Taraba are affected by the conflict with Boko Haram, and the conflicts involving armed groups of herders and farmers. Delta and Edo are affected by the conflicts involving armed groups of herders and farmers and the conflict with the NDA.

With regard to the mounting tension in Kaduna state between the military and the IMN [*Security situation, 3.5.1*], the latter is not found to reach the threshold of an armed conflict, as the IMN is at present not considered to be an armed group.

Similarly, concerning the violence escalating in the South East with regard to pro-Biafra groups [*Security situation, 3.5.2*], those groups, and the currently more active IPOB in particular, are not considered armed groups in the meaning of the *Diakité* judgment.

In Nigeria, other states are also affected by violence, such as violence by criminal gangs or student cults [*Security situation, 3.5.3*]. The state of Zamfara is a relevant example in this regard because of the widespread presence of bandits and cattle rustlers [*Security situation, 3.4*]. However, the *Diakité* criteria are not considered to be met, as this criminal violence does not involve armed confrontations between two or more armed groups.

This is without prejudice to the need to examine the situation in the states where no armed conflict is found to be taking place in the context of refugee status and other subsidiary protection grounds (see the profiles *Christian and Muslim minorities in specific areas*, *Members of separatist movements and individuals perceived as supporting them*, *Individuals targeted by student cults* and the sections on *Article 15(a) QD* and *Article 15(b) QD*).

In conclusion, in the context of Article 15(c) QD and applying the low threshold introduced by the *Diakité*, it is found that several armed conflicts take place in Nigeria, in particular on the territory of the following states: Abia, Adamawa, Akwa Ibom, Bauchi, Bayelsa, Benue, Borno, Cross River, Delta, Edo, Ekiti, Gombe, Imo, Kaduna, Kogi, Kwara, Nasarawa, Niger, Ondo, Plateau, Rivers, Taraba, Yobe, as well as the Federal Capital Territory of Abuja.

With regard to these states, the assessment has to proceed to examine whether the remaining criteria under Article 15(c) QD are also (cumulatively) met.

b. Qualification of a person as a ‘civilian’

Being a civilian is a prerequisite in order to being able to benefit from protection under Article 15(c) QD. The purpose of the provision is to protect only those who are not taking part in the conflict. This includes the potential application of Article 15(c) QD to former combatants who have genuinely and permanently renounced armed activity.

The Qualification Directive itself does not provide a definition of the term ‘civilian’. In light of the interpretative guidance given by CJEU in *Diakité*, the term should be read by reference to its usual meaning in everyday language, whilst taking into account the context in which it occurs and the purposes of the rules of which it is a part. Therefore, the term ‘civilian’ could be considered to refer to a person who is not a member of any of the parties in the conflict and is not taking part in the hostilities, including those who are no longer taking part in hostilities.

In the context of Nigeria, applications by persons falling under the following profiles should be examined carefully. Based on an individual assessment, such applicants may be found not to qualify as civilians under Article 15(c) QD. For example:

- Boko Haram members
- Members of armed groups of farmers or herders
- Militant groups in the Niger Delta
- Members of the CJTF

- National security forces, including the Nigerian Army, the Nigerian Navy, the Nigerian Air Force, and NPF.

It should be noted that actively taking part in hostilities is not limited to openly carrying arms, but could also include substantial logistical and/or administrative support to combatants.

It is important to underline that the assessment of protection needs is forward-looking. Therefore, the main issue at hand is whether the applicant will be a civilian or not upon return. The fact that the person took part in hostilities in the past would not necessarily mean that Article 15(c) QD would not be applicable to him or her. For example, the assessment should take into account whether the person had voluntarily taken part in the armed conflict; those who willingly joined the armed groups are unlikely to be considered civilians.

In case of doubt regarding the civilian status of a person, a protection-oriented approach should be taken, which is also in line with international humanitarian law, and the person should be considered a civilian.

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

c. Indiscriminate violence

‘Indiscriminate violence’ refers to the source of the specific type of serious harm defined in Article 15(c) QD. The CJEU in *Elgafaji* notes that the term ‘indiscriminate’ implies that the violence,

*may extend to people irrespective of their personal circumstances.*³⁰

Some acts of violence may be indiscriminate by their nature, for example: (suicide) bombings, attacks and armed confrontations in areas that are inhabited or frequented by civilians (e.g. market places, public roads, healthcare facilities).

Based on *Elgafaji*, in situations where indiscriminate violence is taking place, the following differentiation can be made with regard to its level:³¹

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

In this category, ‘mere presence’ would exceptionally be considered sufficient and no further individual elements would need to be substantiated.

II. territories where indiscriminate violence takes place, however it does not reach such a high level, and with regard to which **additional individual elements would have to be substantiated**.

Within this category, the level of indiscriminate violence may vary from territories where it is of such a low level that in general there would be no real risk for a civilian to be personally affected, to territories where the degree of indiscriminate violence is high and a lower level of individual elements would be required to establish a real risk of serious harm under Article 15(c) QD.

³⁰ *Elgafaji*, para.34.

³¹ *Elgafaji*, para.43.

With regard to the second category, *Elgafaji* provides guidance on how the serious and individual threat has to be assessed, an approach commonly referred to as the ‘sliding scale’:

*(...) the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection.*³²

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

The graph below illustrates the further differentiated standard scale applied in country guidance with regard to the different levels of indiscriminate violence and the respective degree of individual elements required in order to find that a real risk of serious harm under Article 15(c) QD is substantiated for the applicant:

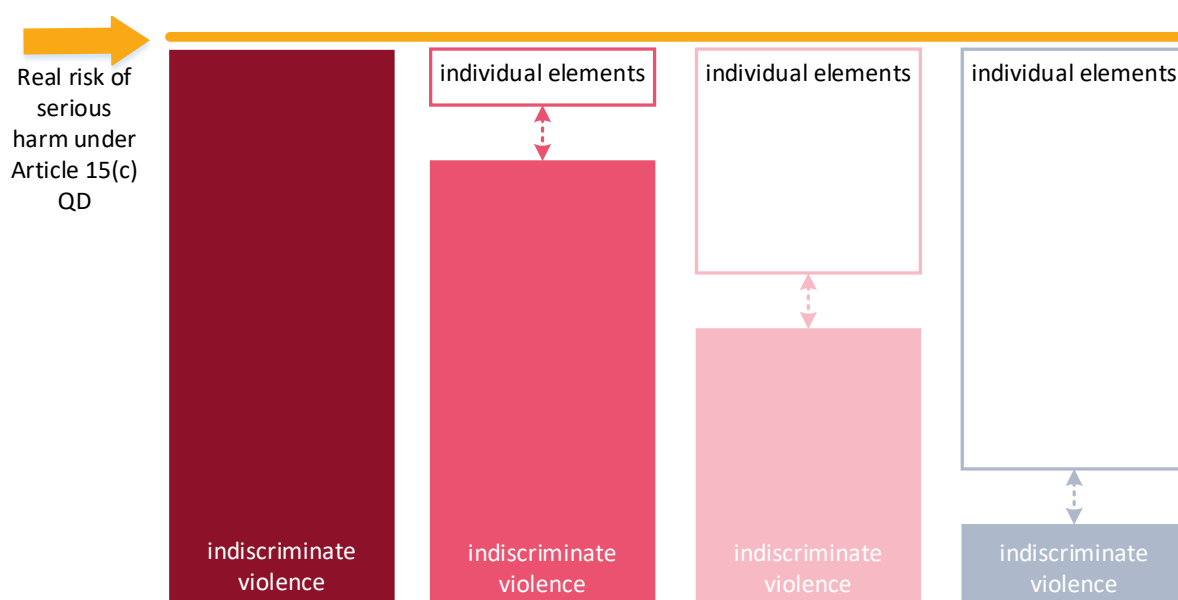


Figure 11. Indiscriminate violence and individual elements in establishing real risk of serious harm under Article 15(c) QD.

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

	I. Territories where ‘mere presence’ would be considered sufficient in order to establish a real risk of serious harm under Article 15(c) QD. Territories where the degree of indiscriminate violence reaches such an exceptionally high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of his or her presence on the territory of that country or region, face a real risk of being subject to the serious threat referred to in Article 15(c) QD.
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³² *Elgafaji*, para.39.

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

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

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

Territories where indiscriminate violence is taking place at such a low level that **in general there is no real risk for a civilian** to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD.

It should be noted that in armed conflicts the targeting of civilians may have nexus to one of the reasons for persecution according to the refugee definition. Therefore, refugee status may be granted as noted in the section above (see, for example, the profiles *Individuals targeted by Boko Haram*, *Individuals involved in and affected by conflicts between herders and farmers*). Such targeted violence, furthermore, would not be considered 'indiscriminate'.

Indicators of indiscriminate violence

The common analysis below regarding the degree of indiscriminate violence taking place in the different states of Nigeria combines quantitative and qualitative elements in a holistic and inclusive assessment.

The indicators applied are formulated in reference to the ECtHR judgment in *Sufi and Elmi*:

*(...) first, whether the parties to the conflict were either employing methods and tactics of warfare which increased the risk of civilian casualties or directly targeting civilians; secondly, whether the use of such methods and/or tactics was widespread among the parties to the conflict; thirdly, whether the fighting was localised or widespread; and finally, the number of civilians killed, injured and displaced as a result of the fighting.*³³

These indicators are further developed and adapted in order to be applied as a general approach to assessing the element of 'indiscriminate violence', irrespective of the country of origin in question.

The security situation in the respective states is assessed by taking into account the following elements:

³³ *Sufi and Elmi*, para.241.

❑ Presence of actors in the conflict

This indicator looks into the presence of actors in the conflict in the respective area, including the presence of non-State armed groups, and whether or not operations by the Nigerian security forces are being conducted.

In the case of the identified armed conflicts, all actors are reported to engage in activities which may (indiscriminately) affect civilians. See also [*Actors of persecution or serious harm*](#).

❑ Nature of methods and tactics

The methods and tactics used in the armed conflicts ongoing in Nigeria differ according to the actors involved. Some acts are by their nature more indiscriminate than others and create a more substantial risk for civilians.

Boko Haram are particularly known to use methods which are of indiscriminate nature, such as (suicide) bombings and attacks on whole villages.

In the conflict between armed groups of herders and farmers, the violence is also increasingly affecting civilians, by targeting whole villages and communities.

The actions by the Nigerian security forces tend to be of a more targeted nature; however, they may also (indiscriminately) affect civilians, such as in the case of air strikes.

❑ Frequency of incidents

This indicator refers to the ‘number of incidents (of the respective type) per week’ during the reporting period (52 weeks).

The frequency of incidents is a useful indicator to assist in the assessment of the risk of indiscriminate violence. Based on available COI, derived from the Armed Conflict Location and Event Data Project (ACLED) database, this indicator looks in particular at incidents reported as ‘violence against civilians’ and as ‘remote violence’, which is found to be of relevance in terms of its potential to indiscriminately affect civilians.

- **‘violence against civilians’** according to the definition of the source (ACLED): ‘Violence against civilians is a violent act upon civilians by an armed, organized, and violent group. By definition, civilians are unarmed and not engaged in political violence.’
- **‘remote violence’** according to the definition of the source (ACLED) includes: ‘Events where engaging in conflict did not require the physical presence of the perpetrator. The main characteristic of this event is when a group determines the time, place, and victims of the attack, but is not directly present. These include bombings, IED attacks, mortar and missile attacks, etc. Remote violence can be waged on both armed agents (e.g. an active rebel group; a military garrison) and civilians (e.g. a roadside bombing).’

ACLED data should be regarded as merely estimates, due to limitations in the reporting of incidents. See clarifications in [*Security situation, Methodology*](#).

❑ Geographical scope

This element looks into how widespread the violence is within the area. It is not addressed as a separate indicator, however, it is reflected under other indicators, and the states which are particularly affected are highlighted.

Where the conflict severity varies within an area, the place of origin (state, LGA) of the applicant would constitute an important element to consider in the assessment. The higher the level of indiscriminate

violence in the respective place, the less additional individual elements would be required in order to apply Article 15(c) QD.

The individual assessment should also take into account the accessibility of a certain territory.

❏ Civilian casualties

The data used for this indicator refers to the number of fatalities in relation to reported ‘violence against civilians’ and in relation to ‘remote violence’, as defined above with reference to the ACLED Codebook. Data on injured individuals, which would also be relevant to take into account under the indicator ‘civilian casualties’ is not consistently available and is not included in the assessment below.

It should, furthermore, be highlighted that ACLED data is regarded as merely estimates, due to limitations in the reporting of incidents, and especially with regard to the number of fatalities. Several incidents with unknown number of fatalities have been registered in the database (often referred to as ‘scores’, ‘several’, ‘many’, or ‘large number’ in original sources). According to its methodology, ACLED records such incidents as 10 casualties. See clarifications in *Security situation, Methodology*.

The data on civilian casualties per state refers the period 1 October 2017 - 30 September 2018. The reported number of civilian casualties is further weighted by the population of the state and presented as ‘number of fatalities caused by the respective type of event per 100 000 inhabitants’.

This is considered a key indicator when assessing (the level of) indiscriminate violence in the context of Article 15(c) QD.

❏ Displacement

This element refers to conflict-induced (internal) displacement from the state in question. In some cases, it is furthermore deemed relevant to note that internal displacement *within* or *to* the state is observed.

Reporting periods vary as indicated in the analysis below.

In addition to the indicators above, some examples of further impact of the armed conflicts on the life of civilians are mentioned and taken into account in the assessment.

None of the indicators above would be sufficient by itself to assess the level of indiscriminate violence and the risk it creates for the civilian population in a particular area. Therefore, a holistic approach has been applied, taking into account all different elements.

It should, furthermore, be noted that the COI used as a basis for this assessment cannot be considered a complete representation of the extent of indiscriminate violence and its impact on the life of civilians. Concerns with regard to underreporting, especially pertinent to the quantitative indicators above, should be taken into account. Such concerns are particularly relevant to areas which are most affected by the violence. There may also be cases of over-reporting or biased reporting (e.g. by Christian interest groups in the Middle Belt).

