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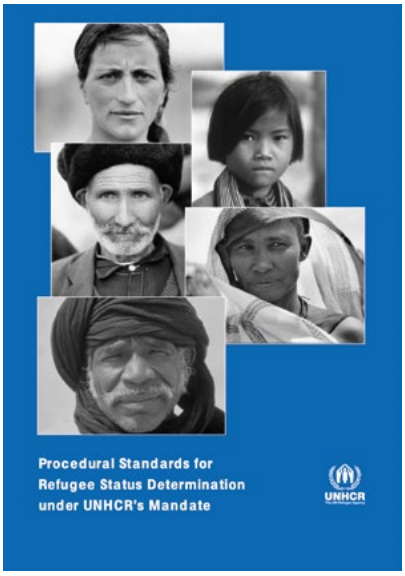
Procedural Standards

for Refugee Status Determination under UNHCR's Mandate



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Unit 1

INTRODUCTION

UNHCR's Mandate for Refugee Status Determination (RSD)

Refugee Status Determination is the legal or administrative process by which governments or UNHCR determine whether a person seeking international protection is considered a refugee under international, regional or national law. RSD is a vital process in helping refugees realize their rights under international law. This process can be done on an individual or group basis. Although States have the primary responsibility for determining refugee status, UNHCR may conduct RSD in countries and territories that are not party to the 1951 Convention, or which have not yet established the legal and institutional framework to support an RSD process. RSD pursuant to UNHCR's mandate is a **core protection function**.

The Procedural Standards for RSD under UNHCR's Mandate sets out the **minimum procedural standards for when RSD is conducted by UNHCR under its mandate**. It establishes **core principles and standards** that must be observed to ensure that all asylum-seekers applying for refugee status determination under UNHCR's mandate benefit from accurate, timely and consistent decision-making and to support capacity-development of UNHCR RSD staff and other stakeholders.

In 2003, UNHCR issued the Procedural Standards for Refugee Status Determination under UNHCR's Mandate ("2003 RSD Procedural Standards") to establish minimum procedural standards and harmonize its RSD procedures across UNHCR operations. However, the global rise in refugee numbers, including in mandate RSD operations, and the need to enhance the capacity of UNHCR to respond to the increased number of individual applications, have since resulted in the development of UNHCR's strategic engagement with RSD in 2015. The revised RSD Procedural Standards seek to address these considerations, while they incorporate updates to UNHCR policies, guidance and practices since the release of the 2003 RSD Procedural Standards.

The considerations that follow have been developed to provide guidance on **UNHCR procedures to determine eligibility for mandate refugee status determination on an individual basis**, through the examination of individual claims.

Core principles and standards

Certain core principles and standards must be incorporated into the RSD procedures in every UNHCR Office to ensure that all asylum seekers, regardless of where they apply for RSD by UNHCR, benefit from consistent standards of due process.

CORE STANDARDS FOR DUE PROCESS IN MANDATE RSD

- RSD applications must be processed on a non-discriminatory basis pursuant to transparent and fair procedures, and in the most timely and efficient manner possible.
- Applicants undergoing individual RSD procedures must have the opportunity to present their claims in person in an RSD Interview with a qualified Eligibility Officer.
- Procedures should be in place to identify and assist asylum seekers with specific needs.
- The best interests of the child must be a primary consideration in deciding whether and how to interview a child Applicant.
- Applicants who approach UNHCR Offices should have access to UNHCR staff and procedures, and should receive the necessary information to permit them to understand and participate in the RSD process and UNHCR procedures as well as to provide them with the appropriate support.
- Applicants should have access to interpretation and take part in the procedure in a language that they understand.
- Confidentiality and data protection extend to all communications with current and former asylum-seekers and refugees, as well as all personal data or information obtained from or about them by UNHCR staff and partners in the course of their activities.
- Applicants whose RSD decision was negative at first instance have the right to appeal that negative RSD decision.
- All aspects of the RSD procedures must be consistent with established UNCHR policies relating to standards of treatment, including age, gender and diversity considerations.

In terms of Refugee Status Determination, **differentiated case processing modalities** can be applied, including regular RSD, accelerated RSD, merged registration- RSD and merged RSD- Resettlement; case processing modalities can also be simplified. Operations must evaluate which case processing modalities are most appropriate and consider if different case processing modalities can be introduced for various population groups and profiles. Core principles and key procedural standards applies also when an UNHCR Office applies differentiated case processing methodologies.

Overview of the RSD Procedural Standards

The RSD Procedural Standards provide detailed procedural guidelines for every stage of the process of mandate RSD, from the reception of asylum seekers by UNHCR through to the final determination of the claim.

The issues addressed in the RSD Procedural Standards include:

- Confidentiality and Data Protection in UNHCR RSD Procedures
- RSD File Management and Recordkeeping Procedures
- Physical Facilities of RSD Procedures
- Office Security
- Interpretation in UNHCR RSD Procedures
- Complaint Procedures
- Legal Representation in UNHCR RSD Procedures
- Children in UNHCR RSD Procedures
- Applicants with Mental Health Conditions and Intellectual Disabilities in UNHCR RSD Procedures
- Reception and Registration in RSD Operations
- Adjudication of RSD Claims
- Processing Claims based on the Right to Family Unity
- Notification of RSD Procedures
- Appeal of Negative RSD Decisions
- UNHCR Refugee Certificate
- Procedures for Case Closure and Re-opening
- Procedures for Cancellation of Refugee Status
- Procedures for Cessation of Refugee Status

A selection of **standard forms**, **checklists** and **other RSD tools** have been developed to support the implementation of the RSD Procedural Standards and are included as Annexes to the various Units. The tools have been specifically designed to promote more effective and consistent information gathering and to guide UNHCR personnel in preparing concise and comprehensive referrals and assessments. The tools also include models for individual letters and documentation relating to RSD procedures.

A Complement to Other UNHCR Documents and Resources

The RSD Procedural Standards have been developed as a procedural tool and as such, do not provide guidance on the interpretation of the refugee criteria or address substantive issues relating to RSD. The RSD Procedural Standards incorporate elements of existing UNHCR guidance as well as other external resource material that are relevant in RSD procedures, though it does not provide comprehensive operational and institutional guidance. A list of relevant UNHCR and other external resource material has been included at the end of each Unit of the RSD Procedural Standards as an Annex and will be updated on a regular basis.

