



Home Office

# Nationality: disputed, unknown and other cases

Version 6.0

Formerly (up to version 5): 'Nationality: doubtful, disputed and other cases'

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# About this guidance

This guidance explains how asylum officers must handle cases where there is an issue relating to a claimant's nationality or it appears a claimant is potentially removable to more than one country or territory.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Asylum Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Clearance

Below is information on when this version of the guidance was cleared:

- version **6.0**
- published for Home Office staff on **02 October 2017**

## Changes from last version of this guidance

- restructured and simplified
- references to immigration decision notices removed
- country specific CID actions annex removed
- standard paragraphs annex removed for update to decision templates
- 'doubtful nationality' renamed as 'unknown nationality'
- 'doubtful statelessness' renamed as 'unaccepted statelessness'
- mandatory guidance template applied

### Related content

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# Introduction

## Audience and purpose of instruction

This instruction is for all officers involved in the registration, consideration and wider management of asylum casework. It explains the actions to take in respect of case registration, the casework information database (CID), correspondence and decision-making in asylum cases where there is an issue relating to the claimant's nationality or it appears the claimant may be removable to more than one country or territory (the word 'country' will be used throughout the remainder of this guidance).

The case types addressed in this instruction are:

- **unknown nationality** (previously described as 'doubtful nationality': claimed nationality is not accepted, but true nationality is not known or evidenced)
- **disputed nationality** (claimed nationality not accepted, and true nationality evidenced)
- **dual nationality** (nationality is held in more than one country)
- **removable to more than one country** (claimed nationality is accepted or not, but there is evidence of removability to another country)
- **doubtful / disputed statelessness** (claimed statelessness in the context of an asylum claim is not accepted: true nationality is evidenced / not evidenced)

This instruction **must** be read alongside the related lead instructions, including:

- Third country cases: referring and handling
- EU/EEA asylum claims
- Asylum interviews
- Assessing credibility and refugee status
- Country information and guidance

## Application of this instruction in respect of children and those with children

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Home Office to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions.

Our statutory duty to children includes the need to demonstrate:

- fair treatment which meets the same standard a British child would receive
- the child's interests being made a primary, although not the only, consideration
- no discrimination of any kind
- asylum claims are dealt with in a timely fashion
- identification of those that might be at risk from harm

Decision-making as it affects claimants generally and those who are children or who have children is documented in the lead instructions above, and in:

- Processing children's asylum claims
- Processing family cases

**Related content**

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# Dublin Regulation and inadmissible cases

Before taking action or making a substantive decision on any asylum claim, caseworkers must review the file and all CID records to establish whether the case may be liable to action under the Dublin Regulation or should be treated as inadmissible more generally.

A substantive asylum decision **should not usually** be taken on any case where the claim will be treated as inadmissible or where another state subject to the Dublin Regulation maybe or is responsible for considering the claim. This is because the claim is not being admitted to the UK asylum system.

## EU inadmissible cases

[Paragraphs 326A to 326F](#) of the Immigration Rules set out when an EU asylum claim shall be declared inadmissible and when exceptional circumstances may apply in an EU asylum claim.

See EU/EEA asylum claims.

## Other inadmissible cases

[Paragraphs 345B and 345C](#) of the Immigration Rules set out when an asylum claim may be declared inadmissible because the claimant is from a country which is not an EU member state but which is considered to be a first country of asylum or a safe third country (respectively). There are likely to be few such cases, but where possible cases are identified, they must be referred to the National Asylum and Allocation Unit.

## Dublin cases

The Dublin Regulation provides a framework for EU member states and Iceland, Norway, Switzerland and Liechtenstein to determine the country responsible for considering the asylum claim. It aims to avoid the successive transfer of asylum claimants between member states without any single state taking responsibility for determining the claim, and the prevention of multiple parallel or successive claims in different member states and related secondary movements ('asylum shopping').