Indiscriminate violence in Nigeria

In order to facilitate an understanding of the nature of the indiscriminate violence taking place in the different states of Nigeria, the analysis below is structured by zones. Depending on the availability and specificity of COI, parts of the analysis are provided at the state level, while others concern the states affected by the respective armed conflict in general. Where relevant, in the conclusions differentiation in the level of indiscriminate violence is made at the state level.

The map below summarises and illustrates the assessment of indiscriminate violence per state.

Nigeria: Level of indiscriminate violence

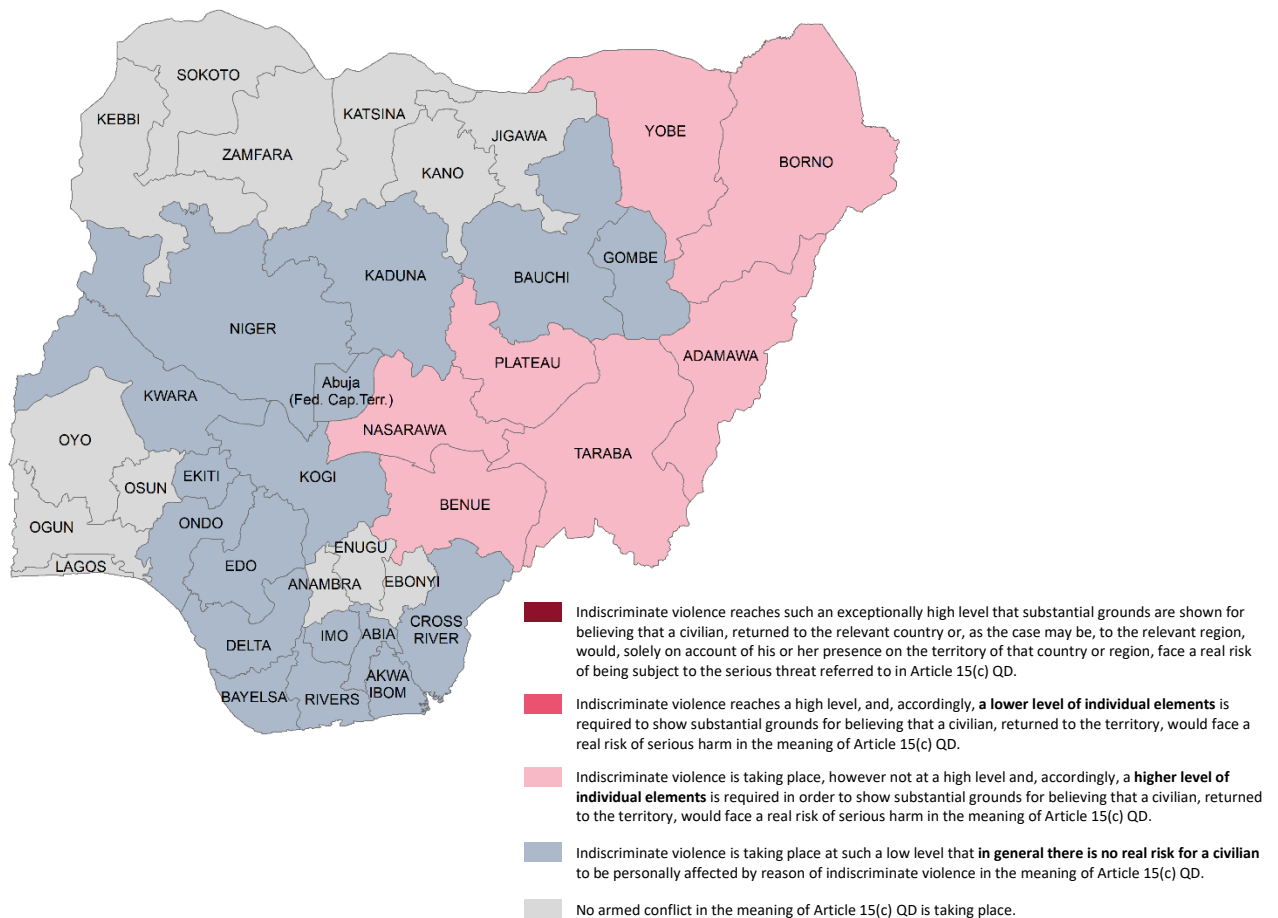


Figure 12. Level of indiscriminate violence in situations of armed conflict in Nigeria (based on data as of September 2018).

It should be noted that there are no states in Nigeria where the degree of indiscriminate violence reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of his or her presence on the territory of that country or region, face a real risk of being subject to the serious threat referred to in Article 15(c) QD.

Indiscriminate violence in the North East zone

Adamawa³⁴, Bauchi, Borno, Gombe, Taraba³⁵ and Yobe

[*Security situation, 2.3.7, 3.1; Targeting, 2.1, 2.5*]

Since 2011 and as of April 2018, the reported deaths resulting from Boko Haram violence were approximately 17 000; another 14 645 persons had lost their lives in the clashes between Boko Haram and State actors. The activities of Boko Haram in the North East of Nigeria have also led to the destruction of about 1 million houses, religious buildings and public infrastructure, such as schools, hospitals, etc. The conflict has caused mass displacement.

■ Presence of actors in the conflict

The main actors in the North East zone are the NAF, MNJTF, CJTF, and the Boko Haram factions, JAS and ISIS-WA.

At the peak of the insurgency in early January 2015, Boko Haram controlled about 20 000 square miles of territory in Nigeria. Although they have lost the control of part of this territory, Boko Haram remains an important source of insecurity and instability in the Lake Chad Basin, posing a threat to both civilians in the area and to border security.

Boko Haram's areas of activities within Nigeria are mainly in Borno, Adamawa and Yobe. Both, ISIS-WA and JAS, continue to be active in the region.

Operations of the NAF and MJTF have taken place in the area and are ongoing to defeat Boko Haram, as well as to de-radicalise and rehabilitate repentant Boko Haram fighters and to facilitate the return of IDPs.

CJTF was set up to identify and apprehend Boko Haram insurgents. After realising the potential of the CJTF, NAF has supported some of its members by providing them with arms and basic military training.

■ Nature of methods and tactics used by the actors in the conflict

The tactics used by Boko Haram include (suicide) bombings, mass killings, (mass) abduction, sexual violence, destruction of property and public infrastructure, political assassinations, assaults, invasion of border communities, and seizure and control of Nigerian territory. After losing much of their territory Boko Haram changed their tactics from organised, large-scale attacks to more sporadic attacks, such as suicide bombing. Their focus are attacks on 'soft targets', i.e. targets which are vulnerable due to their open access, structural characteristics and limited security. It is reported that from 11 April 2011 to 30 June 2017, Boko Haram has deployed 434 bombers to 247 different targets during 238 suicide-bombing attacks. The source states that 'at least 56 % of these bombers were women, and at least 81 bombers were specifically identified as children or teenagers'.

The NAF and MJTF use aerial attacks and ground engagements in their operations. There are also reports of the army burning down villages. The CJTF operate in close proximity with the Nigerian security forces; several sources report that they engage in extrajudicial killings, arbitrary arrests and acts of torture.

³⁴ See also 'Indiscriminate violence related to the conflicts between herders' and farmers' armed groups'.

³⁵ See also 'Indiscriminate violence related to the conflicts between herders' and farmers' armed groups'.

■ Frequency of incidents and geographical scope

Incidents of ‘violence against civilians’ and ‘remote violence’ reported by ACLED in the states where Boko Haram was active in the period 1 October 2017 – 30 September 2018 took place with the following frequency:

- **Adamawa:** 1 incident of ‘violence against civilians’ and 0.2 incident of ‘remote violence’ per week were reported in the state. It should be noted that this state is also affected by the violence in relation to conflicts involving armed groups of herders and farmers. The number of incidents reported is not desegregated by actor/conflict.
- **Bauchi:** 0.02 incident of ‘violence against civilians’ per week were reported in the state; no incidents of ‘remote violence’ were reported.
- **Borno:** 1.3 incidents of ‘violence against civilians’ and 0.9 incident of ‘remote violence’ per week were reported in the state.
- **Gombe:** 0.04 incident of ‘violence against civilians’ per week was reported in the state; no incidents of ‘remote violence’ were reported.
- **Taraba:** 1 incident of ‘violence against civilians’ per week was reported in the state; no incidents of ‘remote violence’ were reported. It should be noted that this state is mostly affected by the violence in relation to conflicts involving armed groups of herders and farmers. The number of incidents reported is not desegregated by actor/conflict.
- **Yobe:** 0.1 incident of ‘violence against civilians’ and 0.04 incident of ‘remote violence’ per week were reported in the state.

The following map illustrates the incidents which were recorded by ACLED during the reporting period under ‘remote violence’ and ‘violence against civilians’. Each circle indicates a location where one or more incidents took place. The size of the circle reflects the number of incidents recorded in the respective location. The circles are comparable within the map and not with other maps within this document.

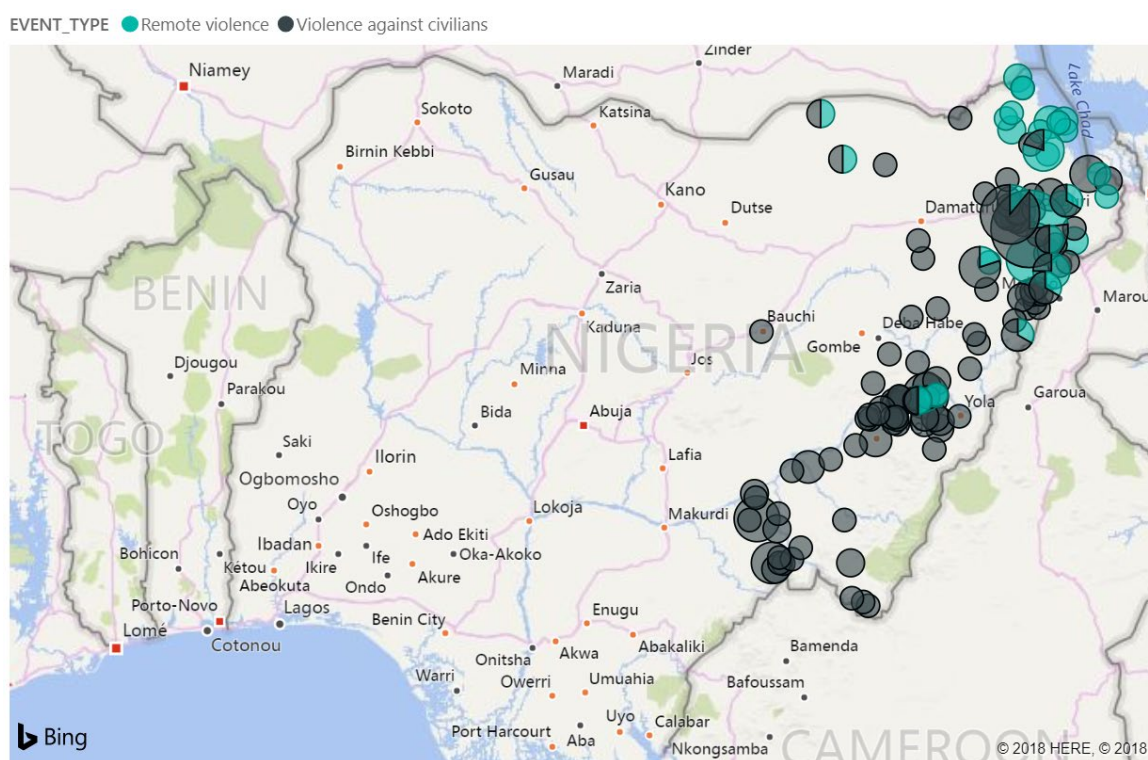


Figure 13. EASO, Visualisation of ACLED data concerning events of ‘violence against civilians’ and ‘remote violence’ in the states of Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe (1 Oct 2017 - 30 Sep 2018).

■ Civilian casualties

Compared to the period until 2015, the number of civilians killed in violence related to Boko Haram has decreased significantly. In the states which continue to be affected by Boko Haram activities, the reported fatalities in the period 1 October 2017 – 30 September 2018 included:

- **Adamawa:** 8.3 fatalities per 100 000 inhabitants related to 'violence against civilians' and 1.2 fatalities per 100 000 inhabitants related to 'remote violence' were reported in the state. It should be noted that this state is also affected by the violence in relation to conflicts involving armed groups of herders and farmers. The number of fatalities reported is not desegregated by actor/conflict.
- **Bauchi:** No fatalities related to 'violence against civilians' or to 'remote violence' were reported in the state.
- **Borno:** 8.7 fatalities per 100 000 inhabitants related to 'violence against civilians' and 12.3 fatalities per 100 000 inhabitants related to 'remote violence' were reported in the state;
- **Gombe:** 0.03 fatality per 100 000 inhabitants related to 'violence against civilians' was reported in the state; no fatalities related to 'remote violence' were reported;
- **Taraba:** 8.4 fatalities per 100 000 inhabitants related to 'violence against civilians' were reported in the state; no fatalities related to 'remote violence' were reported. It should, however, be noted that this state is mostly affected by the indiscriminate violence related to the conflicts involving armed groups of herders and farmers. The number of incidents reported is not desegregated by actor/conflict.
- **Yobe:** 0.2 fatality per 100 000 inhabitants related to 'violence against civilians' and 0.6 fatality per 100 000 inhabitants related to 'remote violence' were reported in the state;

■ Displacement

The conflict has led to 1.9 million IDPs in the area as of 24 August 2018, amounting to 7.33 % of the population of the six states, as well as to displacement to neighbouring Chad, Cameroon and Niger. Close to 1.5 million IDPs were reported in Borno; close to 200 000 IDPs in Adamawa; and close to 140 000 in Yobe.

