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6.2.3. Acts contrary to the purposes and principles of the UN

COMMON ANALYSIS
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The purposes and principles of the UN are set out in the Preamble and Article 1 and 2 of the UN Charter. Accordingly, this exclusion ground may apply to certain acts which constitute serious and sustained human rights violations and/or acts specifically designated by the international community as contrary to the purposes and principles of the UN (for example, terrorist acts in light of relevant UN Security Council resolutions).[56] In order to apply this provision, the acts must have an international dimension, in the sense that they are capable of having a negative impact on international peace and security, or the friendly relations between States. However, there is no requirement that the perpetrator hold a position of power in a State or a State-like entity in order to be excluded under this provision.

Relevant jurisprudence of the CJEU, including the *B and D* case[57] and the more recent *Lounani* case[58], views acts constituting participation in the activities of a terrorist group under this provision. This could cover a wide range of conduct, such as recruitment, organisation, transportation or equipment of individuals, for the purpose of, inter alia, the planning or preparation of terrorist acts, etc.[59] However, it should be noted that the CJEU finds that membership in an organisation implicated in terrorist acts would not in itself be sufficient to apply the respective exclusion grounds.[60]

Analysis on the applicability of Article 12(2)(c) and 17(1)(c) QD:

Although the Nigerian government has proclaimed many organisations as terrorist, the assessment should take into account the objective situation and the acts of the group and the individual applicant.

Former membership in armed groups such as Boko Haram could trigger relevant considerations and require an examination of the applicant's activities under Article 12(2)(c)/Article 17(1)(c) QD, in addition to the considerations under Article 12(2)(a)/Article 17(1)(a) QD.

The application of exclusion should be based on an individual assessment of the specific facts in the context of the applicant's activities within that organisation. The position of the applicant within the organisation would constitute a relevant consideration and a high-ranking position

could justify a (rebuttable) presumption of individual responsibility. Nevertheless, it remains necessary to examine all relevant circumstances before an exclusion decision can be made.

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[56] See, for example, the 2001 UN Security Council resolutions 1373 and 1377. [back to text]

[57] CJEU, *Bundesrepublik Deutschland v. B and D*, C-57/09 and C-101/09, 9 November 2010. [back to text]

[58] CJEU, *Commissaire général aux réfugiés et aux apatrides v. Mostafa Lounani* , C-573/15, 31 January 2017. [back to text]

[59] CJEU, *Lounani,* para. 68. [back to text]

[60] CJEU, *B and D*, paras. 79-99. [back to text]

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