The responsibility of another member state for considering a claim under the Dublin Regulation will usually (not always) be identified through a fingerprint match after asylum screening. Caseworkers must check CID notes to identify whether the Third Country Unit has interest in a case.

See: Third country cases: referring and handling.

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# Asylum screening and onward action

## Asylum screening

During the asylum screening process, all relevant issues relating to a claimant's nationality must be explored, within time and other constraints which may apply. This may include asking further questions, reviewing documents presented by the claimant, and commissioning some of the checks mentioned in this instruction to obtain sufficient information to inform initial decisions about identity, including nationality.

## Competing identities

The situation may arise where a claimant is known in one identity (for instance, through a previous visa application or through contact with the police) but then later claims asylum in a second identity. In such cases, the claimant must be challenged on the competing identities (but not the basis of claim, which is to be substantively explored only during the asylum interview). If the claimant explains or admits the use of a false identity, this must be properly recorded on CID and on file.

The Home Office will regard the first identity used by the subject as the true identity, unless it is clearly unreliable, or unless more reliable evidence exists in support of the second identity.

A disagreement regarding a claimant's true identity must not prevent a claim being registered. It must be recorded in the identity regarded as most reliable by the Home Office. The claimant must be informed that they can at any time advance evidence in support of their asserted identity, which may – depending on the particular circumstances – lead to the Home Office accepting the asserted identity.

If the claim has been registered by the Home Office (that is, recorded in person in some means as an intention to claim asylum) but the claimant does not wish to continue with their asylum claim, they should be asked to withdraw it using form IS.101PA. See: [Withdrawing asylum claims](#).

If the claimant does not wish to withdraw their claim but will also not complete the screening process, they must be politely informed that their claim for asylum has been registered and will be referred to a casework unit. They must be advised that this may, depending on their actions, mean that the case proceeds to be considered or is regarded as implicitly withdrawn.

## CID and correspondence – screening and subsequently

CID records and correspondence (including Application Registration Cards) will be created and issued from the point of registration according to the identity information regarded as accurate at the time, with alternative identities clearly recorded on CID as aliases. If subsequent developments lead to a different identity being accepted as

genuine, CID and subsequent correspondence must be updated accordingly – this is very important.

If a claimant attends a screening interview at the Asylum Intake Unit having made a telephone appointment, the appointment record must be properly updated to reflect any pre-existing identity in Home Office records that is regarded as reliable at the point of screening. This will usually require developments to be noted in the appointment record, and for that record to be linked to and referenced in the pre-existing record. No further action should be recorded in the appointment case record.

The correct CID and correspondence formulae to be applied in all cases is set out in the section [Asylum decisions – CID and RFRs](#) in this instruction.

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# Identifying nationality - overview

The Home Office uses a number of processes and tools to identify a claimant's nationality and other identity features, the most relevant of which to this instruction are outlined here.

## Fingerprint systems

All asylum claimants over the age of 5 are fingerprinted, as are those who apply for other leave, those who apply for visas (all since 2008), or those apprehended as illegal entrants. Fingerprints are recorded on and checked against the Immigration and Asylum Biometric System (IABS). Some Irish visa biometrics are also recorded and checked. See the instruction: Visa matches - handling asylum claims from UK visa claimants. Fingerprints are also routinely checked against Eurodac, the European Union (EU) fingerprint database for identifying asylum seekers and irregular border-crossers.

The Five Country Conference (FCC) international biometric data-sharing process is capable of biometrically matching individuals who have been fingerprinted in partner countries (USA, Canada, Australia, New Zealand). This information may support or undermine a claimant's claimed nationality. Checks may be requested in certain circumstances if doubts exist about an individual's identity or place of origin. See the instruction: Biometric data sharing (fingerprint matching).

## Other systems

The Central Reference System (CRS) is a biographical database, which provides information relating to visas and is a useful resource for searches on all visas, but particularly pre-biometric visa applications. The Warnings Index and Police National Computer (PNC) may also provide evidence relevant to a claimant's nationality.

