

WAR CRIMES, CRIMES AGAINST HUMANITY AND GENOCIDE

1. War Criminals

1.1 This guidance covers the handling of naturalisation applications from people suspected of involvement in war crimes, crimes against humanity or genocide.

1.2 **RESTRICTED - NOT FOR DISCLOSURE**

1.3 **RESTRICTED - NOT FOR DISCLOSURE**

1.4 This guidance must be read by all Nationality Group staff involved in screening for applicants who may have been involved in war crimes, crimes against humanity or genocide. (As genocide is a particular subset of crimes against humanity references in this document to crimes against humanity should be taken to include genocide.)

2. Citizenship applications from people suspected of involvement in war crimes or crimes against humanity.

2.1 One of the requirements for naturalisation as a British citizen or a British overseas territories citizen is that the Secretary of State be satisfied that the applicant is of "good character". Applicants should be refused if their activities cast 'serious doubts' on their character. Serious doubts will be cast if applicants have been involved in or associated with war crimes, crimes against humanity or genocide. Serious doubts will also be cast if applicants have supported the commission of war crimes, crimes against humanity or genocide or have supported groups whose main purpose or mode of operation consisted of the committing of these crimes even if that support did not make any direct contribution to the groups' war crimes or crimes against humanity and genocide.

2.2 In ascertaining whether there are sufficient grounds for refusing an application for involvement in war crimes, crimes against humanity or genocide, consideration will be given to evidence directly linking the applicant with these crimes. It will also be given to factors such as the likelihood of his/her having been involved through membership of, or activities for groups responsible for committing war crimes, crimes against humanity or genocide. In determining the significance of these links, consideration will be given to such factors as the role of the applicant, the length of membership and his/her seniority within that group.

3. Information on an applicant's activities already held by UKBA

3.1 In making a decision on the application, all relevant information already held by UKBA relating to the applicant may be considered.

4. Post refusal action

4.1 In addition to the refusal of citizenship further action may be taken against an applicant suspected of involvement in war crimes, crimes against humanity or genocide, such as deportation or removal action and referral to the police for further investigation.

4.2 When an unsuccessful applicant enquires about the possibility of being naturalised *in the future* we should explain that, whilst naturalisation is at the Home Secretary's discretion and each application will be considered on its merits, it is *likely*

that any further application will also be refused unless the individual's circumstances are by then materially different - for example, he or she has been brought before a competent court or tribunal to answer charges relating to the activities that led to the original refusal and has been acquitted.

5. Screening

5.1 RESTRICTED - NOT AVAILABLE FOR DISCLOSURE

5.2 The documents most likely to contain information relating to war crimes or crimes against humanity are

- Screening interviews
- SEF/SQFs and/ or personal statements from the applicant
- Asylum interviews
- Reasons for refusal letters
- Grant notes
- Pre appeal representations or additional personal statements from the applicant.
- Appeals determinations
- Supporting evidence such as identity cards or photos.
- Allegation letters
- Letters and representations from the applicant / representatives

6. Definitions of war crimes, crimes against humanity and genocide

6.1 War Crimes

6.1.1 Grave breaches of the Geneva Conventions committed during an armed conflict. This may include willful killing, torture, the intentional targeting of civilians, hostage taking, mistreatment of prisoners of war and the extensive destruction of property not justified by military necessity.

6.2 Crimes against humanity

6.2.1 Acts committed at any time (not just during armed conflict) as part of a widespread or systematic attack, directed against any civilian population with knowledge of the attack. This would include offences such as murder, torture, rape and severe deprivation of liberty in violation of fundamental rules of international law and enforced disappearance of persons.

6.3 Genocide

6.3.1 Acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group. This includes killing, causing serious bodily harm, inflicting measures to prevent births and forcibly transferring children of the group to another group.

7. The decision

7.1 The information about an applicant will be considered against information from reputable sources on war crimes and crimes against humanity in the country concerned and, where relevant, on the groups in which the applicant has been involved. Where these sources provide sufficient evidence to support the view that the applicant's activities or involvement constitute

responsibility for, or close association with, war crimes or crimes against humanity, the application should be refused.

