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3.3.6. Qualification of the harm as ‘threat to (a civilian’s) life or person

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COMMON ANALYSIS
Last updated: February 2019

Neither the Qualification Directive, nor the CJEU in its jurisprudence, have defined the terms ‘threat to (a civilian’s) life or person’.

The CJEU has held that Article 15(c) QD has an additional scope to Article 3 ECHR and, therefore, has to be interpreted independently, but with due regard to fundamental rights as they are guaranteed under the ECHR.[40]

By comparing the provisions of Article 15(a) and (b) QD, which indicate a particular type of harm, with the provision of Article 15(c) QD, the CJEU further concludes that the harm under the latter,

> *(...) covers a more general risk of harm. Reference is made, more generally, to a ‘threat ... to a civilian’s life or person’ rather than to specific acts of violence. Furthermore, that threat is inherent in a general situation of ‘international or internal armed conflict’.*[41]

Some of the commonly reported types of harm to civilians’ life or person in Nigeria include killings, injuries, abductions, forced displacement, rape, famine caused by food insecurity, etc.

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[40] ***Elgafaji,*** **para.28.** [back to text]

[41] ***Elgafaji,*** **paras. 33-34.** [back to text]

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