## Identity documents

Documents are often submitted by asylum claimants purporting to be evidence of identity. It is important to be satisfied that any such document is genuine and belongs to the individual presenting it. A genuine and properly issued passport or national identity card would normally constitute proof of nationality, other genuine and properly issued documents may, according to their terms, provide support for a claimed nationality.

Home Office resources on Forgery are available regarding forgery issues and checks that may be undertaken.

Under no circumstances should action be taken which might alert the alleged persecutor in the claimant's country of origin to the fact or nature of an asylum claim.

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Even if a document is genuine, it may have been improperly obtained or issued. Both the authenticity of the document and the circumstances of how it was obtained are therefore important: this is about the reliance that can be placed on the evidence.

The principles outlined in the case of [Tanveer Ahmed \[2002\] UKIAT 00439](#) must be applied in determining whether reliance can properly be placed on any documentary evidence. The tribunal ruled that the burden of proof is on the claimant to show that documentary evidence submitted can be relied upon. However, it is for the decision-maker to consider whether a document is one on which reliance should properly be placed after looking at all the evidence in the round.

See: Assessing credibility and refugee status, in particular the section 'Documentary Evidence'.

All documentation, whether accepted as reliable or not, must be held and attached securely to the Home Office file, or placed in a secure document bank (with copies attached to file and actions clearly minuted on file and CID).

## **Language analysis**

Language analysis involves an individual's speech being examined by experts, who (where possible) provide conclusions regarding the consistency of the claimant's speech with the claimed place or places of origin. Depending on the facts, such analysis may be valuable evidence in helping to determine nationality, although it cannot determine the nationality of an individual itself.

Language analysis may be requested at any time if there are doubts about an individual's place of origin. Claimants refusing to participate in the language analysis process must be asked to explain why. Their responses must be taken into account as part of the consideration of the claim. See: Language analysis.

## **Asylum interviews**

If the claimant's nationality is in doubt at the time of the substantive asylum interview, those doubts must be properly explored, and the claimant must have the opportunity to respond to the points which give rise to those doubts.

In all cases where there are doubts, the claimant must be asked if there are any other countries where they have a particular fear of harm. If the claimant is believed to be returnable to a particular country other than that in which they claim to fear

persecution, they must be specifically asked if there is any reason why they could not be returned there.

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# Asylum decisions – general points

## Burden and standard of proof

### Unknown nationality cases (previously described as ‘doubtful nationality’)

In unknown nationality cases, the Home Office is not asserting that the claimant holds a particular nationality. The **burden of proof rests with the claimant** to show that they qualify for protection under the Refugee Convention and the European Convention on Human Rights, including evidencing their nationality. The standard of proof that the claimant needs to meet is the lower standard, they just need to show a **reasonable degree of likelihood** (or **real risk**) that they will face persecution.

### Disputed nationality and other cases

If the Home Office considers the claimant to be a specific nationality other than that claimed, **the burden of proof rests with the Home Office** to prove the assertion according to **the balance of probabilities** standard (this is a higher threshold than the lower standard of proof – reasonable likelihood - mentioned above). The test is met if it is more likely than not that the claimant holds the asserted nationality.

### Statelessness in asylum cases

In asylum cases involving claimed statelessness, the claimant must establish their risk on return to the lower standard of proof but they must establish their claimed statelessness to **the balance of probabilities** standard.

Stateless persons who are not admissible to any other country may be able to apply for leave to remain. See: Statelessness and applications for leave to remain.

## Grants and refusals

If concerns regarding a claimant’s later nationality are resolved and a decision to grant leave is considered appropriate, it must be implemented in the final accepted identity, applying the considerations at [Asylum screening and onward action](#).

Alternatively, if having considered the nationality issues in a case it is determined that the correct course of action is to refuse the asylum and human rights claim, the reasons for refusal letter (RFRL) and CID records must be completed appropriately, according to the scenarios set out in this instruction.