The RSD Supervisor or designated Protection personnel is expected to be aware of all relevant UNHCR operational guidelines affecting RSD operations, and should ensure they are reflected in the RSD procedures in each UNHCR Office and that they are understood by personnel who are responsible for their implementation. Overall accountability lies with the Representative or Head of Office.

Implementation of the RSD Procedural Standards

The RSD procedural standards should **be implemented in all operations where UNHCR has responsibility to conduct RSD pursuant to its mandate**, and should apply to all individuals who are requested or engaged by UNHCR to carry out RSD procedures in these operations. Each UNHCR Office should ensure that the RSD Procedural Standards are shared with and fully understood by those who are responsible for their implementation.

Effective implementation requires that the minimum procedural standards be incorporated into **standard operating procedures for RSD** in every UNHCR Office.

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Unit 2

GENERAL ISSUES

2.1 Confidentiality and Data Protection in UNHCR RSD Procedures

2.1.1 Protection of Personal Data and Duty of Confidentiality in UNHCR RSD Procedures

The confidentiality of UNHCR RSD procedures is essential for creating an **environment of security and trust** for asylum-seekers and other individuals participating in UNHCR procedures, as well as for maintaining the integrity of UNHCR RSD procedures.[1] All UNHCR staff, including interpreters and security staff, as well as any partners, counsellors or medical practitioners who provide services to asylum-seekers and refugees under an agreement with UNHCR, have a duty to ensure the confidentiality of personal data[2] and other information received from or about such individuals in accordance with UNHCR's data protection policy and confidentiality standards.[3] This includes the fact that an individual has registered or is in contact with UNHCR.

The **duty of confidentiality extends to all communications with current and former asylum-seekers and refugees, as well as all personal data or information obtained from or about them** by UNHCR staff and partners in the course of their activities.[4]

UNHCR standards regarding the protection of personal data of current and former asylum-seekers and refugees, as well as the confidentiality of other information provided by Applicants or otherwise gathered in the course of RSD should be incorporated into the procedures of every UNHCR Office. These standards should be understood and adhered to by all UNHCR staff and any other individuals who are responsible for implementing RSD procedures. Specific recommendations regarding the processing of personal data in the context of RSD and, more generally, the confidentiality of RSD procedures are set out in the relevant sections of this Unit and throughout the RSD Procedural Standards. These include, *inter alia*, procedures and measures for the protection against unauthorised disclosure and accidental loss or transfer of personal data and other information on individual RSD files, as well as measures to ensure

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1 For example, an Applicant's family members or individuals witnessing on an Applicant's behalf, who may not themselves be persons of concern to UNHCR.

2 According to UNHCR's data protection policy, personal data is any data related to an individual who can be identified from that data; from that data and other information; or by means reasonably likely to be used related to that data. Personal data includes biographical data such as name, sex, marital status, date and place of birth, country of origin, country of asylum, individual registration number, occupation, religion and ethnicity, biometric data (such as a photograph, fingerprint, facial or iris image), as well as any expression of opinion about the individual (such as assessments of the status and/or specific needs).

3 This implies that all UNHCR staff understand their obligations in respect to the confidentiality of personal data of persons of concern, including the relevant provisions in the Code of Conduct (see Principle 6) and UN Staff Rules (see Regulation 1.2). Interpreters must also sign an Undertaking of Confidentiality and Impartiality (see § 2.5.2 – *Qualifications and Training of UNHCR Interpreters*). For implementing partners, standard data protection clauses must be integrated into the standard Project Partnership Agreement. For operational partners and other third parties, UNHCR must seek written agreement that the personal data will be kept confidential at all times and if data transfers are likely to be large, repeated or structural, a Data Transfer Agreement must be instituted.

4 For further guidance on data protection of persons of concern, please refer to UNHCR's data protection policy and guidance. The retention and storage of personal data of persons no longer of concern to UNHCR, including individual RSD files, must be done in accordance with UNHCR's records and archives policy.

that registration and RSD interviews are conducted in a confidential setting, and measures to protect the identity of Applicants at reception.[5]

Applicants for RSD should be informed of the confidentiality of UNHCR's procedures as well as their **rights relating to the processing of personal data** (for further guidance on individual rights, see § 2.1.3 – *Disclosure to Individual Asylum-seekers and Refugees and Other Rights relating to Personal Data in the Context of RSD Procedures*).[6] The requirements for the disclosure of personal data or other information provided by or on their behalf, including information sharing agreements with host country/country of asylum authorities or resettlement countries where applicable, should be explained to the Applicant as soon as practicable (see § 2.1.4 – *Disclosure to Host Country/Country of Asylum Authorities*). Applicants should also be advised that the UNHCR Offices may share personal data and other information provided by them or on their behalf with other staff members in the UNHCR Office, or with UNHCR Headquarters or other UNHCR Offices, as necessary and on a need-to-know basis (see, for instance, §§ 2.8.1 – *General Considerations relating to Child Applicants*, 4.3.5 – *Planning and Preparation for the RSD Interview* and 4.4 – *Procedures for Review of RSD Decisions*).

2.1.2 General Criteria for Disclosure of Personal Data and Other Information on Individual RSD Files

Disclosure of information provided by or about asylum-seekers and refugees should be made **in accordance with applicable standards and procedures** issued by DIP, including in particular the data protection policy and guidance. Wherever necessary, UNHCR Offices should seek the guidance of DIP in determining the appropriateness of disclosure of personal data and other confidential information from individual UNHCR RSD files.

STANDARDS & GUIDELINES

PERSONAL DATA OR OTHER INFORMATION PROVIDED BY OR ON BEHALF OF ASYLUM-SEEKERS AND REFUGEES MAY BE DISCLOSED ONLY IF ONE OR SEVERAL OF THE FOLLOWING CONDITIONS (LEGITIMATE BASES) ARE MET:

- with the individual's consent;[7]
- in his/her vital or best interests;
- to enable UNHCR to carry out its mandate;[8] and/or
- to ensure the safety and security of persons of concern or other individuals.

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[5] See Unit 3 – *Reception and Registration in RSD Operations* and Unit 4 – *Adjudication of Refugee Status Claims*.