The displacement of the civilians affected by the conflict continues due to ongoing military operations and fear of attacks by armed groups in several localities in Nigeria's North East.

After the recent operations of NAF, 1.6 million returnees have been reported, over 90 % of whom were former IDPs.

Additionally, it should be noted that the states of Borno, Adamawa and Yobe are expected to reach emergency status in terms of food security. Education and health care are also severely affected, including by violence directly targeting schools and healthcare facilities, with more than 1 400 school destroyed and more than 40 % of the healthcare facilities destroyed or badly damaged. Infrastructure, including roads, bridges and water supply are also severely affected: according to UNICEF, Boko Haram has destroyed 75 % of the water and sanitation infrastructure and some 3.6 million people have no access to safe water in the North East. Houses and public buildings have been destroyed.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in **Borno**, **Adamawa** and to a lesser extent **Yobe**. The operational capacity of Boko Haram and the humanitarian situation caused by the conflict and affecting the three states should in particular be taken into account. However, the general level of indiscriminate violence currently taking place is not considered high and, accordingly, a higher level of individual elements is required in order to

show substantial grounds for believing that a civilian, returned to these three states, would face a real risk of serious harm in the meaning of Article 15(c) QD.

In the states of **Bauchi** and **Gombe**, indiscriminate violence is taking place at such a low level, that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

With regard to the state of **Taraba**, indiscriminate violence is taking place mostly in the context of the conflicts involving armed groups of herders and farmers. See subsection below.

Indiscriminate violence in the North Central Zone, South South zone, Adamawa, Kaduna, and Taraba

Abuja (Federal Capital Territory), Benue, Delta, Edo, Ekiti, Kaduna, Kogi, Kwara, Nasarawa, Niger, Plateau, Taraba

[*Security situation, 2.3.9, 3.2, 3.3; Targeting, 3.7*]

Concerns for the security situation have grown in the last years due to the escalating violence involving herders and farming communities mainly in the Middle Belt states, as well as in the states of Adamawa and Taraba. Since the beginning of 2018, the violence has escalated in frequency, intensity, complexity and geographic scope. Attacks are conducted by (armed) herdsman on farmers' communities or by farmers' armed groups on pastoralist communities for revenge. To tackle the attacks from the Fulani armed groups, several local communities have formed self-defence vigilante groups, allegedly in response to the lack of protection from the Nigerian security forces. These clashes have resulted in numerous casualties, population displacement and destruction of property. The Nigerian security forces have launched operations to curb the violence in several of the affected states.

■ Presence of actors in the conflict

Some herders' and farmers' communities have formed armed groups which engage in attacks against each other in the Middle Belt, Adamawa and Taraba states. The Nigerian security forces are also present in several of the affected states.

■ Nature of methods and tactics used by the actors in the conflict

The violence used by the armed groups involved in the conflicts between herders and farmers has evolved from spontaneous responses to trespasses and provocations, to pre-meditated and well-organised 'scorched earth' attacks, often taking communities by surprise at night and burning down farms and entire villages. Assault weapons are increasingly in use and sometimes the assailants attack dressed in military uniforms. The number of reported killings of civilians have increased, as armed groups are targeting entire communities.

■ Frequency of incidents and geographical scope

In the first half of 2018, the violence was concentrated in Plateau, Benue and Nasarawa states, in the North Central zone, and in Adamawa and Taraba states in the North East zone.

Incidents of 'violence against civilians' and 'remote violence' reported by ACLED in the affected states during the period 1 October 2017 – 31 September 2018 took place with the following frequency:

- **Abuja (Federal Capital Territory):** 0.04 incident of 'violence against civilians' per week was reported in the state; there were no reports of incidents of 'remote violence';
- **Adamawa:** 1 incident of 'violence against civilians' and 0.2 incident of 'remote violence' per week were reported in the state. It should be noted that this state is also affected by the violence related to Boko Haram. The number of incidents reported is not desegregated by actor/conflict.
- **Benue:** 1.8 incidents of 'violence against civilians' per week were reported in the state; there were no reports of incidents of 'remote violence';
- **Delta:** 0.5 incident of 'violence against civilians' per week was reported in the state; there were no reports of incidents of 'remote violence'. It should be noted that this state is also affected by the violence in relation to militant groups in the Niger Delta. The number of incidents reported is not desegregated by actor/conflict.
- **Edo:** 0.3 incident of 'violence against civilians' per week was reported in the state; there were no reports of incidents of 'remote violence'. It should be noted that this state is also affected by the violence in relation to militant groups in the Niger Delta. The number of incidents reported is not desegregated by actor/conflict.
- **Ekiti:** 0.3 incident of 'violence against civilians' per week was reported in the state; there were no reports of incidents of 'remote violence'.
- **Kaduna:** 0.7 incident of 'violence against civilians' per week was reported in the state; there were no reports of incidents of 'remote violence';
- **Kogi:** 0.4 incident of 'violence against civilians' per week was reported in the state; there were no reports of incidents of 'remote violence';
- **Kwara:** 0.08 incident of 'violence against civilians' per week was reported in the state; there were no reports of incidents of 'remote violence';
- **Nasarawa:** 1.1 incidents of 'violence against civilians' per week were reported in the state; there were no reports of incidents of 'remote violence';
- **Niger:** 0.04 incident of 'violence against civilians' per week was reported; there were no reports of incidents of 'remote violence';
- **Plateau:** 2.1 incidents of 'violence against civilians' per week were reported in the state; there were no reports of incidents of 'remote violence';
- **Taraba:** 1 incident of 'violence against civilians' per week was reported in the state; no incidents of 'remote violence' were reported. This state is also affected by the violence related to Boko Haram. The number of incidents reported is not desegregated by actor/conflict.

The following map illustrates the incidents which were recorded by ACLED during the reporting period under 'remote violence' and 'violence against civilians'. Each circle indicates a location where one or more incidents took place. The size of the circle reflects the number of incidents recorded in the respective location. The circles are comparable within the map and not with other maps within this document.

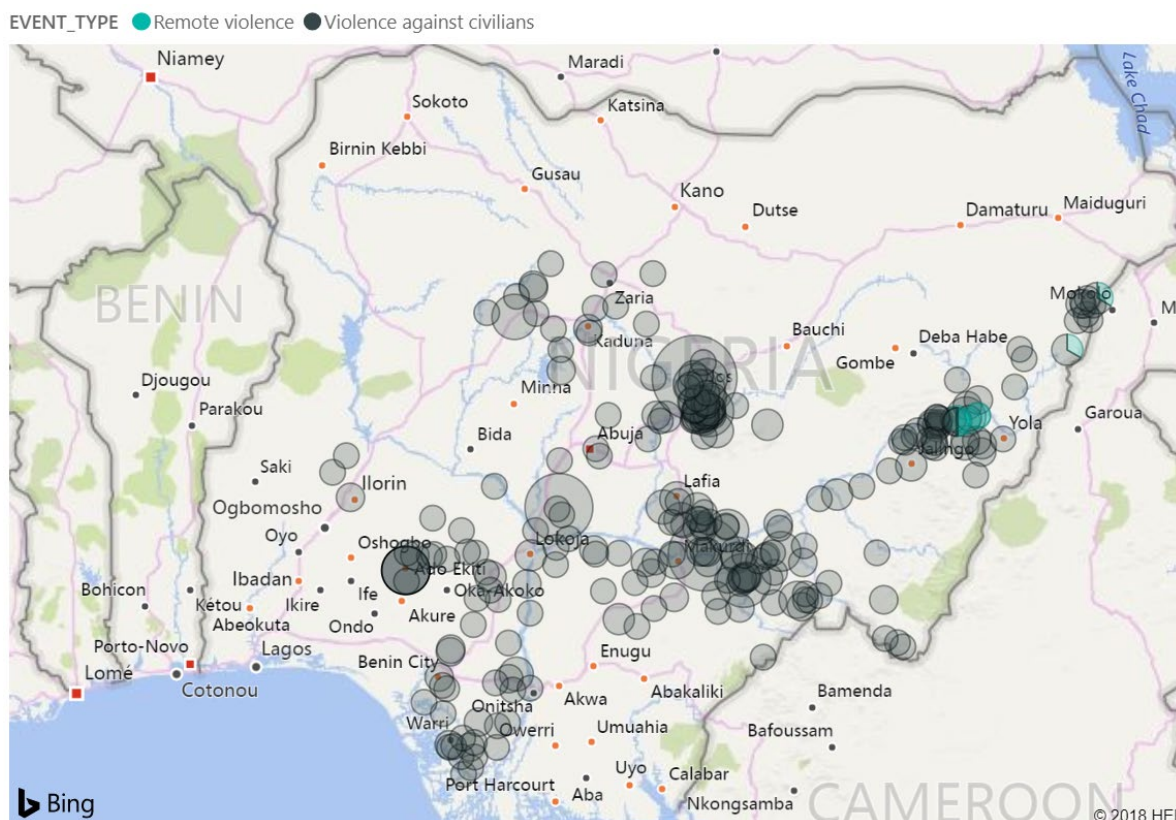


Figure 14. EASO, Visualisation of ACLED data - Incidents of 'violence against civilians' and 'remote violence' in the states of Abuja (Federal Capital Territory), Benue, Delta, Edo, Ekiti, Kaduna, Kogi, Kwara, Nasarawa, Niger, Plateau, and Taraba (1 Oct 2017 - 30 Sep 2018).

■ Civilian casualties

The reported fatalities in the period 1 October 2017 – 30 September 2018 included:

- **Abuja (Federal Capital Territory):** 0.03 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;
- **Adamawa:** 8.3 fatalities per 100 000 inhabitants related to 'violence against civilians' and 1.2 fatalities per 100 000 inhabitants related to 'remote violence' were reported in the state. It should be noted that this state is also affected by the violence related to Boko Haram. The number of incidents reported is not desegregated by actor/conflict.
- **Benue:** 8.7 fatalities per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;
- **Delta:** 0.5 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state. It should be noted that this state is also affected by the violence in relation to militant groups in the Niger Delta. The number of fatalities reported is not desegregated by actor/conflict.
- **Edo:** 0.3 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state. It should be noted that this state is also affected by the violence in relation to militant groups in the Niger Delta. The number of fatalities reported is not desegregated by actor/conflict.
- **Ekiti:** 0.4 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;
- **Kaduna:** 2.2 fatalities per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;

- **Kogi:** 2.3 fatalities per 100 000 inhabitants related to ‘violence against civilians’ and no fatalities related to ‘remote violence’ were reported in the state;
- **Kwara:** 0.09 fatality per 100 000 inhabitants related to ‘violence against civilians’ and no fatalities related to ‘remote violence’ were reported in the state;
- **Nasarawa:** 9.9 fatalities per 100 000 inhabitants related to ‘violence against civilians’ and no fatalities related to ‘remote violence’ were reported in the state;
- **Niger:** 0.05 fatality per 100 000 inhabitants related to ‘violence against civilians’ and no fatalities related to ‘remote violence’ were reported in the state;
- **Plateau:** 12 fatalities per 100 000 inhabitants related to ‘violence against civilians’ and no fatalities related to ‘remote violence’ were reported in the state;
- **Taraba:** 8.4 fatalities per 100 000 inhabitants related to ‘violence against civilians’ were reported in the state; no fatalities related to ‘remote violence’ were reported. It should be noted that this state is also affected by the violence related to Boko Haram. The number of incidents reported is not desegregated by actor/conflict.

■ Displacement

The number of IDPs from the affected states has been increasing. In the first half of 2018, about 200 000 persons have been displaced in the Middle Belt. There are reports that in June 2018, close to 170 000 people were displaced by the conflict in Benue State. In early July 2018, approximately 38 000 people were displaced by the attacks that took place on 23 and 24 June 2018 in Plateau state. Often, displacement related to this conflicts is of temporary nature.

In addition, the conflict has affected the ability of the NPF to secure law and order and the government has deployed the military to restore order. Destruction of crops and rural livelihoods affects food security, with food prices rising. The destruction of farm lands and crops could further lead to hunger and starvation for those who depend largely on agricultural produce from affected communities. There are also reports of schools being closed and around 300 000 children have been forced out of school in Benue state due to the violence. The large-scale displacement has resulted in overcrowded IDP camps, lacking safe drinking water and sanitation facilities.

Looking at the indicators, it can be concluded that indiscriminate violence is taking place in the states affected by the conflicts between herders and farmers.

The states of **Adamawa, Benue, Nasarawa, Plateau, and Taraba** are particularly affected by such indiscriminate violence. However, the general level of indiscriminate violence currently taking place in these states is not considered high and, accordingly, a higher level of individual elements is required in order to show substantial grounds for believing that a civilian, returned to these states, would face a real risk of serious harm in the meaning of Article 15(c) QD.

In the states of **Delta, Edo, Ekiti, Kaduna, Kogi, Kwara, and Niger**, and in **Abuja (Federal Capital Territory)**, indiscriminate violence is taking place at such a low level, that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

Indiscriminate violence in the Niger Delta

Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, Rivers

[*Security situation, 2.3.8, 3.3; Targeting, 2.2, 3.2*]

The year 2009, when the DDR was introduced, was a turning point for the conflict between militant groups in the Niger Delta and the Nigerian security forces and led to a decrease in the resort to violence in the area.

■ Presence of actors in the conflict

The main actors in the conflict are the JTF, NPF and NDA. Military forces continue to operate in the area as part of joint security operations and exercises. However, recent reports of incidents in the region primarily refer to communal clashes.

■ Nature of methods and tactics used by the actors in the conflict

Reported incidents mention communal clashes, such as clashes in the context of disputes over land and other natural resources. Limited incidents of indiscriminate violence are reported to be directly linked to the activities of NDA or the Nigerian authorities. Although militant groups perpetrate violent acts, those usually involve targeting infrastructure and do not result in harm to individuals.