The considerations in the lead instructions apply in all other respects. In particular, see:

- Assessing credibility and refugee status
- Drafting, implementing and serving asylum decisions

- Certification of protection and human rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002

RFRL consideration drafting is supported by stock paragraphs, available at: [Asylum Decisions - standard paragraphs](#) and in the Assisted Decision Making templates (ADM). Stock paragraphs must always be tailored to the facts of the case.

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# Asylum decisions – CID and refusals

In this section, the main decision scenarios involving unknown nationality, disputed nationality and other cases are set out. Guidance regarding CID entries, correspondence addresses and reason for refusal letters (RFRL) is provided.

The main decision types are addressed, but there may be scenarios that are not detailed. If further guidance is needed, please discuss with a senior caseworker before referring to Asylum Policy.

Every RFRL must set out clear reasoning to support each conclusion made. Standard paragraphs summarising the considerations which should be set out in RFRLs are available at: [Asylum decisions – standard paragraphs](#) and in the Assisted Decision Making templates (ADM).

## Scenario 1: unknown nationality

### Description

The Home Office does not accept the claimant's claimed nationality of X, but cannot sufficiently evidence that the claimant is a national of another country (or that they are removable to another country).

For clarity: uncertainty regarding a claimant's true nationality does not mean they are stateless. To qualify for a grant of asylum as a stateless person, a claimant must establish that they have no nationality and that they are outside the country of their last habitual residence owing to a well-founded fear of persecution for a Convention reason, and that owing to such a fear they are unable or unwilling to return to it. Those who claim to be stateless but cannot demonstrate a well-founded fear of persecution may apply for stateless leave under the Immigration Rules if they are not admissible to any other country. See: Statelessness and applications for leave to remain.

### CID entries

Special Conditions screen:

- in the 'Special Condition Type' field, select 'Nationality Dispute'
- in the 'Lodged Date' field, enter the date that the claimant's nationality was doubted
- in the 'Additional Information' field, add any further relevant information (for instance, the country to which it is believed the claimant may be removable and why)
- do not enter anything in the 'Closed Date' field until the Special Condition no longer applies (if the claimed nationality is finally accepted by the Home Office)

### Correspondence (including RFRL) nationality address

Nationality: X (claims to be)

### **RFRL consideration:**

- reject with reasoning the claimed nationality (X), on the basis that the claimant has failed to prove it to the required standard (reasonable likelihood)
- refuse the claim on the basis that the claimant has failed to establish their nationality (X) and has therefore failed to establish that they are outside of their country of nationality (X) owing to a well-founded fear of persecution or that their removal would result in a breach of the European Convention on Human Rights (ECHR)
- consider the risk on return to the claimed country of origin (X), in the event of an appeal which accepts the claimed nationality
- confirm that when return is arranged, it will only be to a country where there is no risk on return

## **Scenario 2: disputed nationality**

### **Description**

The Home Office does not accept the claimant's claimed nationality and can evidence that they are the national of another country.

### **CID entries**

Special Conditions screen:

- in the 'Special Condition Type' field, select 'Nationality Dispute'
- in the 'Lodged Date' field, enter the date that the claimant's nationality was disputed
- in the 'Additional Information' field, add any further relevant information (for example, details of the country to which it is believed the claimant is removable and why)
- do not enter anything in the 'Closed Date' field until the Special Condition no longer applies (if the claimed nationality is finally accepted by the Home Office)

CID Person Maintenance Screen:

- in the 'Person' tab, change the 'Nationality' field to the believed nationality
- in the 'Alias' tab, complete the identity fields with the identity information, ensuring that the 'Nationality' field shows the false nationality
- enter 'Nationality – Disputed' in the 'Alias Type' field

### **Correspondence (including RFRL) address**

Nationality:

X (claims to be)

Y (believed to be)