[6] UNHCR data protection policy sets out the rights asylum-seekers and refugees have regarding their personal data, as well as the restrictions and limitations to such rights.

[7] For guidance on counselling regarding confidentiality of UNHCR RSD procedures at the beginning of the RSD Interview see § 4.3.6 – *Opening the RSD Interview*.

[8] For instance, UNHCR may share basic bio data and/or legal status of persons of concern with the authorities of the host country/country of asylum on a systematic basis and pursuant to an established Data Sharing Agreement in order to be able to carry out its mandate in the particular country. Under such circumstances, prior to, or at the commencement of UNHCR's registration process, prospective asylum-seekers should be informed that their bio data and/or legal status will be shared with the authorities of the host country/country of asylum.

Where **standard requirements for disclosure** can be anticipated in advance (i.e. requests by resettlement countries, international organizations, refugee serving agencies, implementing partners, host country/ country of asylum authorities, etc.), the prior free and informed consent of the individual concerned should be obtained and recorded on the file. UNHCR Offices should take appropriate steps to ensure that the recipient of the information has adequate procedures in place to safeguard the confidentiality of information received in accordance with UNHCR's data protection policy and guidance.

Personal data and other information relating to asylum-seekers and refugees should only be disclosed to third parties **if each of the following conditions for disclosure** are met:

STANDARDS & GUIDELINES

CONDITIONS FOR DISCLOSURE OF PERSONAL DATA AND OTHER INFORMATION FROM RSD FILES

- As a matter of principle, disclosure of personal data and other information from RSD files requires consent by the applicant concerned. Consent requires that the applicant has been duly informed of the purpose and the recipient of and that he or she has freely given his or her indication of agreement to the disclosure. In the absence of consent, other legitimate bases may justify the disclosure of personal data in line with the Data Protection Policy;
- Disclosure is required for a specified purpose and the type and extent of the information disclosed is necessary and proportionate to the purpose(s) for which it is being disclosed;
- Disclosure does not jeopardize the security of or give rise to other protection risks for the individual concerned, his/her family members, or other persons with whom the individual is associated;
- Disclosure does not compromise the security of UNHCR staff or third persons;
- Disclosure is consistent with UNHCR's international protection mandate, including its humanitarian and non-political character, and does not undermine the effective performance by UNHCR of its duties or the trust and confidence in UNHCR on the part of persons of concern;
- The personal data and other confidential information is transferred through secure means, as recommended under UNHCR's data protection policy and guidance;
- The recipient of the information undertakes to respect the confidentiality of the information, for instance through a contractual arrangement, and has adequate measures in place to safeguard the confidentiality of the information/protection of personal data; and
- Disclosure of personal data or other confidential information relating to asylum-seekers or refugees to national and international law enforcement, tribunals or courts may only take place following consultation with DIP and LAS in Headquarters, see § 2.1.6 – *Disclosure to National and International Law enforcement, Courts or Tribunals and Other International Bodies.*

If any of the conditions referred to above are not met, UNHCR Offices should obtain the **approval of DIP before disclosing** the information requested.

(a) With the Applicant's consent

As a general rule, the **free and informed consent**[9] **of the individual concerned** should be obtained before UNHCR discloses information from an individual RSD file to a third party. When seeking consent, UNHCR must inform the Applicant of the extent of the information to be disclosed, the recipient of the information, the purpose of the disclosure and the likely use of the information. Consent must be sought each time the information is to be disclosed to a different third party or used for purposes which the Applicant was not informed about and would not have reasonably expected at the time of the initial consent.

Consent may be given orally or in writing, or through clear affirmative action unambiguously indicating the Applicant's agreement,[10] and should be recorded on file. Where an Applicant refuses to consent to the disclosure of information, he/she should be counselled about the benefits and potential risks of disclosure, as well as made aware of any consequences of a decision to deny consent. The refusal to consent and reasons thereof should be recorded on file.

In some situations where consent is granted, disclosure of information provided by or about an Applicant may nevertheless raise safety or other protection risks for the individual in question. In such situations, the potential implications must be carefully assessed and every effort made to minimize any such risks. For instance, disclosure of apparently contradictory information provided by a family member/dependant, a witness or an applicant in a related case in relation to a refugee status claim may put the individual in question at risk, and thus would not be appropriate even if consent has been granted (for further guidance, see §§ 4.3.13 – *Information Provided by Witnesses*, 4.3.14 – I*nterview of Family Members or other Dependants* and 5.3.1 – *The Family Unity Interview*).

A child's ability to consent depends on his/her capacity to understand the process and its ensuing rights and obligations, and is determined on a case-by-case basis. Depending on their evolving capacity, including their age, level of maturity and development, and other relevant factors, children can provide consent to sharing their personal data or other information on their RSD file. For children who are not able to give consent, but can understand and agree to the disclosure of information, the child's informed assent should be sought. **Assent is the expressed willingness and views of a child.** Consent to personal data or other information sharing should also be obtained from the child's parent, family member with parental responsibility, or legal or customary caregiver, in addition to the consent or assent of the child himself/herself. Where the parent or caregiver is not reachable, the information can be disclosed with the child's consent, or in absence of consent, if it is in the child's best interests, taking into account his/her views. Where it is not in the best interests of the child to share the information with the child's parent or legal/customary caregiver, seeking the consent of that parent or legal/customary caregiver is neither necessary nor appropriate. In such cases, information about the child may be collected and disclosed if it is in the child's best interests (for further guidance on data protection for child Applicants, see § 2.8.4 (f) – *Confidentiality and Data Protection*).

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[9] To be valid, consent must be **informed**, that is consent must be based upon a clear appreciation and understanding of the facts, implications and consequences, which obliges UNHCR to inform the person of the purpose(s) of data collection, and how the data is, or is likely to be, used. Consent must also be **freely given**, meaning that the individual must have a genuine choice and be able to refuse or withdraw consent without adverse consequences.

[10] An example of an affirmative action could be if the parent of a child Applicant guides the child into the interviewing room after being asked for consent for the child to be interviewed.

