Please cite as: EASO, '5.4. Reasonableness to settle' in *Country Guidance Nigeria*, Februar 2019.

5.4. Reasonableness to settle

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COMMON ANALYSIS
Last updated: February 2019

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:

- 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 healthcare.

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 healthcare;
  - 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).

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[46] ECtHR, *Sufi and Elmi,* para.283. [back to text]

[47] ECtHR, *A.A.M. v. Sweden,* para.73. [back to text]

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