### **RFRL consideration:**

- reject with reasoning the claimed nationality (X), on the basis that the claimant has failed to prove it to the required standard (reasonable likelihood)
- assert with reasoning an alternative nationality (Y), which is believed to be the true nationality by the Home Office, which must be proven to the required standard (the balance of probabilities)
- refuse the claim on the basis that the claimant has failed to establish their nationality (X) and has therefore failed to establish that they are outside of their country of nationality (X) owing to a well-founded fear of persecution or that their removal would result in a breach of the ECHR
- consider the risk on return to the claimed country of origin (X), in the event of an appeal which accepts the claimed nationality (X)- note that the claimed fear in claimed country of origin will in any case be avoided as the Home Office will return them to a different, safe country
- consider the risk on return to what the Home Office asserts is the true country of nationality (Y)
- confirm the country of proposed return

## **Scenario 3: dual nationality**

### **Description**

The Home Office accepts the claimant's assertion of being a national of more than one country.

### **CID entries**

CID Person Maintenance screen:

- in the 'Person' tab, in the 'Nationality' field, enter the claimant's primary / preferred nationality
- in the 'Person Notes' tab, enter the details of the claimant's second nationality and the reasons why it is believed that they can be removed to that country

### **Correspondence (including RFRL) address**

Nationality: X and Y

### **RFRL consideration:**

- accept the claimed nationalities (X and Y) if established to the required standard (reasonable likelihood)
- consider the risk on return to all countries of nationality (X and Y and any others)
- confirm the country / countries of proposed return

## **Scenario 4: removable to more than one country**

## **Description**

The Home Office is satisfied that the claimant holds their claimed nationality, but considers that they are removable to that country and another country, or, the Home Office cannot be satisfied of the nationality of the claimant, but there is evidence that the claimant is removable to one or more other countries.

### **CID entries**

(Claimed nationality is accepted, evidence of removability to another country)  
CID Person Maintenance screen:

- in the 'Person Notes' tab, enter details of the country to where it is believed the claimant can be removed
- do not open a disputed case on the 'Special Conditions' screen

(Claimed nationality is doubted, evidence of removability to another country)  
Special Conditions screen:

- in the 'Special Condition Type' field, select 'Nationality Dispute'
- in the 'Lodged Date' field, enter the date that the claimant's nationality was disputed
- in the 'Additional Information' field, add any further relevant information (for example, details of the country or countries to which it is believed the claimant is removable and why)
- do not enter anything in the 'Closed Date' field until the Special Condition no longer applies (if the claimed nationality is finally accepted by the Home Office)

CID Person Maintenance Screen:

- in the 'Person' tab, change the 'Nationality' field to the believed nationality
- in the 'Alias' tab, complete the identity fields with the identity information, ensuring that the 'Nationality' field shows the false nationality
- enter 'Nationality – Disputed' in the 'Alias Type' field

### **Correspondence (including RFRL) address**

(Claimed nationality accepted, evidence of removability to another country)  
Nationality: X, but removable to Y also

(Claimed nationality doubted, evidence of removability to another country)  
Nationality: X (claims to be), removable to Y

### **RFRL consideration:**

- accept the claimed nationality (X) if established to the required standard (reasonable likelihood)
- assert with reasoning one or more other countries (Y) to which the Home Office believes the claimant could be removed

- consider the risk on return to the country of nationality (X)
- consider the risk on return to any other country to which the claimant may be removed (Y)
- confirm the country / countries of proposed return

## Scenario 5: disputed statelessness in asylum claims

### Description

The Home Office does not accept the claimant's claim to be a stateless person in the asylum claim, and can evidence that they are the national of a country other than that in which they were formerly habitually resident.