Applicants with mental health conditions or intellectual disabilities, who do not adequately understand the RSD process and procedures and the ensuing rights and obligations, may not always be able to consent to the disclosure of personal data or other information relating to or provided by them. In such cases, the decision to disclose, or not to disclose the information should take into account the Applicant's will and preferences and may be taken on another legitimate basis as set out above and in the section below (for further guidance on confidentiality of UNHCR procedures and data protection in this context, see also § 2.9 – *Applicants with Mental Health Conditions or Intellectual Disabilities*).

(b) Without the Applicant's consent

In the absence of consent (e.g. because the Applicant cannot be reached or is unable to provide consent) the decision to disclose, or not to disclose information relating to the Applicant may be taken on another legitimate basis, for instance the vital or best interest of the individual concerned or to enable UNHCR to carry out its mandate. In such circumstances, the benefits of disclosure must be carefully weighed against the individual's expectation of confidentiality, as well as against any protection risks that may arise as a result of the disclosure. Where possible, the individual should still be informed of the reasons and scope and nature of the personal data disclosed to ensure fairness and transparency of the process, provided that such information does not compromise the safety and security of persons of concern to UNHCR or that of other individuals, or that information does not obstruct the very purpose of disclosure. Disclosure without the required consent should be subject to the approval of the Protection staff member designated under established data protection procedures in the UNHCR Office and, in appropriate cases, the advice of the Data Protection Officer in DIP may be sought, in accordance with UNHCR's data protection policy and guidance.

2.1.3 Disclosure to Individual Asylum-Seekers and Refugees and Other Rights relating to Personal Data in the Context of RSD Procedures

Asylum-seekers and refugees have a right to access their personal data or other information on their file. Such right is subject to limitations as set out in this section. **Individuals who seek information from their own UNHCR file**, should be permitted to receive originals or copies of all documents they provided to UNHCR, or of which they are the source. These include, but are not limited to, originals or copies of their passports, identity documents, marriage or birth certificates, education records, photos, medical records, or any documentary evidence of activities or incidents in the country of origin.

Disclosure of **documents generated by UNHCR or from a source other than the individual concerned**, such as interview records, RSD assessments, or notes on file, require the approval of the Protection staff member designated under the established procedures in the UNHCR Office, generally, the RSD Supervisor.

While UNHCR Offices are encouraged to ensure the highest degree of transparency towards asylum-seekers and refugees, access to such information is discretionary and may be denied or restricted in instances where disclosure may negatively impact (i) the safety and security of UNHCR staff or the staff of its partners, or (ii) the overriding operational needs and priorities of UNHCR in pursuing its mandate. For instance, UNHCR Offices may deny disclosure of information on individual RSD files, in full or in part, in instances where disclosure could jeopardize:

- the integrity of UNHCR RSD procedures;
- the safety and security of UNHCR staff and third persons, including partner staff, family members and persons associated with the individual asylum-seeker or refugee;

- the physical and mental health of the individual asylum-seeker or refugee, where disclosure is likely to cause serious harm or undermine the provision of essential services;
- the confidentiality of UNHCR RSD procedures and of communications with third parties where information has been provided on condition of, or with a reasonable expectation of confidentiality (for guidance regarding sharing information provided by family members and witnesses, see §§ 4.3.13 – *Information Provided by Witnesses*, 4.3.14 – *Interview of Family Members and Other Dependants* and 5.3.1 – *The Family Unity Interview*).[11]

Provided none of the above-listed grounds for denial of disclosure apply, the Applicant may, on request, have access to the transcript or audio/video recording of the RSD Interview(s) on UNHCR premises and under supervision, or through other secure and appropriate means as established by the UNHCR Office.

As a general rule, UNHCR Office do not need to share RSD Assessments where detailed letters of notification explaining the reasons for rejection of refugee status claims are provided to Applicants, even if none of the above-listed grounds for denial of disclosure apply, see Unit 6 – Notification of RSD Decisions.

The **legal representative** of an Applicant, or a third party duly authorized to act as an Applicant's representative, should have access to the same information as the individual Applicant from whose file information is sought (see also § 2.7.4(b) – *Communication and Access to Information*). The person making the request should be required to establish his/her authority to represent the Applicant in accordance with the principles set out in § 2.7.3 – *Authorization to Act as Legal Representative*.

Applicants (or their legal representative or, in the case of a child, a parent or guardian)[12] may also **request to correct or delete information** on the RSD file that is inaccurate, incomplete, unnecessary or excessive in accordance with UNHCR's data protection policy and guidance. Requests related to the addition or deletion of certain information on file must be carefully considered to avoid inappropriately influencing UNHCR's decision-making. For example, a request to correct or delete part of an interview transcript, or change information relevant to eligibility for refugee status, could undermine the credibility and integrity of UNHCR's RSD process. Where the alleged inaccuracy or incompleteness of the information is due to a clerical or an interpretation error, the correct information, as well as the Applicant's explanations and any corroborating evidence should be recorded in full on the file without correcting or deleting any part of the original record. As a general rule, any requests for correction or deletion of information on record should be dealt with in the same way as a credibility concern, taking into account any additional information presented by the Applicant or obtained from other reliable sources.

Decisions to grant or deny requests by asylum-seekers and refugees to access, correct or delete personal data and other information on the RSD file must be in accordance with UNHCR's data protection policy and guidance.

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[11] For further reasons that may justify withholding information, please refer to UNHCR's data protection policy and guidelines.

[12] Children have the same rights to access, correct or delete information on file as adults. Parents or legal guardians may also make such requests on behalf of a child. Unless there is reason to believe that it is not in the best interest of the child to release such information to a parent or legal guardian, UNHCR shall handle the request in the same manner as a request from the child himself or herself.

2.1.4 Disclosure to Host Country / Country of Asylum Authorities

In operations where it conducts RSD, UNHCR is often required to share personal data of asylum-seekers and refugees with the authorities of the host country/country of asylum for legitimate purposes, including, but not limited to: identifying persons who are in need of protection as refugees, as well as persons who are not eligible for international protection; carrying out national immigration formalities; issuing personal documents, such as travel documents and documents necessary to prove identity and refugee status, to obtain access to assistance and services, and/or to exercise basic rights; etc.

