



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 2

#### ASYLUM

##### *Interpretation of Refugee Convention*

#### **31 Article 1(A)(2): persecution**

- (1) For the purposes of Article 1(A)(2) of the Refugee Convention, persecution can be committed by any of the following (referred to in this Part as “actors of persecution”) —
- (a) the State,
  - (b) any party or organisation controlling the State or a substantial part of the territory of the State, or
  - (c) any non-State actor, if it can be demonstrated that the actors mentioned in paragraphs (a) and (b), including any international organisation, are unable or unwilling to provide reasonable protection against persecution.
- (2) For the purposes of that Article, the persecution must be—
- (a) sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the Human Rights Convention, or
  - (b) an accumulation of various measures, including a violation of a human right, which is sufficiently severe as to affect an individual in a similar manner as specified in paragraph (a).
- (3) The persecution may, for example, take the form of—
- (a) an act of physical or mental violence, including an act of sexual violence;
  - (b) a legal, administrative, police or judicial measure which in itself is discriminatory or which is implemented in a discriminatory manner;
  - (c) prosecution or punishment which is disproportionate or discriminatory;

---

*Status: This is the original version (as it was originally enacted).*

---

- (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
- (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts as described in Article 1(F) of the Refugee Convention (on which, see section 36).