■ Frequency of incidents and geographical scope

The following incidents of 'violence against civilians' and 'remote violence' were reported by ACLED in the region during the period 1 October 2017 – 31 September 2018:

- **Abia:** 0.1 incident of 'violence against civilians' and 0.04 incident of 'remote violence' per week were reported in the state;
- **Akwa Ibom:** 0.2 incident of 'violence against civilians' per week was reported; there were no reports of incidents of 'remote violence';
- **Bayelsa:** 0.3 incident of 'violence against civilians' per week was reported; there were no reports of incidents of 'remote violence';
- **Cross River:** 0.2 incident of 'violence against civilians' per week was reported; there were no reports of incidents of 'remote violence';
- **Delta:** 0.5 incident of 'violence against civilians' per week was reported in the state; there were no reports of incidents of 'remote violence'. It should be noted that this state is also affected by the violence in relation to armed groups of herders and farmers. The number of incidents reported is not desegregated by actor/conflict.
- **Edo:** 0.3 incident of 'violence against civilians' per week was reported in the state; there were no incidents of 'remote violence'. It should be noted that this state is also affected by the violence in relation to armed groups of herders and farmers. The number of incidents reported is not desegregated by actor/conflict.
- **Imo:** 0.08 incident of 'violence against civilians' per week was reported; there were no reports of incidents of 'remote violence';
- **Ondo:** 0.3 incident of 'violence against civilians' per week was reported; there were no reports of incidents of 'remote violence';
- **Rivers:** 0.3 incident of 'violence against civilians' and 0.02 incident of 'remote violence' per week were reported in the state;

The following map illustrates the incidents which were recorded by ACLED during the reporting period under 'remote violence' and 'violence against civilians'. Each circle indicates a location where one or more incidents took place. The size of the circle reflects the number of incidents recorded in the

respective location. The circles are comparable within the map and not with other maps within this document.

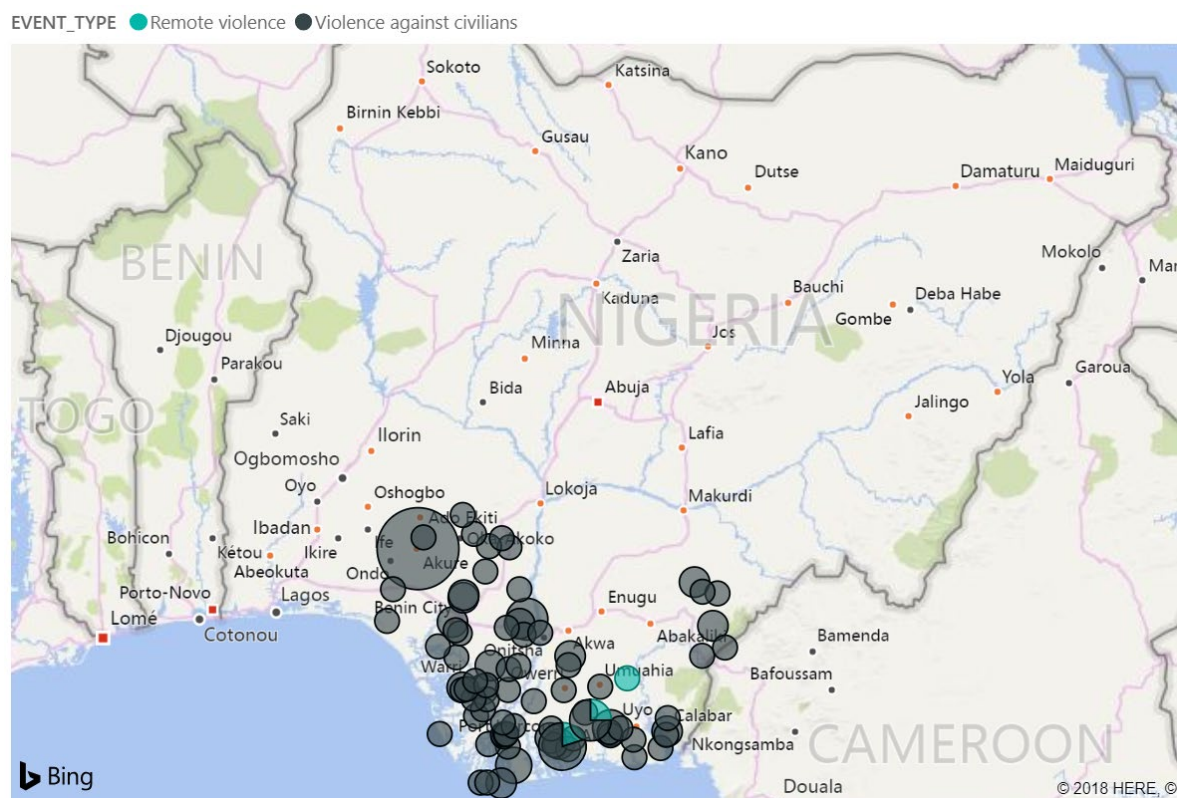


Figure 15. EASO, Visualisation of ACLED data - Incidents of 'violence against civilians' and 'remote violence' in the states of Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, and Rivers (1 Oct 2017 - 30 Sep 2018).

■ Civilian casualties

The reported fatalities in the period 1 October 2017 – 30 September 2018 included:

- **Abia:** 0.5 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;
- **Akwa Ibom:** 0.3 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;
- **Bayelsa:** 0.9 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;
- **Cross River:** 0.7 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;
- **Delta:** 0.5 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state; However, this state is also affected by the violence in relation to armed groups of herders and farmers. The number of fatalities reported is not desegregated by actor/conflict.
- **Edo:** 0.3 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state. It should be noted that this state is also affected by the violence in relation to armed groups of herders and farmers. The number of fatalities reported is not desegregated by actor/conflict.
- **Imo:** 0.06 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;
- **Ondo:** 0.2 fatality per 100 000 inhabitants related to 'violence against civilians' and no fatalities related to 'remote violence' were reported in the state;

- **Rivers:** 0.7 fatality per 100 000 inhabitants related to ‘violence against civilians’ and no fatalities related to ‘remote violence’ were reported in the state;

- Displacement

The region has recorded a few incidents resulting in significant displacement, in particular due to communal clashes. For example, 14 000 people were displaced in the LGA of Yala, Cross River state. In general, the region does not have a significant number of IDPs.

In addition, it is reported that the law enforcement agencies continue to be unable to prevent communal violence in the region. As a result, military forces continue to operate as part of joint security operations and exercises, and youth from the communities in the Niger Delta is recruited and trained for surveillance of oil pipelines.

Looking at the indicators, it can be concluded that in the states of **Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, and Rivers**, indiscriminate violence is taking place at such a low level, that in general there is no real risk for a civilian to be personally affected by reason of indiscriminate violence in the meaning of Article 15(c) QD. However, individual elements always need to be taken into account as they could put the applicant in risk-enhancing situations.

d. Serious and individual threat

CJEU in *Elgafaji* notes:

*While it is admittedly true that collective factors play a significant role in the application of Article 15(c) of the Directive, in that the person concerned belongs, like other people, to a circle of potential victims of indiscriminate violence in situations of international or internal armed conflict, it is nevertheless the case that that provision must be subject to a coherent interpretation in relation to the other two situations referred to in Article 15 of the Directive and must, therefore, be interpreted by close reference to that individualisation.*³⁶

However, the existence of a serious and individual threat to the life or person of an applicant for subsidiary protection is,

*(...) not subject to the condition that that applicant adduce evidence that he is specifically targeted by reason of factors particular to his personal circumstances.*³⁷

Furthermore,

- the existence of such a threat can exceptionally be considered to be established where the degree of indiscriminate violence characterising the armed conflict taking place (...) reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account

³⁶ *Elgafaji*, para.38.

³⁷ *Elgafaji*, para.43.

*of his presence on the territory of that country or region, face a real risk of being subject to that threat.*³⁸

For territories where the indiscriminate violence does not reach such a high level, the more the applicant is able to show that he or she is specifically affected by reason of factors particular to his or her personal circumstances, the lower the level of indiscriminate violence required for him or her to be eligible for subsidiary protection.³⁹

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

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

- Civilians who may be substantially and materially affected by violence because of their geographical proximity to a possible target (e.g. those living in proximity to known Boko Haram targets, such as markets, schools, hospitals, religious buildings, IDP camps, military bases; those living in villages of farmers' or herders' communities in the LGAs particularly affected by the violence between herders and farmers).
- Civilians who are less able to avoid risks of indiscriminate violence by way of seeking temporary shelter from fighting or attacks (e.g. persons with disabilities or serious illnesses; elderly; children; those in an extremely dire economic situation).

This is a non-exhaustive list. It is also non-conclusive and individual elements would always need to be taken into account.

e. Qualification of the harm as a 'threat to (a civilian's) life or person'

Neither the Qualification Directive, nor the CJEU in its jurisprudence, have defined the terms 'threat to (a civilian's) life or person'.

The CJEU has held that Article 15(c) QD has an additional scope to Article 3 ECHR and, therefore, has to be interpreted independently, but with due regard to fundamental rights as they are guaranteed under the ECHR.⁴⁰

By comparing the provisions of Article 15(a) and (b) QD, which indicate a particular type of harm, with the provision of Article 15(c) QD, the CJEU further concludes that the harm under the latter,

*(...) covers a more general risk of harm. Reference is made, more generally, to a 'threat ... to a civilian's life or person' rather than to specific acts of violence. Furthermore, that threat is inherent in a general situation of 'international or internal armed conflict'.*⁴¹

Some of the commonly reported types of harm to civilians' life or person in Nigeria include killings, injuries, abductions, forced displacement, rape, famine caused by food insecurity, etc.

³⁸ *ibid.*

³⁹ *Elgafaji*, para.39.

⁴⁰ *Elgafaji*, para.28.

⁴¹ *Elgafaji*, paras. 33-34.

f. Nexus/‘by reason of’

Subsidiary protection under Article 15(c) QD is granted to any person in respect of whom substantial grounds have been shown for believing that he or she, if returned, would face a real risk of a serious and individual threat to his or her life or person by reason of indiscriminate violence.

The nexus ‘by reason of’ refers to the causal link between the indiscriminate violence and the harm (serious threat to a civilian’s life or person).

The interpretation of the causation ‘by reason of’ may not be limited to harm which is directly caused by the indiscriminate violence or by acts that emanate from the actors in the conflict. To a certain extent, it may also include the indirect effect of indiscriminate violence in situations of armed conflict. As long as there is a demonstrable link to the indiscriminate violence, such elements may be taken into account in the assessments, for example: widespread criminal violence as a result of a complete breakdown of law and order, destruction of the necessary means to survive. Armed clashes and/or closure or destruction of roads can also lead to food supply problems that cause famine or to limited or no access to healthcare facilities in certain areas of Nigeria.

IV. Actors of protection

[Article 7 QD](#) stipulates the requirements for actors of protection:

Article 7(1)(2) of the Qualification Directive Actors of protection
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 mentioned under points (a) and (b) of paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and when the applicant has access to such protection.

The State

The term ‘State’ ([Article 7\(1\)\(a\) QD](#)) encompasses any organ exercising legislative, executive, judicial or any other functions and acting at any level, be it federal, state or local. Sometimes, private entities may also be given State powers and may be made responsible for providing protection under the control of the State.

Nigeria is a federal republic formed by 36 states and the Abuja FCT. Even though Nigeria operates a federal system of government, the Constitution vests a lot of power in the central government when it comes to the control of public good and services, as well as the management of the country’s resources [*Actors of protection*, 2].

Nigeria’s legal system is a mixed system based on the Nigerian Constitution, federal and state level legislation, as well as English common law, Sharia, and customary law [*Actors of protection*, 2.1]. The implementation of the Sharia, in particular punishments for crimes such as adultery, in some cases may be related to persecution rather than protection.

The capability of the government of Nigeria to protect human rights is undermined in some states by the prevailing insecurity, e.g. the states affected by the conflicts between herders and farmers, violence related to Boko Haram, cattle rustling and banditry in Zamfara state [*Security situation*, 2.1].

The state institutions which are particularly responsible for providing protection are the Nigerian security forces (primarily the NPF and secondarily the NAF), the judicial system, and NAPTIP for the victims of human trafficking. In addition, structures such as the CJTF may be entrusted with relevant tasks.

The NPF is the principal law enforcement agency in the country. However, the Nigerian population considers the NPF the most corrupt and violent institution in Nigeria. Sources generally find the NPF unable to perform its duties in a proper and efficient manner, mentioning its lack of sufficient funding, suitable manpower, proper equipment, appropriate and adequate training, welfare packages, and government support [*Actors of protection*, 3.2]. The NPF is also reported to refuse to interfere in domestic disputes [*Country focus*, 4.1.2].

NAF are deployed in several states (e.g. in the North East, in the states of the Niger Delta) [*Security situation*, 2.2.1, 2.3.1].

Based on reports of continuing violence against civilians, it can be assessed that NAF and CJTF cannot effectively ensure the safety of the population in some areas in the North East of Nigeria (see [Indiscriminate violence in the North East zone](#)). Moreover, they have been accused of human rights violations and the use of excessive force on several occasions in the past [*Actors of protection*, 4.3].

Longstanding critiques towards the Nigerian security forces have been of corruption and human rights abuses [*Actors of protection*, 3.3.1]. Consulted sources mention several accounts of the NPF, NAF, and other security services using lethal and excessive force to disperse protesters and to apprehend criminals and suspects, as well as committing extrajudicial killings and obtaining confessions through torture [*Actors of protection*, 3.3.2].

The Nigerian legal and judicial system is a mixed system based on various sources and as such is highly complex. Access to the court system in Nigeria for many citizens is hindered by the high costs of taking a matter to court [*Actors of protection*, 6]. Moreover, the court system is rendered generally ineffective due to a heavy caseload, lack of funding and low human resource capacity, which results in extremely long processing times [*Actors of protection*, 6.1.2, 6.2.1.1]. Widespread corruption is also reported. In 2017, the UNODC reported that judiciary officials in Nigeria represented the second most affected group of officials in terms of bribery risk [*Actors of protection*, 5.3].