### CID entries

Special Conditions screen:

- in the 'Special Condition Type' field, select 'Nationality Dispute'
- in the 'Lodged Date' field, enter the date that the claimant's nationality was disputed
- in the 'Additional Information' field, add any further relevant information (for example, details of the country or countries to which it is believed the claimant is removable and why)
- do not enter anything in the 'Closed Date' field until the Special Condition no longer applies (if the claimed nationality is finally accepted by the Home Office)

Person Maintenance screen:

- in the 'Person' tab, in the 'Nationality' field, enter the believed country of nationality
- in the 'Alias' tab, complete the identity fields with the identity information, ensuring that the 'Nationality' field shows the false nationality; enter 'Nationality – Disputed' in the 'Alias Type' field
- if the claimant is later accepted as being stateless, officers must amend CID, accordingly

### Correspondence (including RFRL) address

Nationality:

Stateless (claims to be)

Y (believed to be)

### RFRL consideration:

- reject with reasoning the claim of statelessness in the asylum claim, on the basis that the claimant has failed to prove it to the required standard (the balance of probabilities)
- assert with reasoning an alternative nationality (Y) which is believed to be the true nationality by the Home Office (which may be the nationality of the country

of claimed habitual residence), which must be proven to the required standard (the balance of probabilities)

- refuse the claim on the basis that the claimant has failed to establish that they have no nationality and are outside of their last country of habitual residence owing to a well-founded fear of persecution for reasons of statelessness or that their removal would result in a breach of the ECHR
- consider the risk on return to the claimed country of habitual residence if the claimant is considered to be a national of that country (or in the event of an appeal which makes such a finding)
- consider the risk on return to what the Home Office asserts is the true country of nationality (Y)
- confirm the country / countries of proposed return

## Scenario 6: unaccepted statelessness in asylum claims

### Description

The Home Office does not accept the claimant's claimed statelessness in country X in the asylum claim, but cannot evidence that the claimant is a national of their last country of habitual residence, or that they are the national of another country (or that they are removable to another country).

### CID entries

Special Conditions screen:

- in the 'Special Condition Type' field, select 'Nationality Dispute'
- in the 'Lodged Date' field, enter the date that the claimed statelessness was not accepted
- in the 'Additional Information' field, add any further relevant information (for instance, the country of last habitual residence)
- do not enter anything in the 'Closed Date' field until the Special Condition no longer applies (if the claimed statelessness is finally accepted by the Home Office)

### Correspondence (including RFRL) address

Nationality: Stateless (claims to be)

### RFRL consideration:

- reject with reasoning the claim of statelessness in the asylum claim, on the basis that the claimant has failed to prove it to the required standard (the balance of probabilities)
- refuse the claim on the basis that the claimant has failed to establish that they have no nationality and are outside of their last country of habitual residence owing to a well-founded fear of persecution for reasons of statelessness or that their removal would result in a breach of the ECHR

- consider the risk on return to the claimed country of habitual residence in the event of an appeal which finds the claimant to be a national of that country
- confirm that return will only be to a country where there is no risk on return

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# Asylum decisions – standard paragraphs

## Unknown nationality cases

Your asylum and/or human rights claim is based upon an alleged fear of harm in **country X**. It is not accepted [either] that you are a national of **country X** [or that you have established a real risk of persecution or that there would be a breach of the ECHR if returned to **country X**] (see paragraph **numbers**).

Although any appeal will be considered on the basis of a risk of return to **country X**, as this is the country of which you claim to be a national, the Home Office will argue that you are not a national of that country so the appeal must fail.

Notwithstanding that conclusion, if the Tribunal considers that you are in fact a national of **country X** and that there is no risk on return, you will be returned to **country X**.

## Disputed nationality cases

Your asylum and/or human rights claim is based upon an alleged fear of harm in **country X**.

It is not accepted that you are a national of **country X**; however, if you were, it **is/is not** accepted that you have established a real risk of persecution or that there would be a breach of the ECHR if you were returned to **country X**. It is considered that you are in fact a national of **country Y** (see paragraph **numbers**), and it is considered that you have not established a real risk of persecution or that there would be a breach of the ECHR if you were returned there (see paragraph **numbers**). You will be removed to **country Y**.

## Dual nationality cases

Your asylum and/or human rights claim is based upon an alleged fear of harm in **country X**.