In principle, the information shared by UNHCR should be limited to **basic biographical data** (bio data) and the outcome of **final RSD decisions** (see § 6.3 – *Notification of RSD Decisions to Third Parties*), as such information is generally sufficient for the legitimate purposes mentioned above.[13] Applicants should be informed as soon as practicable and prior to disclosure that their basic bio data and/or the legal status/outcome of final RSD decision will be shared with the authorities of the host country/country of asylum. Where UNHCR Offices systematically share this type of information with the authorities of the host country/country of asylum, Applicants should be notified of this prior to or, at the latest, at the time of registration.

Information other than the basic bio data and legal status/outcome of final RSD decisions for persons of concern should only be shared with the host country/country of asylum authorities on a case-by-case basis and with the **consent** of the individual concerned, unless otherwise provided for in this Unit or under UNHCR data protection policy and guidance. For instance, in certain circumstances, it may be appropriate for the UNHCR Office to disclose information to national law enforcement agencies in accordance with UNHCR's data protection policy and guidance § 2.1.6 – *Disclosure to National and International Law Enforcement, Courts or Tribunals and Other International Bodies* below. In all such cases, these interests must be balanced against the right of the concerned individual to privacy, including the principle of confidentiality of UNHCR procedures. Any decision to disclose such information will need to be made in accordance with UNHCR's data protection policy and guidance (for further guidance on confidentiality in the context of RSD procedures raising exclusion concerns, see § 4.9.7 – *Confidentiality in Exclusion Cases*).

Where UNHCR Offices conduct RSD on behalf of authorities in the host country/country of asylum, or where responsibilities for undertaking RSD functions are being transferred from UNHCR to host country/country of asylum authorities, it may be appropriate to share some information relating to the **substance of individual refugee status claims**. In such instances, UNHCR may disclose edited summaries of RSD Interviews and RSD Assessments, but should, as a general rule, not disclose the entire RSD file. In all cases, the nature and scope of the information shared with host country/country of asylum authorities should be informed by the purpose for which the information is required. The general conditions for disclosure set out above in § 2.1.2 – *General Criteria for Disclosure of Personal Data and Other Information on RSD Files* are relevant and should guide decisions regarding disclosure of information to host country/country of asylum authorities.

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[13] Systematic sharing of basic bio data and legal status/outcome of final RSD decisions of persons of concerns to UNHCR is generally subject to a Data Transfer Agreement with the government of the host country. The sharing of basic bio data and the outcome of final RSD decisions may be done without the Applicant's consent if necessary to enable UNHCR to carry out its mandate in the host country/country of asylum. Applicants should, however, be informed of this at the earliest opportunity in the RSD process in accordance with the principles set out in § 2.1.2 – *General Criteria for Disclosure of Personal Data and Other Information on RSD Files*.

Wherever possible, disclosure to host country/country of asylum authorities should be subject to **information sharing arrangements**, which should include appropriate undertakings to respect the confidentiality of the information received. Applicants should be informed of information sharing arrangements, such as Data Transfer Agreements, with the host country/country of asylum authorities.

In the context of **onward movement**, where the asylum or immigration authorities of the host country/country of asylum are requesting confirmation that a person of concern has been registered with UNHCR or has been recognised as a mandate refugee in another country prior to arrival, UNHCR should seek the consent of the individual concerned prior to disclosing any information. Such requests are generally dealt with through the intermediary of the UNHCR Office in the country where the individual is located at the time of the request (In the absence of the Applicant's consent, see § 2.1.2 (b)). As a general rule, the UNHCR Office should only share the basic bio data of the individual POC and his/her legal status/outcome of the final RSD decision. UNHCR should cooperate with such requests as far as it is in line with its protection mandate. Where it is assessed that disclosure of information relating to persons of concern increases the risk of *refoulement* or other human rights violations, UNHCR must decline to cooperate with such requests with reference to its mandate. Any transfer of information beyond the basic bio data (and/or legal status/outcome of final RSD decision), such as summaries of the claim and assessment or interview records, is subject to the written consent of the individual concerned and the operational priorities and effective functioning of the UNHCR Office in question.

2.1.5 Disclosure to Country of Origin Authorities and Non-State Entities

Refugees and asylum-seekers may be exposed to serious risk of harm if their personal data or other information regarding them, including the fact that they have registered with UNHCR, is brought to the attention of authorities or non-State actors in their country of origin. As such, UNHCR, as well as its partners and other actors involved in providing services and assistance to asylum-seekers and refugees under agreement with UNHCR, should generally not share any personal data or other information by which individual asylum-seekers or refugees, or their family members, could be identified.

Where an Applicant makes both a refugee and a **statelessness** claim, his/her identity or other personal data should not be disclosed to the authorities of the country of origin/previous habitual residence for the purposes of determining the statelessness claim. Where enquiries with the authorities of the Applicant's country of origin/previous habitual residence could compromise the confidentiality of the RSD procedures, determination of the statelessness claim should be suspended.[14]

Where communication of personal data of persons of concern to UNHCR to the authorities of the country of origin is appropriate, the free and informed **consent** of the individual in question is generally required (see § 2.1.2 – *General Criteria for Disclosure of Personal Data and Other Information on Individual RSD Files*). Where necessary, advice regarding the appropriateness of sharing information with the authorities of the country of origin may be sought from the Data Protection Officer in DIP, in accordance with UNHCR's data protection policy and guidance.

[14] The determination of the statelessness claim may resume if it can be assessed without contacting the authorities in the country of origin or in case of a final negative RSD decision.

2.1.6 Disclosure to National and International Law Enforcement, Courts or Tribunals and Other International Bodies

In some circumstances, UNHCR may share information relating to asylum-seekers and refugees to a national law enforcement agency or a national court either at the request of the law enforcement agency or court, or on UNHCR's own initiative. The disclosed information may concern persons subject to an investigation for an alleged crime, or in relation to the victim(s) of or witness(es) to a crime. In addition to the conditions for disclosure set out in § 2.1.2 above, UNHCR may only cooperate with a request for information from a national law enforcement agency or national court if the following conditions are met.

