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International or internal armed conflict

As held by the Court of justice of the European Union (CJEU) in Diakité, the definition of ‘armed conflict’ under international humanitarian law does not apply in the context of Article 15(c) QD. Therefore, in order to assess whether an (international or internal)‘armed conflict’ is taking place, it is not necessary to satisfy the criteria under international humanitarian law.

To establish that an armed conflict is taking place within the meaning of Article 15(c) QD, the following two elements are sufficient:

- two or more armed groups — whether or not state armed forces are involved;
- confrontation between those armed groups.

It is not necessary to carry out a separate assessment of the intensity of the armed confrontations, the level of organisation of the armed forces involved or the duration of the conflict.

Furthermore, in the context of Article 15(c) QD, differentiation between ‘international’ or ‘internal’ armed conflict is not necessary, as the provision is equally applicable in situations of international and internal armed conflict.

An armed conflict can be taking place only in parts of the territory.

Guidance may exist qualifying the situation in certain countries, or parts of countries of origin, as an (international or internal) armed conflict.

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