It is considered that you are a dual national of **country X** and **country Y** (see paragraph **numbers**). It **is/is not** accepted that you have established a real risk of persecution or that there would be a breach of the ECHR if you were returned to **country X** (see paragraph **numbers**). It **is/is not** accepted that you have established a real risk of persecution or that there would be a breach of the ECHR if you were returned to **country Y** (see paragraph **numbers**). You will be removed to **country X/country Y/country X or Y**.

## Accept claimant is a national of country X, but also removable to country Y

Your asylum and/or human rights claim is based upon an alleged fear of harm in **country X**.

It is accepted that you are a national of **country X** (see paragraph **numbers**). However, it is considered that you can be removed to **country Y** (see paragraph **numbers**). It **is/is not** accepted that you have established a real risk of persecution or that there would be a breach of the ECHR if you were returned to **country X** (see paragraph **numbers**). It **is/is not** accepted that you have established a real risk of persecution or that there would be a breach of the ECHR if you were returned to **country Y** (see paragraph **numbers**). You will be removed to **country X/country Y/country X or Y**.

## Disputed statelessness cases

Your asylum and/or human rights claim is based upon your claim to be a stateless person and your fear of harm in your last country of habitual residence, **country X**.

It is not accepted that you are stateless, as it is believed that you are in fact a national of **country X [or country Y]** (see paragraph **numbers**).

It **is/is not** accepted that you have established a real risk of persecution or that there would be a breach of the ECHR if you were returned to **country X** (see paragraph **numbers**). **[It is/is not accepted that you have established a real risk of persecution or that there would be a breach of the ECHR if you were returned to country Y (see paragraph numbers).]** You will be removed to **country X/country Y/country X or Y**.

## Unaccepted statelessness cases

Your asylum and/or human rights claim is based upon your claim to be a stateless person and your fear of harm in your last country of habitual residence, **country X**.

It is not accepted that you are stateless (see paragraph **numbers**), or that you have established that you are outside of your last country of habitual residence (**country X**) owing to a well-founded fear of persecution for reasons of statelessness, or that there would be a breach of the ECHR if you were returned to **country X** (see paragraph **numbers**).

Although any appeal will be considered on the basis of a risk of return to **country X**, as this is the country in which you claim you were last habitually resident as a stateless person, the Home Office will argue that you are not someone who was habitually resident as a stateless person in that country so the appeal must fail.

[Notwithstanding that conclusion, if the Tribunal considers that you are in fact a national of **country X** and that there is no risk on return, you will be returned to **country X**.]

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# Appeals

The First-tier Tribunal (FtT) can consider risk upon return in relation to all of the countries specified in the RFRL. This ensures that the FtT considers all potential asylum and / or human rights barriers to removal during a single statutory appeal.

When disputing nationality, if the presenting officer relies positively on the appellant being a national of a country other than the country claimed, they must establish that on the balance of probabilities. However, as specified in the case of [OI \[2004\] UKIAT 00196](#), the appellant is only required to establish their nationality to the lower standard of proof (reasonable likelihood).

## Before and during the appeal hearing

The presenting officer must in all cases:

- before the appeal, check that the RFRL has been completed appropriately
- present the appeal by identifying the risk of removal to the appellant in all the countries specified in the RFRL
- emphasise to the court that the appellant will not be removed to any country where the RFRL or the tribunal itself has accepted that the appellant will be at risk if removed

The presenting officer must in disputed nationality cases only:

- submit on the balance of probabilities that the appellant is not a national of the claimed country

If new evidence comes to light during the appeals process such that the initial decision needs to be reconsidered, and there is a realistic prospect that the decision will be different, presenting officers must refer to and apply the Withdrawing decisions and conceding appeals guidance.

## Post-appeal determination

When the appeal determination is promulgated, Appeals, Litigation and Subject Access Requests Directorate (ALS) must minute the Home Office file and CID to state the outcome of the appeal and where appropriate, to which country (or countries) the tribunal found that the person can be removed. This is to assist the later removal action, to ensure that removal is to the appropriate country or region.

### Related content

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# Process improvement

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