STANDARDS & GUIDELINES

CONDITIONS FOR DISCLOSURE OF PERSONAL DATA TO NATIONAL LAW ENFORCEMENT AGENCIES AND COURTS:

- The disclosure of information is necessary for the purposes of the detection, prevention, investigation or prosecution of a serious criminal offence, in particular in order to avoid an immediate and substantial risk to the safety and security of an individual or the public;
- The requesting / recipient law enforcement agency or court is competent in relation to the detection, prevention, investigation or prosecution of the offence in question;
- The disclosure will substantially assist the law enforcement agency or court in the pursuit of these purposes and the personal data cannot otherwise be obtained from other sources;
- The disclosure does not disproportionately interfere with the right to privacy and other human rights of the person of concern in question or another person of concern; and
- In the case of information in relation to victims and witnesses, their consent to the transfer has been obtained.

All requests received from **national and international law enforcement agencies, courts or tribunals, and UN-mandated commissions of inquiry and similar international bodies** for information about persons of concern to UNHCR must be referred to relevant functional sections in DIP, Legal Affairs Section and the relevant Regional Bureau for advice together with an initial assessment of the request.

2.1.7 Disclosure to Family Members

Requests by family members for information about an asylum-seeker or refugee should be dealt with in accordance with the principles for disclosure of personal data and other information set out in § 2.1.2 above. In principle, disclosure should be subject to obtaining the consent of the individual about whom information is sought. If it is not possible to obtain the consent, UNHCR staff should determine whether disclosure of certain personal data is in the best interest of the individual concerned, which itself may be a legitimate basis for disclosure. The UNHCR Office will also need to carefully consider the reasons for the request for information by the family member. For instance, the request of a family member to receive information regarding the whereabouts and well-being of another family member may be legitimate for the purpose of reconnecting or reuniting with family members. The UNHCR Office should however carefully consider any age or gender issues, or any other information on the file of the individual concerned that would indicate that disclosure would not be in his/her best interest in a particular case.

Where there is a legitimate basis to disclose information to family members without the consent of the individual concerned, UNHCR Offices are advised to limit such information to the minimum necessary.[15] In the absence of consent, information regarding an asylum-seeker or refugee should generally be limited to confirmation of the fact that the person has registered or is in contact with UNHCR. Where specific and legitimate purposes to disclose additional information are presented, the request should be referred to the Protection staff member who is designated under established procedures in the UNHCR Office to determine the appropriate scope of disclosure.

Where disclosure of information regarding an asylum-seeker or a refugee is not considered in that person's best interest, the UNHCR Office may also refer the family member to partners conducting family tracing or existing means or mechanisms for family tracing/reunification.

2.1.8 Disclosure of Information on Individual Files within UNHCR

The Applicant's prior consent is not required for sharing personal data and other information on an Applicant's file within the UNHCR Office, between UNHCR Offices or with Headquarters as far as necessary and legitimate. Such sharing would, for instance, be legitimate for the purposes of determining an Applicant's refugee status claim, including in cases where an Applicant moves forward to another country and registers with the UNHCR's Office in that country, where review of a RSD decision by Headquarters is required, or where information gathered through other protection interventions is necessary to inform the scope of the RSD Interview and the interviewing techniques, and to make the necessary accommodations to facilitate an Applicant's participation in the RSD process. However, access to personal data and other information on an Applicant's file, whether held in physical or electronic form, should be restricted to authorized UNHCR staff who have a legitimate need to know in order to carry out their functions.[16]

2.1.9 Procedures for Responding to Individual Requests for Personal Data or Other Information on the RSD File

In addition to data sharing arrangements/data transfer agreements (e.g. with implementing partners, host country authorities, etc.), UNHCR Offices should establish procedures for responding to individual requests for information from or about asylum-seekers and refugees.

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[15] For instance, the information may allow reconnection with the family member rather than reunification (e.g. telephone number, rather than address).

[16] For instance, interpreters are not permitted access to individual files of persons of concern. If interpreters have exceptionally been assigned additional tasks, which require access to individual files, such access must be strictly limited to what is necessary to carry out authorized responsibilities, and should be closely supervised (see § 2.5.8 – *Access by Interpreters to Individual Files of Applicants*).

STANDARDS & GUIDELINES

INDIVIDUAL REQUESTS FOR DISCLOSURE MAY BE SUBMITTED ORALLY OR IN WRITING AND NEED TO INCLUDE:

- Proof of identity of the author of the request. Where the request is made by a duly authorized legal representative, proof of authority to act on behalf of the person of concern. Where the author of the request is an agency or organization, documentation supporting the authenticity and mandate of the agency or organization;

In addition, it is useful for the handling of requests to know:

- The precise information requested; and
- The reason of the request.

UNHCR staff who receive oral requests should ensure that the information required to support the request is received, and should record the details of the request on the individual file and on UNHCR's case management database, as necessary.

UNHCR Offices should respond to requests for personal data or other information on individual RSD files within a reasonable time and in a language and manner that the individual requesting the information would understand. As a general rule, responses should be in writing, and provide reasons where a request is denied. The action taken in relation to each request should be recorded on the file of the asylum-seeker or refugee concerned and on UNHCR's case management database, as necessary.

Disclosure of information on the RSD file of an asylum-seeker or refugee should be done in accordance with the guidance set out in the sections above and in accordance with UNHCR's data protection policy and guidance. Individual requests made by persons other than the asylum-seeker or refugee about whom the information is sought will generally require the consent of the asylum-seeker or refugee concerned.

The scope of disclosure of information from individual files should be limited to what is necessary and proportionate to further the legitimate purpose for which the information is sought. UNHCR staff should exercise the utmost sensitivity regarding the release of any medical information, unless this is specifically authorized by the individual concerned. The decision to disclose, or not to disclose personal data and other information on file gathered through the RSD process rests with the Protection staff member designated under established procedures in the UNHCR Office. It is recommended that the responsibility for requests for information from RSD files is delegated to the RSD Supervisor or a senior Protection staff member with overall responsibility for supervising RSD in the Office, who may seek advice from the designated Protection staff member or the Data Protection Officer in DIP, as necessary and in accordance with the data protection policy and guidance.

Methods of disclosure of information should be carefully controlled. Unrestricted access to individual UNHCR files should not be permitted. Appropriate steps should be taken to minimize opportunities for misuse or adulteration of the information provided, including providing hardcopies rather than electronic copies of information wherever possible.

