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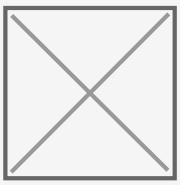
3.3.1. Armed conflict (international or internal)

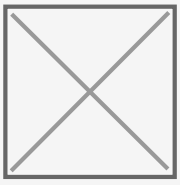
COMMON ANALYSIS
Last updated: October 2021

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;
>
> **CJEU, Diakité, para.35**

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
>
> **CJEU, Diakité, para.35**

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.

Several different armed conflicts take place in the territory of Nigeria:

- **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 mainly states in the North-East Region, in particular Borno, Adamawa and Yobe and increasingly states in the North-West region, especially Kaduna, Zamfara and Katsina states. Boko Haram is reportedly also expanding its reach in Niger state in the North-Central Region.

- **Armed conflicts involving armed groups of farmers and herders, ethnic or communal militias and the Nigerian security forces**: The territorial scope of this conflict extends to the North-West and North-East Regions, as well as in the so-called Middle Belt zone (North-Central Region), and increasingly in southern Nigeria.
  It should be highlighted that the lines between the farmer-herder clashes, inter/intra-communal clashes and banditry are becoming increasingly blurred in the North-West and North-Central regions.

- **Armed conflict between ESN and Nigerian security forces**: The introduction of the paramilitary wing ESN and the following armed clashes with the Nigerian state forces indicate that the escalating violence in the South-East regions has taken the form of an armed conflict in the meaning of Article 15(c) QD.

- **Conflicts among cults/gangs and with local community vigilantes**: Criminal violence such as violence against civilians by criminal gangs or student cults, including in the context of election-related violence would in general not meet the criteria under the Diakité judgment, as this criminal violence does not involve armed confrontations between two or more armed groups. However, it should be noted that community vigilante groups, civilian self-defence militias, and youth groups have also conducted reprisal attacks against armed groups. Furthermore, on some occasions, armed confrontations between armed cults or gangs have been reported.

Further assessment with regard to the possible real risk for a civilian to be personally affected by reason of indiscriminate violence in situations of international or internal armed conflict within the meaning of Article 15(c) QD is provided at state level within the section Assessment by state.

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