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5.2. Safety

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COMMON ANALYSIS
Last updated: February 2019

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 officer 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 of 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 and/or a threat 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*.

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[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. [back to text]

[43] CJEU, *X, Y and Z*, paras. 70-76; CJEU, *Y and Z*, para. 80. [back to text]

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