Whether information regarding an individual file is shared with the individual concerned, a third party or another UNHCR office, UNHCR staff should identify and adopt an appropriately **secure method and form for transmitting the information**, taking into account the sensitivity of the information and the urgency

of the communication request, as well as any factors regarding the reliability, security and expediency of the available methods.[17]

As a general practice, when a UNHCR Office receives a request from the government authorities of a country for which another UNHCR Office is responsible, the responsible Office should be copied and consulted on the response.

The details of disclosure of information from individual RSD files should be noted on the RSD file in a **record of disclosure**.

STANDARDS & GUIDELINES

THE RECORD OF DISCLOSURE SHOULD INCLUDE:

- The individual or agency/organisation to whom disclosure was made;
- The precise information that was disclosed;
- The reasons justifying disclosure, including whether the consent of the person of concern was obtained. Where consent was denied or could not be obtained, the legitimate basis for disclosure;
- The date and means of disclosure; and
- The name of the responsible staff member.

[17] For further guidance on secure means of transmitting personal data and other information on an Applicant's file, please refer to UNHCR's data protection policy and guidance.

Annex: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to Confidentiality and Data Protection in UNHCR RSD Procedures. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

UNHCR, *Policy on the Protection of Personal Data of Persons of Concern to UNHCR*, UNHCR/HCP/2015/6, May 2015, available at: https://www.refworld.org/docid/55643c1d4.html

UNHCR, *Guidance on the Protection of Personal Data of Persons of Concern to UNHCR*, August 2018, available at: https://www.refworld.org/docid/5b360f4d4.html

UNHCR, *Policy on Addressing Fraud committed by persons of concern*, available at: https://bit.ly/2lylGaZ

UNHCR, *Policy on the Management of UNHCR Records and Archives*, UNHCRIHCP/2017/4, 21 December 2017, available at: https://bit.ly/2uJ6lVX

2.2 Refugee Status Determination (RSD) File Management and Recordkeeping Procedures

2.2.1 General

Each UNHCR Office should **implement detailed file management procedures** for all aspects of the processing, organization and handling of RSD files, whether in paper and/or electronic format, in accordance with UNHCR's policies on the management of UNHCR records and archives. RSD file management and recordkeeping procedures in UNHCR Offices will vary depending on the scope of RSD operations and the technical systems and resources that are available in each Office. However, in every UNHCR Office file management procedures should **achieve the following objectives**:

STANDARDS & GUIDELINES

OBJECTIVES OF RSD FILE MANAGEMENT PROCEDURES:

- Rational internal organization of individual RSD files;
- Efficient filing and retrieval of individual RSD files and information therein;
- Regulated and restricted access to RSD files and respect for confidentiality of information;
- Secure physical storage of RSD files to prevent loss, damage or unauthorized access;
- Efficiency and integrity in UNHCR RSD procedures.

All UNHCR staff who handle RSD files should ensure that the **information contained in the file is complete and organized** so that other UNHCR staff who are required to take action on the file can quickly and accurately understand the history and status of the file.

All documents should be filed in **chronological order**, based on the date on which they were generated or received in the UNHCR Office.[1] For paper files, the pages should be numbered as they are added to the file. Documents in electronic format should also be saved and organized in the same manner as paper files.

File management procedures should clearly define **individual responsibilities** relating to management of paper and electronic RSD files including specific requirements for oversight and accountability (see § 2.2.7 – *Supervision and Oversight of RSD File Management*).

2.2.2 Procedures for Opening RSD Files

An **individual RSD file** should be opened for each refugee status Applicant as early as possible in the RSD process, to ensure that all documents and developments relating to his/her claim are duly recorded and retained on the individual RSD file. Where more than one member of the same family or household apply for refugee status in their own right, a separate linked RSD file should be opened for each of them.

[1] Depending on the size of the file, documents may also be organized thematically and in chronological order.

It is recommended that separate linked RSD files also be opened for individuals who are applying for derivative refugee status as **family members/dependants** (see § 5.1 – *Derivative Refugee Status*). This would promote the integrity and confidentiality of the procedures, as well as other protection standards in processing the claims of Applicants for derivative refugee status.

Unless there are specific operational reasons not to do so, **RSD files** should be maintained in both paper and electronic format and identified according to established nomenclature.[2] RSD files should contain a copy of all records received or produced by UNHCR regarding Applicants, including Applicants for derivative refugee status. As a best practice, documents received in paper format should be digitalized and kept on the electronic RSD file. Audio/video files should also be saved as part of the electronic file. Electronic RSD files should be maintained on UNHCR's recordkeeping system, with back-ups for audio/video records stored locally in a secure location in accordance with established procedures for file management and recordkeeping.

STANDARDS & GUIDELINES

THE RSD FILE SHOULD CONTAIN:

- The RSD Application Form and other relevant information gathered at registration;
- A list of all accompanying family members/dependants applying for derivative status and their individual RSD files numbers;
- A list of all linked RSD cases, including all family members/dependants with individual refugee status claims;
- Photographs of the Applicant and other biometrics;
- Copies of all identity documents and other supporting documents;
- All notes by UNHCR staff members regarding the Applicant, including records of interviews or conversations with the Applicant(s) or third parties. These include audio or video records of interviews, where available;
- All correspondence relating to the Applicant;
- All formal decisions taken in the processing of the claim;
- Copies of documents issued by UNHCR to the Applicant;
- Contact information for the Applicant;
- All other relevant information regarding the Applicant or his/her claim.

Eligibility Officers should record on the Applicant's file and in the UNHCR's case management database a brief description of any activity relating to the processing, the date of the action and the staff member involved.

[2] Offices which, for operational reasons, only maintain electronic files should ensure that back-ups for all records are stored locally in a secure location in accordance with established procedures for file management and recordkeeping.

STANDARDS & GUIDELINES

THE FOLLOWING ACTIONS SHOULD BE RECORDED ON THE APPLICANT'S FILE AND UNHCR'S CASE MANAGEMENT DATABASE:

- Interviews and appointments with, or relating to, the Applicant;
- The date of filing of the RSD application, as well as the date of all applications/submissions by the Applicant in other UNHCR RSD procedures (appeal, cancellation/revocation, cessation, file re-opening, etc.);
- All decisions taken by UNHCR regarding the status of the Applicant;
- Documents issued by UNHCR to the Applicant, including the date and manner of issuance (e.g. in person, by post, through legal representative, etc).

2.2.3 RSD File Management and Organization

Each UNHCR Office should establish a system for assigning RSD file numbers and file organization.

