

Refugee

REFUGEE

A refugee is defined at INA §§208(B)(1)(A), 101(a)(42)(A) as:

Any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

DUAL NATIONALITY

Zepeda-Lopez, et al. v. Garland, No. 19-145 (2d Cir. 2022)

The Second Circuit granted Petitioners' petition for review and held that to qualify as a "refugee" under the INA, a dual national asylum applicant need only show persecution in any singular country of nationality. The court explained that to be eligible for asylum and withholding of removal, an individual must be a "refugee." 8 U.S.C. Section 1158(b)(1)(A). But this is only one step in the asylum process. Even if an individual is a refugee, there are other bars to asylum, see 8 U.S.C. Sections 1158(a)(2) (exceptions to authority to apply for asylum), 1158(b)(2) (exceptions to eligibility for asylum), and even assuming all bars are overcome, the decision of whether to grant a particular asylum application is still a matter of discretion for the Attorney General. Further, the court held that to be considered a "refugee" under Section 1101(a)(42)(A), a dual national need only show persecution in any singular country of nationality.

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