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Preliminary remarks

COMMON ANALYSIS
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Article 6 QD defines ‘actors of persecution or serious harm’ as follows.

Article 6(d) QD
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 of an actor (Article 6 QD). For example, it cannot simply be the result of general shortcomings in the health system of the country of origin.[7]

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.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.

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.

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[7] CJEU, *Mohamed M'Bodj v État belge*, C-542/13, Judgment of 18 December 2014, C-542/13, paras. 35-36. **[back to text]**

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