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Exclusion

GUIDANCE NOTE
Last update: October 2021

Given the serious consequences that exclusion may have for the individual, the exclusion grounds should be interpreted restrictively and applied with caution.

The examples in this chapter are non-exhaustive and non-conclusive. Each case should be examined on its own merits.

Applying the exclusion clauses where there are serious reasons to consider that the applicant has committed any of the relevant acts, is mandatory.

Exclusion should be applied in the following cases:

Grounds for exclusion			
Refugee status	• a crime against peace, a war crime, or a crime against humanity • a serious non-political crime outside the country of refuge prior to his or her admission as a refugee • a serious crimeacts contrary to the principles and purposes of the United Nations	**Subsidiary protection**	• a crime against peace, a war crime, or a crime against humanity • a serious crime • acts contrary to the principles and purposes of the United Nations • constituting a danger to the community or to the security of the Member State [in which the applicant is present] • other crime(s) (under certain circumstances)

It should be underlined that the determining authority has the burden of proof to establish the elements of the respective exclusion grounds and the individual responsibility of the applicant;

while the applicant remains under an obligation to cooperate in establishing all facts and circumstances relevant to his or her application.

Read more in the COMMON ANALYSIS

In the context of Nigeria, the need to examine possible exclusion issues may arise, in particular, in cases of applicants who may have been involved in the following:

- armed conflict involving Boko Haram and the Nigerian security forces
- crimes committed during violent clashes between herders and farmers and/or between communal militias
- crimes committed by student cults and criminal gangs
- crimes committed by trafficking networks
- etc.

The Qualification Directive does not set a time limit for the application of the grounds for exclusion. Applicants may be excluded in relation to events occurring in the recent and more distant past, such as in the context of the armed conflict (civil war) in Biafra in 1967-1970 or the coups d'état and military regimes in 1966-1979 and 1983-1998.

Read more in the COMMON ANALYSIS

The following subsections provide guidance on the potential applicability of the exclusion grounds in the context of Nigeria.

The contents of this chapter include:

- Crime against peace, war crime or crime against humanity
- Serious (non-political) crime
- Acts contrary to the purposes and principles of the UN
- Danger to the community or the security of the Member State

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