NAPTIP is Nigeria's principal agency to combat human trafficking. It is supervised by the Federal Ministry of Justice and consists of eight specialised departments (Investigation and Monitoring, Legal and Prosecution, Counselling and Rehabilitation, Public Enlightenment, Research and Programmes Development, Training and Manpower Development, Administration, Finance and Accounts). It has nine Zonal Commands covering all states [*Actors of protection*, 9.1.2]. In 2017, NAPTIP received significantly more funding from the government compared to previous years; however, the agency does not have sufficient resources given the scale of the problem. NAPTIP's capability for protection is weaker in rural areas [*Actors of protection*, 9.2].

NAPTIP manages shelters for victims of trafficking in Abuja, Lagos, Benin, Uyo, Enugu, Kano, Sokoto, Maiduguri and Makurdi, with the capacity to accommodate a total of 313 victims. Victims can stay in NAPTIP shelters up to six weeks, and if needed, can then be referred to shelters run by 'collaborating NGOs'. Over 13 000 victims have passed through the NAPTIP shelters [*Key socio-economic indicators*, 2.9.6].

In order to qualify as an actor of protection, the State has to be able and willing to protect persons under its jurisdiction. The protection in the country of origin has to meet three cumulative conditions: it has to be effective, non-temporary, and accessible to the applicant. It should also be kept in mind that effective protection is presumed not to be available where the State or agents of the State are the actors of persecution or serious harm ([Recital 27 QD](#)).

It can be concluded that in some parts of the country, the capacity of the Nigerian State to provide effective protection is limited, in particular in the states of Borno, Adamawa, Yobe, Plateau, Benue, Nasarawa, Taraba, and Zamfara. The Nigerian State and its institutions may also prove inaccessible or ineffective in certain situations, such as for women and children victims of violence, for the prevention of FGM/C, forced and child marriage, for victims of trafficking, etc. Moreover, the Nigerian State may be an actor of persecution, for example in cases of LGBT persons or when implementing the Sharia in cases of adultery in the North.

Age, gender, area of origin and socio-economic status are among the factors that affect the accessibility of protection for the individual.

Parties or organisations, including international organisations

In the context of [Article 7 QD](#), it is necessary that those parties or organisations control the State or a substantial part of the territory of the State. In order to consider that parties or organisations control a region or a larger area within the territory of the State, it should be established that they exercise governmental functions. Furthermore, those parties or organisations have to be willing and able to provide protection against persecution or serious harm as defined in [Article 7\(2\) QD](#).

No such actors are identified in Nigeria.

V. Internal protection alternative

This chapter is developed with reference to [Article 8 QD](#) on internal protection:

Article 8 of the Qualification Directive Internal protection	
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](#) is an optional one. Therefore, the relevance of this chapter to the practice in Member States will depend on the transposition of [Article 8 QD](#) and/or the concept of internal protection alternative (IPA) in national legislation and its implementation in practice.

In national legislation and practice, IPA may also be referred to as ‘internal flight alternative’, ‘internal relocation’, etc.

Preliminary remarks

IPA should only be examined after it has been established that the applicant has a well-founded fear of persecution or faces a real risk of serious harm and that the authorities or other relevant actors of protection are unable or unwilling to protect him or her in his or her home area. In such cases, if IPA applies, it can be determined that the applicant is not in need of international protection.

It should, however, be stressed that there is no requirement that the applicant has exhausted the possibilities to obtain protection in different parts of his or her country of origin before seeking international protection.

The analysis of IPA should be part of the assessment of the future risk of being subjected to persecution or serious harm. When assessing whether or not IPA applies, the burden of proof lies with the determining authority, while the applicant remains under an obligation to cooperate. The applicant is also entitled to submit elements to indicate that IPA should not be applied to him or her.

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

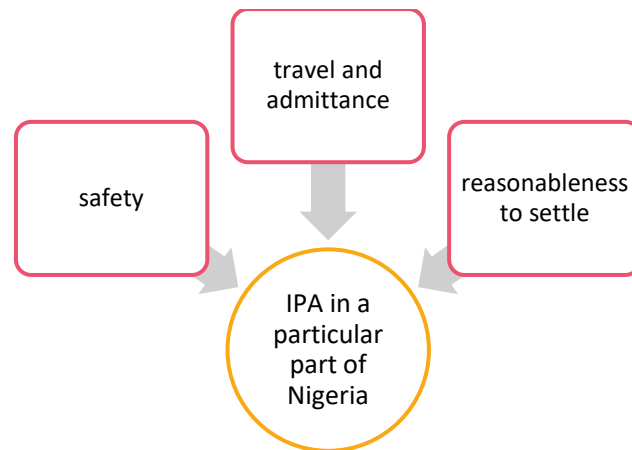


Figure 16. Internal protection alternative: elements of the assessment.

In relation to these elements, when assessing the applicability of IPA, the case officer should consider the general situation in the respective part of Nigeria, as well as the individual circumstances of the applicant.

This chapter analyses and provides guidance on the applicability of IPA in Nigeria in general, with a focus on the situation in Lagos as an example.

Part of the country

The first step in the analysis of IPA is to identify a particular part of the country with regard to which the criteria of [Article 8 QD](#) would be examined in the individual case.

The demographics of the area should be taken into account, including its prominent religion, ethnicity, etc. Large cities, such as Lagos, could generally be considered as a possible IPA for different profiles of applicants, due to being more ethnically and religiously diverse.

When choosing a particular part of Nigeria with regard to which to examine the applicability of IPA, where relevant, existing ties with the place, such as previous experience and/or existence of a support network could, for example, be taken into account.

Safety

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

- ✓ absence of the initial persecution or serious harm

With regard to protection needs related to refugee status, Article 15(a) QD and Article 15(b) QD, this should be examined in light of the elements below.

In the context of IPA concerning serious harm under Article 15(c) QD, it should be established that in the area considered under IPA the applicant would not face a real risk of such serious harm by reason of indiscriminate violence.

- ✓ no potential new forms of persecution or serious harm

Case officers should also establish that there are no potential new forms of persecution or serious harm in the area where IPA is considered for the applicant.⁴²

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

These elements should be examined based on the general situation in the respective part of Nigeria and the individual position and personal circumstances of the applicant, including elements such as background, gender, age, etc. (see [Article 8\(2\) QD](#) in reference to [Article 4 QD](#)).

Absence of persecution or serious harm

When assessing the requirement of safety with regard to the applicability of IPA in individual cases of applicants from Nigeria, the following elements should be taken into account:

► **general security situation**

The general security situation should be considered in light of the analysis under [Article 15\(c\) QD](#) in relation to armed conflicts taking place, and [Article 15\(b\) QD](#) in relation to criminal violence.

► **actor of persecution or serious harm and their reach**

In case where the person fears persecution or serious harm by the [Nigerian State](#), there is a presumption that IPA would not be available ([Recital 27 QD](#)). Relevant examples include LGBT persons, high-profile members of IPOB/MASSOB, etc.

The presence of other actors of persecution or serious harm, including Boko Haram, herders' and farmers' armed groups, student cults, trafficking networks, etc. is generally geographically limited.

Individuals threatened by [Boko Haram](#) mostly relocate internally for their safety [[Security situation](#), 3.1.7]. When assessing the availability of IPA in case of persecution or serious harm by Boko Haram, particular consideration should be given to the individual circumstances of the applicant, the way the applicant is perceived by Boko Haram, their capacity to track and target individuals in other areas or states, etc.

For individuals who fear persecution or serious harm by [other armed groups](#), the reach of the particular group should be assessed; in most cases IPA could be available.

In some cases, where the applicant faces persecution or serious harm for reasons related to the prevalent social norms in Nigeria and the actor of persecution or serious harm is [Nigerian society](#) at large (e.g. persons with noticeable mental or physical disabilities), IPA would in general not be available.

For certain particularly vulnerable categories, such as children (e.g. regarding risk of FGM/C) and persons with visible mental or physical disabilities, if the actor of persecution or serious harm is the [family](#) of the applicant, IPA may not be available.

⁴² This can be further supported, by way of analogy, by the CJEU findings in the case of *Abdulla*, where the Court, interpreting Article 11(1)(e) QD on cessation, concluded that not only should the original circumstances which justified the person's fear no longer exist, but the person should also have no other reason to fear being 'persecuted', CJEU, *Abdulla and Others v Bundesrepublik Deutschland*, joined cases C-175/08, C-176/08, C-178/08 and C-179/08 judgment of 2 March 2010, para. 76.

► **whether or not the profile of the applicant is considered as a priority target by the actor of persecution or serious harm**

The profile of the applicant could make him or her priority target, increasing the likelihood that the actor of persecution or serious harm would attempt to trace the applicant in the potential IPA location. Examples may include high-profile members of separatist movements, religious leaders and politicians targeted by Boko Haram, etc.

► **other risk-enhancing circumstances**

The information under the section [Analysis of particular profiles with regard to qualification for refugee status](#) should be used to assist in this assessment.

► **behaviour of the applicant**

The applicant cannot be expected to change his or her behaviour or to live in concealment, for example in relation to his or her sexual orientation or religion, in order to avoid persecution or serious harm.⁴³

Availability of protection against persecution or serious harm

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

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

Travel and admittance

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

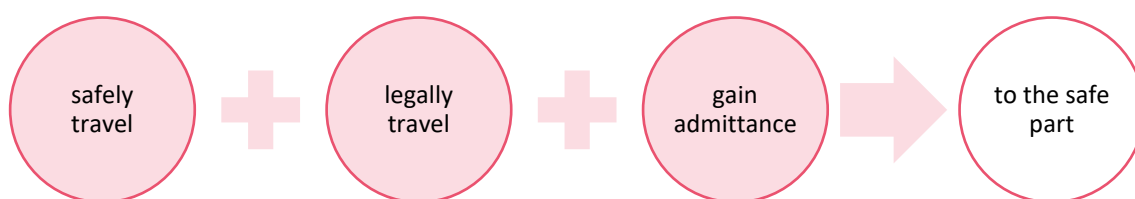


Figure 17. Travel and admittance as requirements for IPA.

These criteria under [Article 8\(1\) QD](#) reflect ECtHR jurisprudence, for example in the case of *Salah Sheekh*.⁴⁴

⁴³CJEU, *X, Y and Z*, paras.70-76; CJEU, *Y and Z*, para. 80.

⁴⁴ECtHR, *Salah Sheekh v. The Netherlands*, Application no. 1948/04, Council of Europe: European Court of Human Rights, Judgment of 11 January 2007, para.141: 'The Court considers that as a precondition for relying on an internal flight alternative certain guarantees have to be in place: the person to be expelled must be able to travel to the area concerned,

The respective elements are explained below, along with conclusions based on available information:

- ❑ **Safely travel:** there should be a safe route, which the applicant can practically travel through without undue difficulty, so that he or she can access the area of IPA without serious risks. In this regard, the assessment of the travel route from the airport to the city is part of the ‘safe travel’ criterion and has to be assessed carefully based on relevant COI.⁴⁵

The Lagos Murtala Muhammed International Airport is part of the urban area of the city of Lagos. International airports exist in various other Nigerian cities in states without major security problems (e.g. Abuja, Port Harcourt, Calabar) [*Security situation*, 2, 2.1, 2.2, 3.1, 3.2, 3.3, 3.4; *Key socio-economic indicators*, 3.1].

Based on available COI, it is concluded that travelling the roads from the airport to Lagos and most of the areas/states in Nigeria (except those with security problems in the North East, the Middle Belt or Zamfara) is considered to be generally safe.

- ❑ **Legally travel:** there should be no legal obstacles that prevent the applicant from travelling to the safe area;

Based on available COI, it is concluded that there are no legal or administrative restrictions for Nigerians to travel in Nigeria [*Key socio-economic indicators*, 3.2.1].

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

Based on available COI, it is concluded that there are no legal or administrative restrictions or requirements for Nigerians to be admitted in any part of the country. Indigeneity facilitates settling in a given area; however, it does not constitute a requirement [*Key socio-economic indicators*, 3.3].

Reasonableness to settle

According to [Article 8\(1\) QD](#), IPA can only apply if the applicant ‘can reasonably be expected to settle’ in the proposed area of internal protection.

Neither the QD nor the case law of CJEU offer relevant criteria that may be relied upon when establishing whether it is reasonable for the person to settle in the IPA location.

This common analysis follows a rights-based approach in light of relevant jurisprudence of the ECtHR.

While acknowledging that the ECtHR jurisprudence is in the context of a different legal regime and addresses particular individual situations, the following principles could be derived from it and are found of relevance to the reasonableness test under [Article 8 QD](#):

gain admittance and settle there, failing which an issue under Article 3 may arise, the more so if in the absence of such guarantees there is a possibility of the expellee ending up in a part of the country of origin where he or she may be subjected to ill-treatment.’

⁴⁵ECtHR, *Sufi and Elmi*, paras.268, 269, 271.

- The assessment should take into account *‘the applicant’s ability to cater for his most basic needs, such as food, hygiene and shelter, his vulnerability to ill-treatment and the prospect of his situation improving within a reasonable time-frame’*.⁴⁶
- *‘Internal relocation inevitably involves certain hardship.’* In this regard, difficulties in *‘finding proper jobs and housing’* would not be decisive if it could be found that the general living conditions for the applicant in the proposed area of IPA would not be *‘unreasonable or in any way amount to treatment prohibited by Article 3 [of ECHR]’*.⁴⁷

In applying the reasonableness test, it should be established that the basic needs of the applicant would be satisfied, such as food, shelter and hygiene. Additionally, due consideration has to be given, to the opportunity for the person to ensure his or her own and his or her family’s subsistence, and to the availability of basic health care.

In the examination of the reasonableness of IPA, the following elements should be taken into account:

- the situation with regard to food security;
- the availability of basic infrastructure and services, such as:
 - shelter and housing;
 - basic health care;
 - hygiene, including water and sanitation;
- the availability of basic subsistence that ensures access to food, hygiene and shelter, such as through employment, existing financial means, support by a network or humanitarian aid.

