



Home Office

Stateless Determination Procedure in the UK

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UK policy change in April 2013

- From 6 April 2013, the Immigration Rules allowed for 30 months leave to remain to be granted on the basis of being stateless. This policy is primarily intended for those who do not qualify for refugee status or for Humanitarian Protection or any other form of leave under the Immigration Rules and who consider that they meet the 1954 Convention definition of a stateless person as “a person who is not considered as a national by any state under the operation of its law”.
- Leave will not be granted if an individual accepted as stateless is considered admissible to another country provided this is in accordance with the UK’s international obligations.

UK policy change in April 2013

- An application for Stateless leave must be made on the appropriate form (FLR S) to be valid. There is no right of appeal against the refusal
- Applicant can apply for an Administrative Review of the decision
- Any further litigation through Judicial Review
- Applicants who meet the stateless definition and are not admissible to country of origin or any other country may be granted 30 months leave under paragraph 405 of the Immigration Rules.
- Those granted stateless leave are entitled to apply for a Travel Document issued in accordance with the 1954 Convention.

UK policy change in April 2013

- Those granted leave have unrestricted access to the labour market - same rights and benefits as those granted asylum
- The requirement for Indefinite Leave to Remain (settlement) is for the subject to complete 2 x 30 month periods of leave in the same capacity (stateless leave).
- After ILR applicant can apply for citizenship after 12 months later
- Naturalisation (citizenship) can be applied for in line with other Immigration cases and subject to same requirements
- Policy updated in February 2016
 - Remove mandatory interviews in all cases
 - Updated policy position on voluntary renunciation of nationality

Features of the SDP

- The Stateless Determination Process (SDP) is independent of the asylum process – asylum takes precedence.
- Application is free, must be made on the relevant form - no facility to apply in person.
- The burden of proof is on applicant - caseworker is required to assist with research and enquiries
- The standard of proof is the balance of probabilities – higher than low standard in asylum decisions
- Applicants must meet the stateless definition and not be admissible to their country of origin or any other country

Evidence gathering

- Written evidence required in all cases – interview only if needed
- Documentary evidence can include:
 - Identity documents, travel documents, birth certificates
 - Official responses to requests
 - Employment, education, military service
 - Certificate of renunciation of nationality
- Research can also be undertaken with Home Office Country Policy Information Team – e.g. specific issues/general country information
- Enquires with Embassies or High Commissions
- External sources – UNHCR Ref World

“not considered as a national by any state under the operation of its law”

The caseworker must establish:

- What is the relevant nationality law
- How is nationality acquired, by birth, descent, or both
- How does the state apply law in practice
- How can / will it be applied to the applicant
- Is return possible to more than one state – dual nationality

Exclusion from recognition : Article 1(2) of 1954 Convention

- those “at present receiving from organs or agencies of the UN other than the United Nations High Commissioner for Refugees protection or assistance so long as they are receiving such protection or assistance”
- those “recognized by the competent authorities of the country in which they have taken residence as having the rights and obligations which are attached to the possession of the nationality of that country”
- those “for whom there are serious reasons for considering that they have:
 - committed a crime against peace, a war crime, or a crime against humanity, etc
 - committed a serious non-political crime outside the country of their residence prior to their admission etc
 - been guilty of acts contrary to the purposes and principles of the UN

In other words.....

.....the equivalent of Articles 1D, 1E and 1F of the Refugee Convention or Article 12(1) and (2) of Directive 2004/83/EC ('Qualification Directive')

To note:

- The potential significance of exclusion for Palestinians under Convention Article 1D / QD 12(1)(a)
- CJEU exclusion case law on 12(1)(a) – Bolbol, El Kott
- Burden of proof on the decision-maker, not for applicant to show that exclusion does not apply.
- But applicant must still show inadmissible.

The UK experience so far

Between 1 April 2013 and 31 December 2015

Applications by country of birth (Top 5 for 2015)

- Zimbabwe
- Iran
- Iraq
- India
- Burma

Other Trend: Predominantly male former failed asylum seekers.

Questions and further information

Home Office publishes its guidance and policy on the Gov.UK website – <https://www.gov.uk/government/collections/asylum-decision-making-guidance-asylum-instructions>

Copy of the Stateless Application Form also available – <https://www.gov.uk/government/publications/application-to-extend-stay-in-uk-as-stateless-person-form-flrs>