

Article 15(c) QD

GUIDANCE NOTE
Last update: October 2021

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



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



- a. Armed conflict:** It is found several armed conflicts in the meaning of Article 15(c) QD take place in different parts of Nigeria.

Actors involved in armed conflicts in Nigeria include the Nigerian state security forces, Boko Haram, armed group of herders and farmers, communal militias, separatist groups such as ESN, etc.



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
- ? Members of the ESN

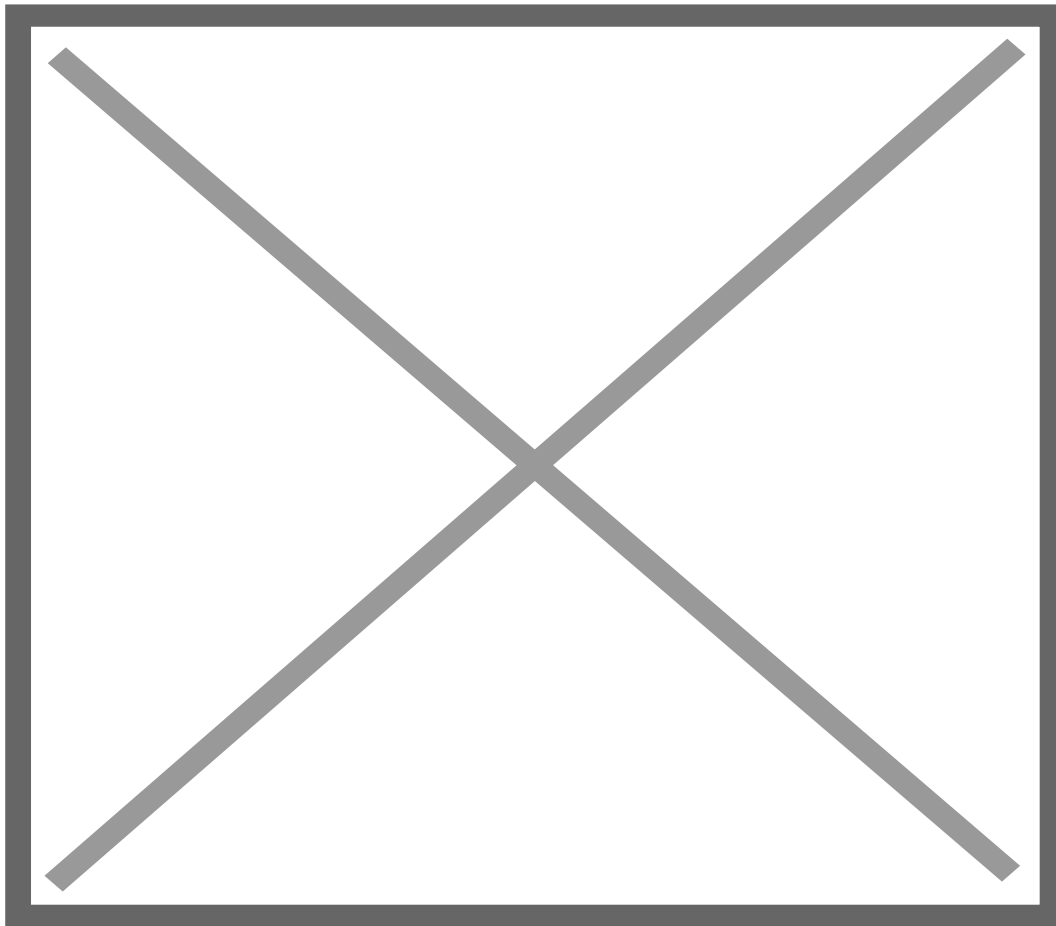
It should be noted that actively taking part in hostilities is not limited to openly carrying arms, but could also include substantial logistical and/or administrative support to combatants.

It is important to underline that the assessment of protection needs is forward-looking. Therefore, the main issue at hand is whether the applicant, upon his return, will be a civilian or not. The fact that the person took part in hostilities in the past does not necessarily mean that [Article 15\(c\) QD](#) would not be applicable to him or her.



c. Indiscriminate violence: Indiscriminate violence takes place to a different degree in different parts of the territory of Nigeria. The map below summarises and illustrates the assessment of indiscriminate violence in a situation of armed conflict 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 (January 2020 – April 2021). Up-to-date country of origin information should always inform the individual assessment.

Figure 3. Assessment of indiscriminate violence in Nigeria (based on information as of April 2021).



Mere presence would be considered sufficient in order to establish a real risk of serious harm under Article 15(c) QD.

Indiscriminate violence reaches a **high level** and a lower level of individual elements is required to establish a real risk of serious harm under Article 15(c) QD.

Indiscriminate violence is taking place, however **not at a high level**, and a higher level of individual elements is required to establish a real risk of serious harm under Article 15(c) QD.

In general, there is **no real risk** for a civilian to be personally affected within the meaning of Article 15(c) QD.

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 their 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:

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

The state within this category is *Borno*.

States 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 states are *Adamawa, Benue, Kaduna, Katsina, Yobe, and Zamfara*.

States where, **in general, there is no real risk** for a civilian to be personally affected within the meaning of Article 15(c) QD.

These states are *Abia, Akwa Ibom, Anambra, Bauchi, Bayelsa, Cross River, Delta, Ebonyi, Edo, Ekiti, Enugu, Gombe, Imo, Jigawa, Kano, Kebbi, Kogi, Kwara, Lagos, Nasarawa, Niger, Ogun, Ondo, Osun, Oyo, Plateau, Rivers, Sokoto, and Taraba*, as well as the *Federal Capital Territory of Abuja*.

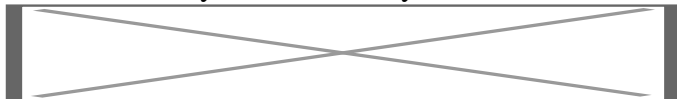


d. Serious and individual threat: In the context of the ‘sliding scale’, each case should be assessed individually, taking into account the nature and intensity of the violence in the area, along with the combination of personal circumstances present in the applicant’s case. Certain personal circumstances could contribute to an enhanced risk of indiscriminate violence, including its direct and indirect consequences. While it is not feasible to provide exhaustive guidance what the relevant personal circumstances could be and how those should be assessed, the following are highlighted as possible examples of circumstances which may impact the ability of a person to assess and/or avoid risks related to indiscriminate violence in a situation of an armed conflict:

- age
- health condition and disability, including mental health issues
- economic situation
- knowledge of the area
- occupation
- etc.



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.