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

These criteria are assessed below in relation to the general situation in Lagos and most of the areas/states in Nigeria, except from those with security problems in the North East, the Middle Belt or Zamfara for which the criterion of ‘safety’ may not be satisfied ([General situation](#)). This general situation is, furthermore, taken into account in the conclusions regarding the applicability of IPA to certain profiles of applicants ([Conclusions on reasonableness](#)).

General situation

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

Food security: In general, except for the North East, there are no significant food shortages in Nigeria. The main variable in access to food are the means of subsistence available to the applicant, which in the case of IDPs can be a particular concern. The Lagos state government is reportedly dedicated to improving food security, in order to improve employment and reduce poverty [[Key socio-economic indicators](#), 2.5].

Housing and shelter: The rapid growth of the urban population outpaces the necessary infrastructure, services and economy. This results in urban slums, poverty, housing shortage, inadequate governmental services, growing social and economic inequalities, street violence and crime. Apart from the residential areas, which are oriented towards the middle class, informal settlements in the core areas of cities are the oldest and largest settlements, with markets and other commercial

⁴⁶ECTHR, *Sufi and Elmi*, para.283.

⁴⁷ECTHR, *A.A.M. v. Sweden*, para.73.

services. The living conditions in slums, as studied for Lagos, are dire [*Key socio-economic indicators*, 2.6.1, 2.6.2].

Hygiene: Health and sanitation problems arise from the rapid urbanisation due to a lack of electricity, sewage, potable water, and adequate housing. Many urban dwellers do not have access to potable water, because of lack of maintenance, underinvestment, lack of governmental subsidies to ensure access to water by the poor. It is reported that sanitation in urban areas is improving [*Key socio-economic indicators*, 2.6.2].

Basic health care: Generally, relevant reports show shortage and uneven distribution of medical facilities and staff across Nigeria, limited access to treatment because of structural deficiencies (including high medical cost), limited access to medication (over 60 % of the Nigerian population lacks access to medication) [*Key socio-economic indicators*, 2.8.2, 2.8.3].

Means of basic subsistence: Given the current economic and security situation, there are high rates of unemployment and underemployment, especially for the youth, the women and the IDPs, and this trend has worsened in recent years. At the same time, although there is still a large workforce in the country, their incomes are insufficient as a strong cushion against poverty. According to a 2017 World Bank report, in 2013 86 million Nigerians lived in extreme poverty. There is a significant, visible difference between the northern and southern regions of Nigeria (poorer north and richer south), as well as between different states, while the Middle Belt is characterised as having the highest levels of inequality. Female-headed households and IDPs are more exposed to poverty and dire living conditions [*Key socio-economic indicators*, 2.3, 2.4].

In order to establish the reasonableness of IPA, the analysis should take into account the individual circumstances of the applicant, such as socio-economic background, education, profession, etc. Support by state authorities, NGOs and social networks, including but not limited to the family (for example, it could also include colleagues, friends) could also be an important consideration, especially with regard to certain profiles.

Individual circumstances

In addition to the general situation in the area of potential IPA, the assessment whether it is reasonable to settle in that part of the country should take into account the individual circumstances of the applicant.

The individual considerations could relate to certain vulnerabilities of the applicant as well as to available coping mechanisms, which would have an impact in determining to what extent it would be reasonable for the applicant to settle in a particular area.

Please note that this is a non-exhaustive list:

- Religion: For places which are of Christian or Muslim majority, the religion of the applicant should be taken into account.
- Ethnicity: For places which are not multi-ethnic, the ethnicity of the applicant should be taken into account.
- Status of indigenes vs settlers: Indigeneity facilitates settling in certain areas. The constitution addresses the issue by the notion of ‘a person either or whose parents or any of whose grandparents was a member of a community indigenous to that state.’ Local governments, in the name of the state governor, issue Certificates of Indigene (also known as Certificates of Origin), which grant the owner access to many services such as land, education, employment, health care, and political positions.

- Local knowledge (additional to ethnicity and indigeneity): Local knowledge, including linguistic knowledge, and the existence of certain social ties and connections either through relatives or through school education or professional experience would be a relevant consideration, as such ties and knowledge would assist an applicant in settling in the area and in particular in accessing basic means of subsistence and basic services.
- Age: Young age as well as elderly age could significantly limit the applicant's access to means of subsistence such as through employment, making him or her dependent on other providers. Therefore, this element should be seen in conjunction with the available support by the family or by a broader support network. In the case of children, the best interests of the child shall be a primary consideration, for example, with regard to access to basic education. In this regard, it can be noted that according to the Child's Rights Act, 'Every child has the right to free, compulsory and universal basic education and it shall be the duty of the Government in Nigeria to provide such education.' Education facilities are present in all parts of Nigeria and primary school gross enrolment ratio in 2013 was at 94.07 % of primary-school age children. However, access to education continues to be more difficult in the North East, where many schools have been closed, as well as for girls, street children and the children of nomadic groups. The number of out-of-school children amounted up to 10.5 million in 2017; about 60 % of those children were in northern Nigeria [*Key socio-economic indicators*, 2.7].
- Gender: Women and girls encounter additional difficulties in relation to education, work, housing, etc. [*Key socio-economic indicators*, 2.3.3, 2.4.3 and 2.6.3]. Further obstacles may be related to being a single mother or a widow, a woman who has been previously trafficked, being of certain ethnicity, etc. Therefore, the gender of the applicant should be taken into account when considering reasonableness in conjunction with his or her family status and available support.
- State of health (illness or disabilities): Access to health care is strained in various areas of Nigeria, making the health status of the applicant an important consideration when assessing the reasonableness of IPA for those who require medical treatment, also taking into account that their state of health may affect their ability to work and to travel/relocate. For those with disabilities, access to basic subsistence such as through employment would be further limited.
- Social, educational and economic background: The background of the applicant, their level of education and available financial means should be taken into account when assessing the reasonableness of IPA, and in particular the access of the applicant to means of basic subsistence.
- Support network: A support network can be the family network, not restricted to the core family, but also including the extended family, and/or a social network, in particular: friends, employers, classmates, members of the same ethnicity, especially when there is a certain point of contact, etc., taking into account their ability to assist the person in accessing basic subsistence. Special consideration should be given in the case of individuals, and especially women, who lived abroad for a long period of time and who have no relatives in the place considered as potential IPA, as they may lack a support network.

It should be noted that these factors would often intersect in the case of the particular applicant, leading to different conclusions on the reasonableness of IPA. In some cases, more than one element of vulnerability would confirm a conclusion that IPA is not reasonable for the particular applicant (e.g. unaccompanied child, or person with disabilities without support network), while in other cases, they would balance each other (e.g. single woman who has a socio-economic background facilitating her access to basic subsistence, particularly through employment).

Conclusions on reasonableness: particular profiles encountered in practice

This subsection includes general conclusions on the reasonableness of IPA for particular profiles of applicants.

It should be highlighted that these conclusions are without prejudice to the criteria of safety, travel and admittance.

In summary, it could be substantiated that IPA in Lagos or elsewhere in Nigeria (excluding states/areas with security problems) would in general be reasonable for single able-bodied men and (married) couples, who have no additional vulnerabilities, including when they do not have a support network. In the assessment of the reasonableness of IPA for other profiles, the analysis should take into consideration all individual circumstances.

The table below highlights the individual considerations, which were key in reaching the general conclusions regarding the commonly encountered profiles. **This is without prejudice to the need to fully assess all individual circumstances in the case at hand.**

In cases where the applicant is a child or the applicant is accompanied by a child, the best interests of the child shall be a primary consideration.

Single able-bodied men

In general, IPA could be considered reasonable for a single able-bodied man, including where he has no support network in the IPA area.

Although the situation related to settling in the IPA area entails certain hardships, such applicants are generally able to ensure their basic subsistence, shelter and hygiene, taking into account the fact that their individual circumstances do not pose additional vulnerabilities.

The following can in particular be taken into account:

- **Age:** the applicant is of a working age, which would assist in his access to basic subsistence, in particular with regard to the opportunity to engage in employment.
- **Gender:** no additional vulnerabilities are attached to the fact of being a man in Nigeria.
- **Family status:** the applicant does not have additional responsibilities other than ensuring his own subsistence and no additional vulnerabilities are attached to being a single man.
- **State of health:** the applicant does not suffer from any serious health condition.
- **Religion, ethnicity, local knowledge:** the religion, ethnic origin and language(s) spoken by the applicant should be taken into account when selecting a potential IPA area. It should be noted that in Lagos and other large cities, this factor would be of less significance, due to the diversity of their population and spoken languages.
- **Socio-economic background:** the background of the applicant, including education, profession and available financial means could be taken into account, especially in case those would be relevant to the coping mechanisms the applicant would have for settling in the IPA area.
- **Support network:** while a support network would be of assistance in accessing the means to ensure one's subsistence, in the case of single

able-bodied men this would not be a necessary prerequisite in order to find that IPA is reasonable.

Single able-bodied women

Before examining the 'reasonableness' of IPA, the 'safety' criterion should be carefully examined with regard to specific gender-related risk-enhancing circumstances.

IPA may be reasonable, depending on the individual circumstances of the applicant.

The following elements are of importance when examining the criterion of reasonableness:

- **Age:** the applicant is of a working age, which would assist in her access to basic subsistence, in particular with regard to the opportunity to engage in employment.
- **Gender:** women may encounter additional difficulties in relation to education, work, housing, etc.
- **Family status:** being a single mother or a widow may raise additional considerations. In the case of a single mother, the needs and the best interest of the child should be taken into account.
- **State of health:** the applicant does not suffer from any serious health condition.
- **Religion, ethnicity, local knowledge:** The religion, ethnic origin and language(s) spoken by the applicant should be taken into account when selecting a potential IPA area. It should be noted that in Lagos and other large cities, this factor would be of less significance, due to the diversity of their population and spoken languages.
- **Socio-economic background:** the background of the applicant, including education, profession and available financial means could be taken into account, especially in case those would be relevant to the coping mechanisms the applicant would have for settling in the IPA area.
- **Support network:** The existence of a support network, such as family and friends, could be taken into account. In some cases, women would need to be assisted by members of the core or extended family (e.g. depending on the woman's ethnicity and religion).

(Married) couples of working age

In general, IPA could be considered reasonable for married couples, including where they have no support network in the IPA area.

The assessment should take into account the elements mentioned above with regard to single men. However, the individual assessment should further examine whether in the situation of the couple sufficient basic subsistence can be ensured for both.

For couples with children, the individual circumstances and rights of the child should be taken in particular consideration, such as the access to basic education.

Unaccompanied children

Before examining the ‘reasonableness’ of IPA, the ‘safety’ criterion should be carefully examined with regard to specific age-related risk-enhancing circumstances.

In general, IPA would not be reasonable for children without a support network in the respective part of Nigeria.

The following elements should in particular be taken into account when examining the criterion of reasonableness:

- **Age:** due to their young age, children in general need to depend on other providers for their basic subsistence. In addition, they have specific rights and needs, which should be ensured in accordance with international instruments, such as the Convention on the Rights of the Child.
- **Access to education:** the question of access to basic education should be assessed in relation to the general situation as well as the individual circumstances of the child. In general, such access would be limited for unaccompanied children, however, their individual circumstances in terms of social background and available means of basic subsistence should be taken into account.
- **Access to housing and shelter:** the lack of funding and the conditions in orphanages should be taken into account.
- **Support network:** the existence of a support network in the potential area of IPA, which would be able to ensure the subsistence of the child, as well as their access to education and basic health care, is crucial in the assessment of IPA for unaccompanied children.

Applicants with severe illnesses or disabilities

In general, IPA would not be reasonable for applicants with severe illnesses or disabilities. Individual circumstances, such as sufficient financial means and/or a support network could, however, be taken into account.

The main elements to take into account include:

- **State of health:** depending on the health condition of the applicant, the limited accessibility of health care in various parts of Nigeria may place the applicant at an enhanced risk. Additionally, severe illnesses and disabilities would hinder the applicant’s ability to ensure his or her basic subsistence, in particular through means of employment.
- **Social and economic background and support network:** access to health care largely depends on the financial means of the person or the means accessible through a support network.

Elderly applicants

IPA may be reasonable, depending on the individual circumstances of the applicant, and in particular the availability of a support network in the respective part of Nigeria or of financial means.

The following elements are of particular importance in this assessment:

- **Age:** although there is no specific threshold for a person to be considered elderly, the assessment should take into account the applicant’s age in terms of access to means of basic subsistence, in particular through employment. The perception of age in the country of origin should in particular be taken into account.

- **State of health:** additionally, the state of health of an elderly applicant may cause difficulties in access to basic means of subsistence such as through employment.
- **Socio-economic background and support network:** in general, the vulnerabilities of an elderly applicant could make him or her dependent on a support network. The individual's social and economic situation should be taken into account in this regard.

Victims of trafficking

Before examining the 'reasonableness' of IPA, the 'safety' criterion should be carefully examined with regard to specific risk-enhancing circumstances.

IPA may be reasonable, depending on the individual circumstances of the applicant, and in particular the availability of financial means or a support network in the respective part of Nigeria.

The following elements are of particular importance in this assessment:

- **Age:** the assessment should take into account the applicant's age in terms of access to means of basic subsistence, in particular through employment.
 - **State of health:** additionally, the state of health of some victims of trafficking may pose additional vulnerabilities and cause difficulties in access to basic means of subsistence such as through employment.
 - **Socio-economic background and support network:** The individual's social and economic situation should be taken into account in this regard. The vulnerabilities of a victim of trafficking could make him or her dependent on State and/or NGO assistance, and/or on a support network. On the other hand, some victims of trafficking may have available financial means.
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VI. Exclusion

Preliminary remarks

Applying the exclusion clauses where there are serious reasons to consider that the applicant has committed any of the relevant acts, is mandatory.