8. Information relevant to war crimes or crimes against humanity

- 8.1 This information will usually consist of one or more of the following;
- Admission or allegation of involvement in any of the crimes which constitute a war crime or crime against humanity.
 - Admission or allegation of involvement in groups known to have committed war crimes or crimes against humanity. Consideration of the significance of this information will depend on the relevance and detail of the information provided by the applicant as well the extent to which this information links the applicant with war crimes or crimes against humanity.
- 8.2 **RESTRICTED - NOT AVAILABLE FOR DISCLOSURE**
- 8.3 The information indicating war crimes or crimes against humanity may range from a brief claim to have been a member of a particular group or profession with no indication as to the length, dates, location or nature of these activities, to a detailed and time framed account including information about the applicant's activities, responsibilities and level of seniority within an organisation of interest.
- 8.4 Although an applicant will occasionally openly admit to having committed crimes which constitute war crimes or crimes against humanity, evidence which may indicate these crimes is much more likely to take the form of a claim of involvement in a particular group or profession which is known to have committed war crimes or crimes against humanity. In certain cases the applicant may deny, or may not have mentioned involvement in war crimes or crimes against humanity, however in these cases, the likelihood of an applicant having taken part in these crimes will often depend on factors such as the nature of the group itself, the degree to which the group has involved itself in war crimes or crimes against humanity and the nature of the involvement of the applicant.
- 8.5 Involvement includes activities where the applicant may not have had a direct involvement in war crimes or crimes against humanity but where his/her actions have contributed towards war crimes or crimes against humanity, such as, supplying help which the supplier knows is likely to contribute towards the committing of war crimes or crimes against humanity. This could include for instance providing transport to take prisoners to a site where they are going to be murdered.
- 8.6 In certain cases membership of a particular group may be sufficient to determine that an applicant has been supportive of, and in some cases complicit in, war crimes or crimes against humanity committed by that group. In such cases consideration will be given to the length of membership and the degree to which the group employed war crimes or crimes against humanity to achieve its ends.
- 8.7 Occasionally there will be evidence on file of an allegation against the applicant of involvement in war crimes or crimes against humanity, for instance an allegation letter to UKBA from a third party or a claim from the applicant that he/she will face court action from the authorities for war crimes/crimes against humanity if returned to his own country.

9. Mitigating circumstances

9.1 Where applicants have been involved in war crimes or crimes against humanity, but where there is evidence of mitigating circumstances, decisions will be made with consideration of applicable defences under international criminal law.

10. The types of case and the likely corresponding decision category are listed below

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(A). No information on file indicating war crimes or crimes against humanity.

10.3 RESTRICTED - NOT AVAILABLE FOR DISCLOSURE

10.4 Where there is no indication on file of involvement in war crimes or crimes against humanity, caseworkers can return the file to the nationality workflow for it to be considered as normal. (File should be clearly minuted as to why the case is being returned.)

(B). Information clearly linking applicant with specific war crimes or crimes against humanity with no mitigating circumstances.

10.5 Where the applicant clearly admits to having committed crimes which constitute war crimes or crimes against humanity and where there is no indication of mitigating circumstances, the application should be refused

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10.7 RESTRICTED - NOT AVAILABLE FOR DISCLOSURE

10.8 RESTRICTED - NOT AVAILABLE FOR DISCLOSURE

10.9 RESTRICTED - NOT AVAILABLE FOR DISCLOSURE

10.10 RESTRICTED - NOT AVAILABLE FOR DISCLOSURE

(D). Insufficient or vague information about applicant's activities.

10.11 Where there is some indication of involvement in war crimes or crimes against humanity but this information is vague or lacking in detail or where it appears that the applicant has previously been evasive about his activities, more information should be sought from the applicant either via written questions or an interview. This may arise for instance where there is evidence indicating involvement in war crimes or crimes against humanity but there is not enough evidence to either to support a refusal or to consider that the good character requirement has been satisfied.

10.12 Examples could include cases where the applicant states that he/she was a long term member of a particular group but where there is little or no information as to that person's activities or level of seniority within that group, or where he states that he was a commander, with no indication as to where or when he commanded anyone or what this role entailed. Further enquiries should not, however be used as a 'fishing trip' and caseworkers should have a clear idea of how the answers to the questions would help in making a decision on the case.

11. Interview arrangements

11.1 Caseworkers must, for administrative and operational purposes, ensure that:

- If it is established that there is a need to interview the applicant, a letter must be sent to the applicant informing them of this decision and asking if they require an interpreter and/or a representative to be present. The letter should also make it clear that they are required to pay for their own travel costs to Liverpool to attend the interview. Interviews cannot be held elsewhere in the country;
- Applicants are also informed that should they bring a representative into the interview with them, the representative is only permitted to comment and make observations at the conclusion of the interview. These comments and observations must be recorded and a copy given to the applicant and/or representative.
- Applicants are informed that if an interpreter is required then UKBA will appoint an independent interpreter but the cost of this must be borne by the applicant.
- The interview arrangements listed in 11.1 above must be made clear to the applicant from the outset.

11.2 If the applicant does not wish to attend an interview due to their restricted knowledge of English then we should, if possible, allow them to complete some written questions instead. Although an interview must always be arranged if an applicant is suspected of having obtained ILR by deception after having concealed or lied about activities relating to war crimes or crimes against humanity.

12. Failure to attend interview or to return written questions

12.1 Applications from those who fail to attend an interview or to provide answers to the written questions may be refused where the failure to attend combined with the evidence indicating involvement in war crimes or crimes against humanity casts sufficient doubt on the applicant's character.

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