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

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

Article 12(2) and (3) of the Qualification Directive Exclusion (refugee status)	
2.	A third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that: (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes; (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.
3.	Paragraph 2 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.

If the person would otherwise be eligible for subsidiary protection, the exclusion clauses under Article 12(2)(a) and (c) QD would apply in the same way (Article 17(1)(a) and (c) QD, respectively). The ground of ‘serious crime’ (Article 17(1)(b) QD), on the other hand, is broader than ‘serious non-political crime’ and has no geographical or temporal limitations. Furthermore, additional exclusion grounds are envisaged under Article 17(1)(d) QD and Article 17(3) QD. Article 17(3) QD contains an optional provision and its applicability would depend on the transposition of this provision in national legislation.⁴⁸

Article 17 of the Qualification Directive Exclusion (subsidiary protection)	
1.	A third-country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that: (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

⁴⁸ Noting the optional nature of this exclusion ground, and its scope, which is not country-specific, no further analysis and guidance is provided on Article 17(3) QD.

- (b) he or she has committed a serious crime;
 - (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;
 - (d) he or she constitutes a danger to the community or to the security of the Member State in which he or she is present.
2. Paragraph 1 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.
 3. Member States may exclude a third-country national or a stateless person from being eligible for subsidiary protection if he or she, prior to his or her admission to the Member State concerned, has committed one or more crimes outside the scope of paragraph 1 which would be punishable by imprisonment, had they been committed in the Member State concerned, and if he or she left his or her country of origin solely in order to avoid sanctions resulting from those crimes.

It should be underlined that the determining authority has the burden of proof to establish:

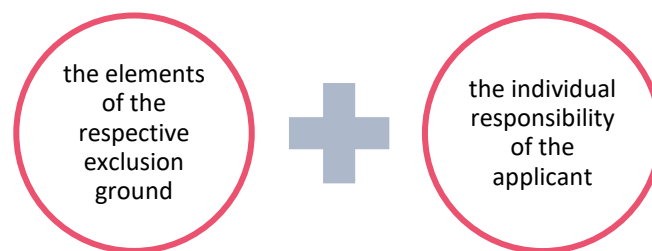


Figure 18. Elements in applying exclusion.

At the same time, the applicant has a duty to cooperate in establishing all facts and circumstances relevant to his or her application.

Given the serious consequences that exclusion may have for the individual, the exclusion grounds should be interpreted restrictively and applied with caution.

In the context of Nigeria, the need to examine possible exclusion issues may arise, in particular, in cases of applicants who may have been involved in the following:

- armed conflict involving Boko Haram and the Nigerian security forces
- crimes committed during violent clashes between herders and farmers
- crimes committed by student cults and criminal gangs
- crimes committed by trafficking networks
- etc.

The Qualification Directive does not set a time limit for the application of the grounds for exclusion. Applicants may be excluded in relation to events occurring in the recent and more distant past. Relevant situations from the past could include, for example:

- armed conflict (civil war) in Biafra in 1967-1970
- coups d'état and military regimes in 1966-1979 and 1983-1998

■ etc.

In relation to potential exclusion considerations, see also the chapters [Actors of persecution or serious harm](#) and [Analysis of particular profiles with regard to qualification for refugee status](#).

The examples mentioned in this chapter are non-exhaustive and non-conclusive. Each case should be examined on its own merits.

Applicability of the exclusion grounds

The subsections below look into the different exclusion grounds applicable in accordance with the Qualification Directive.

a. Crime against peace, war crime, crime against humanity

[Article 12\(2\)\(a\) QD](#) and [Article 17\(1\)\(a\) QD](#) refer to specific serious violations of international law, as defined in the relevant international instruments:

► ‘Crime against peace’ is related to the planning, preparation, initiation, waging or participation in a common plan or conspiracy related to a war of aggression. It is considered applicable only in the context of international armed conflict and would usually be committed by individuals in a high position of authority, representing a State or a State-like entity.

► ‘War crimes’ are serious violations of international humanitarian law, committed against a protected person or object (civilians, combatants placed out of combat, such as in detention or being wounded, or those who have put down their arms, or civilian and cultural objects) or through the use of unlawful weapons or means of warfare.

They can be committed by combatants/fighters, as well as civilians, as long as there is a sufficient link to the armed conflict. This means that the act needs to have been ‘closely’ related to the armed conflict.⁴⁹

The nature of the armed conflict (international or non-international) is decisive in order to define the elements of the particular war crime.

It should be underlined that combatants that lawfully take part in hostilities are not committing war crimes, as long as they follow the rules provided for by international humanitarian law.

► ‘Crimes against humanity’ are fundamentally inhumane acts, committed as part of a systematic or widespread attack against any civilian population.⁵⁰ Inhumane acts which could reach this threshold when committed pursuant to or in furtherance of a State or organisational policy, include: murder, extermination, enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form

⁴⁹ ‘The armed conflict need not have been causal to the commission of the crime, but the existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator’s ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed’, ICTY (Appeals Chamber), judgment of 12 June 2002, *Prosecutor v Kunarac et al.*, IT-96-23 and IT-96-23/1-A, para. 58.

⁵⁰ On ‘widespread’ and ‘systematic’, see for example, ICTY, *Prosecutor v. Dusko Tadic aka "Dule"* (Opinion and Judgment), IT-94-1-T, 7 May 1997, para. 648; ICTR, *The Prosecutor v. Jean-Paul Akayesu (Trial Judgment)*, ICTR-96-4-T, 2 September 1998, para. 580; ICTY, *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic (Appeal Judgment)*, IT-96-23 & IT-96-23/1-A, 12 June 2002, para.94; on ‘civilian population’ see ICTY, *Prosecutor v. Dusko Tadic aka "Dule"* (Opinion and Judgment), IT-94-1-T, 7 May 1997, para. 648; ICTR, *The Prosecutor v. Jean-Paul Akayesu (Trial Judgment)*, ICTR-96-4-T, 2 September 1998, para. 644.

of sexual violence of comparable gravity; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognised as impermissible under international law; enforced disappearance of persons; apartheid; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Crimes against humanity can be committed in peace time as well as during an armed conflict. Even a single act could fall under this exclusion ground provided it forms part of a widespread or systematic attack against a civilian population and the act is committed by someone who had knowledge of the attack and the link of the act to the attack.

In order to establish whether a war crime or a crime against humanity has been committed, the case officer should consult the relevant international instruments.⁵¹

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

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

Serious breaches of international humanitarian law and international human rights law are reported in relation to the armed conflict involving the NAF, MNJTF, CJTF, and Boko Haram and aligned factions in the North East [Targeting, 2.1.3, 2.5.1].

NAF has been accused of extrajudicial executions, mass deaths in custody, torture, sexual abuse and violence against IDP women, fumigation, unlawful detention and arrest, and starvation of over 8 000 people caused by the closure of roads [Targeting, 2.5.1].

Several sources indicate that the CJTF has also committed crimes, such as extrajudicial killings, arbitrary arrests, acts of torture, and severe abuses of IDP women, including physical and sexual violence, recruitment of children [Targeting, 2.5.4.2, 2.5.4.5, 3.13.4].

According to OHCHR, the human rights violations committed by Boko Haram amount to breaches of international humanitarian law and international human rights law, including:

- 'massacres;
- the burning down of entire villages;
- attacks on protected sites such as places of worship and schools, and the slaughter of people taking refuge in such sites;
- torture;
- cruel and degrading treatment following sentences in so-called "courts";
- abduction on a massive scale, including of children;
- forced displacement;
- child recruitment; and
- extremely severe and widespread violations of the rights of women and girls, including sexual slavery, sexual violence, forced so-called "marriages", and forced pregnancy' [Targeting, 2.1.1]

⁵¹ **War crimes** are listed, *inter alia*, under [Article 8 of the Rome Statute](#), under the 'Grave Breaches' provisions of the 1949 Geneva Convention and Additional Protocol I, common Article 3 and relevant provisions of Additional Protocol II, the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Statute of the International Criminal Tribunal for Rwanda (ICTR). **Crimes against humanity** are defined in international instruments, *inter alia* [Article 7 of the Rome Statute](#).

The Office of the Prosecutor of ICC is currently investigating violations committed in the conflict between Boko Haram and the Nigerian security forces as potential ‘war crimes’.⁵² Furthermore, some crimes committed in particular by Boko Haram, could be found excludable under Article 12(2)(a)/Article 17(1)(a) QD as ‘crimes against humanity’; or under Article 12(2)(b)/ Article 17(1)(b) QD in relation to serious (non-political) crimes.

In the Middle Belt and in the East of Nigeria the violent clashes between herders and farmers have escalated in recent years, resulting in increasing numbers of deaths on both sides and serious human rights violations, including rape, abduction and attacks leading to the destruction of entire villages. The conflict has also had a considerable humanitarian impact, including the destruction of cattle, crops, and farmland [Targeting, 3.7.1, 3.7.2]. Taking into account the evolution of the conflict, crimes committed in this context could be assessed under Article 12(2)(a)/Article 17(1)(a) QD as ‘crimes against humanity’; and/or under Article 12(2)(b)/ Article 17(1)(b) QD in relation to serious (non-political) crimes.

The actions of the Nigerian security forces against IMN, including reports of mass killings and burials, should also be taken into account [Targeting, 2.5.1]. These are currently under investigation by the Office of the Prosecutor of ICC.⁵³

Operations of the Nigerian security forces against pro-Biafra protesters in the course of 2017 [Targeting, 3.3.4] are also currently under investigation by the Office of the Prosecutor of ICC.⁵⁴

b. Serious (non-political) crime

The commission of a serious (non-political) crime is a ground that could apply to applicants from all countries of origin, regardless of the general situation.

In order to determine whether the crime qualifies as serious, the following factors may be taken into account: the nature of the act, the actual harm inflicted, the form of procedure used to prosecute such a crime, the nature of the envisaged penalty, and whether most jurisdictions would consider it serious.

There is no requirement that the offence constitutes a crime (or a serious crime) in both, the country of origin and the country of application. Therefore, certain acts that are criminalised in Nigeria, but would not be considered serious crimes according to international standards (e.g. adultery and ‘sodomy’ criminalised by the Sharia), fall outside the scope of this provision. At the same time, acts that may not be considered serious crimes in Nigeria could be relevant exclusion grounds (e.g. FGM/C).

In order for an act to qualify as a non-political crime, it should be considered to have a predominantly non-political motivation or be disproportionate to a claimed political objective. Particularly cruel actions may be considered serious non-political crimes, due to being disproportionate to an alleged political objective. Terrorist acts, which are characterised by their violence towards civilian populations, even if committed with a purportedly political objective, fall to be regarded as serious non-political crimes within the meaning of point (b).⁵⁵

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

⁵² See <https://www.icc-cpi.int/nigeria>.

⁵³ *ibid.*

⁵⁴ *ibid.*

⁵⁵ See, for example, CJEU, *Bundesrepublik Deutschland v. B and D*, C-57/09 and C-101/09, 9 November 2010, para.81.

The exclusion ground for refugee status further stipulates that the act must have been committed outside the country of refuge prior to the person's admission as a refugee. This requirement does not apply to exclusion from subsidiary protection.

Analysis of the applicability of Article 12(2)(b) and Article 17(1)(b) QD

Criminal violence constitutes a serious security and public safety concern in Nigeria, especially in relation to crimes committed by organised groups, such as cults, traffickers in human beings, bandits engaged in cattle rustling, etc. Generally, an increasing level of violence and firearms proliferation is noted across the country, particularly manifesting in ransom kidnapping along highways, armed robbery and other forms of violent crime committed by gangs. Mob violence is also reported [*Targeting*, 3.9.2.1, 3.12.2].

Several profiles must be carefully evaluated, taking into account the applicant's activities, role, responsibilities, etc.

Members of student cults engage in several criminal activities such as killings, rape, armed robbery, kidnapping, human trafficking, prostitution of others, drugs trafficking, extortions, etc. [*Targeting*, 2.3].

Nigerian networks active in human trafficking are involved in prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, removal of organs, etc. In the case of trafficking for sexual exploitation, a central role is played by women. Madams (or 'mamans') often lead the trafficking organisations and monitor the trafficking process closely, from recruitment to exploitation, sometimes with the support of men in low-ranking tasks (e.g. drivers, wardens) [*Targeting*, 2.4].

Some of the crimes committed by militant groups in the Niger Delta (e.g. kidnapping, car bombing) would be considered serious non-political crimes. With regard to other crimes (e.g. oil bunkering), the examination should take into account whether they are considered serious crimes according to international standards and whether they are non-political, taking into account the alleged political motive of these crimes [*Targeting* 2.2.2.3, 2.2.3.3].

A particular situation is reported in the Zamfara state (occasionally spilling over to neighbouring Sokoto and Katsina states), where increasingly deadly clashes take place between cattle rustlers and other bandits on the one hand, and communities, vigilantes and government forces on the other. Crimes include attacking remote villages and killing villagers, stealing cattle, kidnapping villagers for ransom, etc. [*Security situation*, 3.4.5].

The personnel of some Nigerian authorities may also be found responsible for serious (non-political) crimes. NPF, generally considered the most violent State institution, has been reportedly involved in acts of extortion, beatings, illegal detention, sexual harassment and abuses committed against LGBT persons. SARS, in particular, has been accused of widespread torture and other cruel, inhuman or degrading treatment or punishment of detainees in their custody. The *hisbah*, operating in the Sharia-implementing states, is reported to arrest and torture LGBT persons, and to sporadically target women accused of immorality [*Targeting*, 2.5.2.1, 2.5.3.1, 2.5.3.2].

Violence against women and children (for example, in relation to domestic violence or in the context of forced and child marriage, etc.) is widespread in Nigeria and could also potentially amount to a serious (non-political) crime [*Targeting*, 3.13.1].

Performing FGM may be considered as a serious (non-political) crime because it amounts to an inhuman treatment of the child and a violation of the dignity of the woman. However, a careful examination of the relevant circumstances should take place, taking into account the intent and knowledge requirement for individual responsibility. The persons who perform the practice are in

large majority traditional circumcisers. Medical staff, such as nurses, midwives or birth attendants may also be involved [*Targeting*, 3.13.3].

In relation to exclusion from refugee status, a crime could fall under the exclusion ground in Article 12(2)(b) QD if committed in Nigeria or any third country (e.g. in Libya or other countries of transit). In relation to exclusion from subsidiary protection based on Article 17(1)(b) QD, serious crimes committed by Nigerian applicants in the host country, would also give rise to exclusion considerations.

In some cases, the serious (non-political) crimes could be linked to an armed conflict or could be committed as a part of a systematic or widespread attack against a civilian population (e.g. kidnapping of recruits, robbery to finance the activities of armed groups) and they could also be examined under Article 12(2)(a)/Article 17(1)(a) QD.

c. Acts contrary to the purposes and principles of the United Nations

The purposes and principles of the UN are set out in the [Preamble and Article 1 and 2 of the UN Charter](#). Accordingly, this exclusion ground may apply to certain acts which constitute serious and sustained human rights violations and/or acts specifically designated by the international community as contrary to the purposes and principles of the UN (for example, terrorist acts in light of relevant UN Security Council resolutions).⁵⁶ In order to apply this provision, the acts must have an international dimension, in the sense that they are capable of having a negative impact on international peace and security, or the friendly relations between States. However, there is no requirement that the perpetrator hold a position of power in a State or a State-like entity in order to be excluded under this provision.

Relevant jurisprudence of the CJEU, including the *B and D* case⁵⁷ and the more recent *Lounani* case⁵⁸, views acts constituting participation in the activities of a terrorist group under this provision. This could cover a wide range of conduct, such as recruitment, organisation, transportation or equipment of individuals, for the purpose of, inter alia, the planning or preparation of terrorist acts, etc.⁵⁹ However, it should be noted that the CJEU finds that membership in an organisation implicated in terrorist acts would not in itself be sufficient to apply the respective exclusion grounds.⁶⁰

Analysis of the applicability of Article 12(2)(c) and 17(1)(c) QD

Although the Nigerian government has proclaimed many organisations as terrorist, the assessment should take into account the objective situation and the acts of the group and the individual applicant.

Former membership in armed groups such as Boko Haram could trigger relevant considerations and require an examination of the applicant's activities under Article 12(2)(c)/Article 17(1)(c) QD, in addition to the considerations under Article 12(2)(a)/Article 17(1)(a) QD.

The application of exclusion should be based on an individual assessment of the specific facts in the context of the applicant's activities within that organisation. The position of the applicant within the organisation would constitute a relevant consideration and a high-ranking position could justify a (rebuttable) presumption of individual responsibility. Nevertheless, it remains necessary to examine all relevant circumstances before an exclusion decision can be made.

⁵⁶ See, for example, the 2001 UN Security Council resolutions 1373 and 1377.

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

⁵⁸ CJEU, *Commissaire général aux réfugiés et aux apatrides v. Mostafa Lounani*, C-573/15, 31 January 2017.

⁵⁹ CJEU, *Lounani*, para. 68.

⁶⁰ CJEU, *B and D*, paras. 79-99.

d. Danger to the community or the security of the Member State

In the examination of the application for international protection, the exclusion ground 'danger to the community or the security of the Member State' in [Article 17\(1\)\(d\) QD](#) is only applicable to persons otherwise eligible for subsidiary protection.

Unlike the other exclusion grounds, the application of this provision is based on a forward-looking assessment of risk. Nevertheless, the examination takes into account the past and/or current activities of the applicant, such as association with certain groups considered to represent a danger to the security of the Member State or criminal activities of the applicant.

Given the nature of this provision, its application would often require the involvement of other authorities, which may have access to relevant information.

Individual responsibility

The assessment of individual responsibility is based on the nature and extent of the applicant's involvement in the excludable act(s), as well as his or her state of mind in relation to these act(s). Different forms of conduct may lead to a finding of individual responsibility (for example, direct commission, inducing others, aiding and abetting, command responsibility, etc.), where the relevant intent and knowledge are established.

The applicable standard of proof is 'serious reasons for considering', which requires clear and reliable evidence, but is not as high as the standard for criminal responsibility ('beyond reasonable doubt').

The fact that the applicant was or is associated with a group or regime responsible for excludable acts(s) does not relieve the determining authority from demonstrating his or her individual responsibility.

However, depending on the nature, scale of the group or regime, the voluntary association with it and the position, rank, standing and influence of the applicant within the group, there may be sufficient evidence for both, the 'conduct' and the 'state of mind', requirements to be inferred. It remains necessary, however, that the decision-maker identify the relevant mode of individual responsibility and examine the facts in light of the respective criteria.

Furthermore, the examination should take into account potential grounds negating the individual responsibility, such as lack of mental capacity to comprehend and/or control one's conduct (e.g. due to age, mental disease or defect, involuntary intoxication), duress (for example, in the context of child recruitment by Boko Haram and CJTF), self-defence or defence of others (or property, in the case of war crimes), superior orders in specific circumstances, etc.

Depending on national practice, the analysis may further proceed to take into account whether or not the possible exclusion of the applicant would meet the purposes of the exclusion clauses. Elements, such as the fact that an applicant has already served a sentence for the (otherwise) excludable act, or that the act is subject to an amnesty, could potentially be taken into account. In relation to the militant groups in the Niger Delta, for example, the participation to the ongoing large-scale amnesty programme (DDR), initiated in 2009 and benefitting about 30 000 (former) militia members, could be taken into consideration [*Targeting*, 2.2.1].

The more egregious the excludable acts are, the less relevant such aspects would be when taking the decision.

Annex I. Abbreviations and glossary

ACN	Action Congress of Nigeria
ACLED	Armed Conflict Location and Event Data Project
ANPP	All Nigeria Peoples Party
APC	All Progressives Congress
APGA	All Progressives Grand Alliance
Asylum Procedures Directive	Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEAS	Common European Asylum System
CJEU	Court of Justice of the European Union
CJTF	Civilian Joint Task Force
COI	Country of origin information
CPC	Congress for Progressive Change
DDR	Disarmament, Demobilisation, and Reintegration Programme in the Niger Delta
EASO	European Asylum Support Office
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), as amended by Protocols Nos. 11 and 14, 4 November 1950
ECtHR	European Court of Human Rights
EU	European Union
EU Anti-Trafficking Directive	Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA
FCT	Federal Capital Territory
FGM/C	Female genital mutilation/cutting
<i>hisbah</i>	Islamic police
HIV	Human immunodeficiency virus
ICC	International Criminal Court
IDP(s)	Internally displaced person(s)
IED	Improvised Explosive Device
IMN	Islamic Movement in Nigeria
IPA	Internal protection alternative
IPOB	Indigenous People of Biafra
ISIS-WA	Islamic State - West Africa
JAS	Jama'atu Ahlis Sunna Lidda'adati wal-Jihad
JTF	Joint Task Force
<i>juju</i>	Belief in witchcraft
LGA	Local Government Areas

LGBT	Lesbian, Gay, Bisexual and Trans persons For the purposes of this document, 'LGBT' is used to refer to persons of diverse sexual orientation and gender identity. While the term LGBTIQ, including the intersex and the queer/questioning individuals, is broadly used, the COI, analysis and guidance in this document are limited to the situation of LGBT persons.
MASSOB	Movement for the Actualization of the Sovereign State of Biafra
MEND	Movement for the Emancipation of the Niger Delta
MNJTF	Multi-National Joint Task Force
NAF	Nigerian Armed Forces
NAPTIP	Nigerian National Agency for Prohibition of Trafficking in Persons
NDA	Niger Delta Avengers
NDPVF	Niger Delta People's Volunteer Force
NGO	Non-governmental organisation
NPF	Nigeria Police Force
OHCHR	(United Nations) Office of the High Commissioner for Human Rights
PDP	People's Democratic Party
QD (Qualification Directive)	Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted
SARS	Special Anti-Robbery Squad of the NPF
Sharia	The religious law of Islam; Islamic canonical law
'sodomy'	According to Sharia, 'sodomy' is a crime committed in the following way: 'Whoever has anal coitus with any man is said to commit the offence of sodomy' (Kaduna and Yobe); 'Whoever has carnal intercourse against the order of nature with any man or woman is said to commit the offence of sodomy' (all other Sharia-implementing states. Kano and Katsina qualify this: 'with any man or woman through her rectum'. See http://www.sharia-in-africa.net/media/publications/sharia-implementation-in-northern-nigeria/vol_4_4_chapter_4_part_III.pdf
SSMPA	Same Sex Marriage (Prohibition) Act
THB	Trafficking in Human Beings
UN	United Nations
UNICEF	United Nations International Children's Emergency Fund
UNODC	United Nations Office on Drugs and Crime
VAPP	Violence Against Persons Prohibition (bill)

Annex II. Country of origin information references

The COI sources used in the common analysis are the following EASO COI reports:

Actors of protection	EASO Country of Origin Information Report: Nigeria, Actors of protection (November 2018) <i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/2018_EASO_COI_Nigeria_ActorsOfProtection.pdf
Country focus	EASO Country of Origin Information Report: Nigeria, Country Focus (June 2017) <i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/EASO_Country_Focus_Nigeria_June2017.pdf
Key socio - economic indicators	EASO Country of Origin Information Report: Nigeria, Key socio-economic indicators (November 2018) <i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/2018_EASO_COI_Nigeria_KeySocioEconomic.pdf
Security situation	EASO Country of Origin Information Report: Nigeria, Security situation (November 2018) <i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/2018_EASO_COI_Nigeria_SecuritySituation.pdf
Sex trafficking	EASO Country of Origin Information Report: Nigeria, Sex trafficking of women (October 2015) <i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/BZ0415678ENN.pdf
Targeting	EASO Country of Origin Information Report: Nigeria, Targeting of individuals (November 2018) <i>Available at:</i> https://coi.easo.europa.eu/administration/easo/PLib/2018_EASO_COI_Nigeria_TargetingIndividuals.pdf

Annex III. Relevant case law

Case law referenced in the common analysis	
Actors of persecution or serious harm	■ CJEU, Mohamed M'Bodj v État belge, case C-542/13, judgment of 18 December 2014, Grand Chamber (M'Bodj)
Reasons for persecution - religion	■ CJEU, Bundesrepublik Deutschland v Y and Z, joined cases C-71/11 and C-99/11, Judgment of 5 September 2012, Grand Chamber, Y and Z, ECLI:EU:C:2012:518 (Y and Z)
Reasons for persecution – membership of a particular social group	■ CJEU, Minister voor Immigratie en Asiel v X and Y and Z v Minister voor Immigratie en Asiel, joined cases C-199/12 to C-201/12 Judgment of 7 November 2013, ECLI:EU:C:2013:720 (X, Y and Z)
Article 15(b) QD	■ CJEU, MP v Secretary of State for the Home Department, case C-353/16, judgment of 24 April 2018 (MP) ■ CJEU, M'Bodj
Indiscriminate violence in relation to armed conflict (Article 15(c) QD)	■ CJEU, Aboubacar Diakité v. Commissaire général aux réfugiés et aux apatrides, C-285/12, Judgment of the Court (Fourth Chamber) of 30 January 2014 (Diakité) ■ CJEU, Elgafaji v. Staatssecretaris van Justitie, C-465/07, Judgment of the Court (Grand Chamber) of 17 February 2009 (Elgafaji) ■ ECtHR, Sufi and Elmi v. United Kingdom, Applications nos. 8319/07 and 11449/07, Judgment of 28 June 2011 (Sufi and Elmi)
Internal protection alternative	■ CJEU, X, Y and Z ■ CJEU, Y and Z ■ CJEU, Abdulla and Others v Bundesrepublik Deutschland, Joined Cases C-175/08, C-176/08, C-178/08 and C-179/08, Judgment of 2 March 2010, ECLI:EU:C:2010:105 (Abdulla) ■ ECtHR, A.A.M. v Sweden, Application no. 68519/10, Judgment of 3 April 2014 (A.A.M v Sweden)

	■ ECtHR, <i>Salah Sheekh v the Netherlands</i>, Application no. 1948/04, Judgment of 11 January 2007 (<i>Salah Sheekh</i>)
Exclusion	■ CJEU, <i>Commissaire général aux réfugiés et aux apatrides v Mostafa Lounani</i>, Case C-573/14, Judgment of the Court (Grand Chamber) of 31 January 2017, ECLI:EU:C:2017:71 (<i>Lounani</i>) ■ CJEU, <i>Bundesrepublik Deutschland v B and D</i>, Joined Cases C-57/09 and C-101/09, Judgment of 9 November 2010, EU:C:2010:661 (<i>B and D</i>) ■ ICTY (Appeals Chamber), <i>Prosecutor v Kunarac et al.</i>, IT-96-23 and IT-96-23/1-A, Judgment of 12 June 2002 ■ ICTY, <i>Prosecutor v. Dusko Tadic aka "Dule" (Opinion and Judgment)</i>, IT-94-1-T, Judgment of 7 May 1997 ■ ICTR, <i>The Prosecutor v. Jean-Paul Akayesu (Trial Judgment)</i>, ICTR-96-4-T, Judgment of 2 September 1998

For additional information on relevant case law see:

EASO Practical Guides:

Available at: <https://www.easo.europa.eu/practical-tools>

- EASO Practical Guide: Qualification for international protection
- EASO Practical Guide: Exclusion

Judicial analyses:

Available at: <https://www.easo.europa.eu/courts-and-tribunals>

- Judicial Analysis 'Qualification for International Protection (Directive 2011/95/EU)
- Judicial Analysis 'Article 15(c) Qualification Directive (2011/95/EU)
- Judicial Analysis 'Exclusion: Articles 12 and 17 Qualification Directive (2011/95/EU)