STANDARDS & GUIDELINES

THE FILE MANAGEMENT AND ORGANIZATION SHOULD ACHIEVE THE FOLLOWING OBJECTIVES:

- Reflect the composition of the family unit / household and permit easy identification and cross-referencing of linked files;
- Permit designation and processing of more than one refugee status Applicant in a family unit;
- Reflect changes in the status of individuals who are in the family, including changes in an individual's status as a refugee status Applicant or Applicant for derivative refugee status;
- Reflect changes in the composition of the family unit/household, including marriages, births, deaths, or other developments affecting the refugee status Applicants and Applicants for derivative refugee status;
- Ensure separate filing of the information provided by each member of the family unit / household so that the source of specific information is clear and the principle of confidentiality is not undermined.

Every UNHCR Office should have a **file registry**. An electronic version of the file registry should be maintained on UNHCR's recordkeeping system. The file registry should include the RSD file number, the name of the Applicant, the UNHCR registration number where different from the RSD file number, the date the file is opened, the name of the UNHCR staff member who opened the file, the date the file is closed and the physical location of the file. Each RSD file should be registered in the file registry as soon as possible after opening.

2.2.4 Access to RSD Files

All information regarding Applicants, whether stored in physical or electronic form, should be subject to **restricted access by authorized UNHCR staff** and should be kept in a **secure location**. Electronic files should be saved on UNHCR's electronic recordkeeping system.

STANDARDS & GUIDELINES

FILE MANAGEMENT PROCEDURES IN EACH UNHCR OFFICE SHOULD ADDRESS THE FOLLOWING ISSUES REGARDING ACCESS TO RSD FILES:

- Designation of UNHCR staff members who should have access to RSD files and the level of access authorized. For RSD files in electronic form, restrictions on what fields of information may be changed by authorized staff members should also be defined;
- Procedures for storage and surveillance of physical RSD files in central storage areas;
- Procedures for storage of electronic RSD files on UNHCR's electronic recordkeeping system, including appropriate safeguards to preserve the confidentiality and integrity of the information contained therein;
- Directions for secure storage of RSD files that are not in the central file storage area or on UNHCR's recordkeeping system, including security of files in archive storage areas, the offices of individual staff members, in any area to which persons who are not UNHCR staff members may have access, as well as on personal computers or other electronic devises, and on personal/locally shared drives;
- Procedures for removing RSD files, including information relating to Applicants recorded on computers and portable electronic storage systems from UNHCR premises and other storage areas;
- Access by implementing partners or any other third party to RSD files, including the precise scope and conditions of access and the procedures that should be followed.

2.2.5 Movement of Physical RSD Files

UNHCR Offices should establish clear procedures to regulate and track the movement of RSD files within the Office. At a minimum, there should be a **central record**, in which the name of every staff member who requests a file must be recorded, with the date that the file is removed and returned. Transfers of files between staff members should also be noted in the central file record.

To avoid loss or misfiling of documents UNHCR staff should, as a general rule, not remove documents or sections of documents from individual RSD files.

2.2.6 Storing and Archiving Closed RSD Files

Closure of RSD files should be subject to established criteria and administrative procedures. The criteria for closure of RSD Files are set out in § 9.1 – *Closing RSD Cases*.

Individual RSD files, whether in paper or electronic form, must be retained by UNHCR as Permanent Records. The staff member who is responsible for supervising file management in the UNHCR Office should ensure that procedures for maintaining closed RSD files and for transferring individual RSD files to UNHCR Headquarters are developed and implemented in accordance with directives and guidance produced by the Records and Archives Section in UNHCR Headquarters and in line with the Policy on the Protection of Personal Data of Persons of Concern to UNHCR.

2.2.7 Supervision and Oversight of RSD File Management

In each UNHCR Office, **a designated staff member** should oversee the implementation of file management procedures.

STANDARDS & GUIDELINES

OVERSIGHT RESPONSIBILITIES FOR RSD FILE MANAGEMENT:

- Providing training and support to UNHCR staff on implementing file management procedures;
- Supervising UNHCR Office practice with respect to access to physical and electronic RSD files, as well as the movement and storage of individual RSD files, to ensure the security of RSD files and the integrity and confidentiality of information relating to Applicants;
- Conducting **random monitoring** of physical and electronic RSD files to ensure that staff members are complying with established procedures for maintaining and updating RSD files and entering relevant data into central systems.

The staff member who is responsible to oversee RSD file management **should report to the RSD Supervisor**. Problems with management of RSD files that may affect the fairness or efficiency of RSD procedures must be reported to the RSD Supervisor, who should be responsible to direct and monitor the effectiveness of measures to address the problem. Wherever necessary, the designated staff member or the RSD Supervisor may consult with the Records and Archives Section at Headquarters and relevant functional sections in DIP for guidance and training support.

Annex: List of Additional Resources

UNHCR, *Policy on the Management of UNHCR Records and Archives*, UNHCRIHCP/2017/4, 21 December 2017, https://bit.ly/2uJ6lVX

UNHCR, Records and Archives, Guidance and Training, available at https://intranet.unhcr.org/en/support-services/RAS/Guidance.html

UNHCR, *Policy on the Protection of Personal Data of Persons of Concern to UNHCR*, May 2015, http://www.refworld.org/pdfid/55643c1d4.pdf

UNHCR, *Guidance on the Protection of Personal Data of Persons of Concern to UNHCR*, 2018, https://www.refworld.org/docid/5b360f4d4.html

2.3 Physical Facilities for RSD Procedures

UNHCR Offices should maintain **adequate physical facilities** for the reception of asylum-seekers and other persons of concern, and for conducting RSD procedures. The physical facilities used for UNHCR RSD operations have a direct impact on the ability of asylum-seekers to present their refugee claim. As such, UNHCR Offices should ensure that persons of concern with disabilities and other specific needs have adequate access to UNHCR facilities. The nature of UNHCR's mandate may require establishment of RSD operations in emergency situations, and in adverse circumstances. However, in every UNHCR RSD operation, UNHCR staff should be guided by the recommendations that follow, and should take all available measures to ensure that facilities established for RSD promote the **dignity of asylum-seekers and due process** in RSD procedures, as well as the **safety and security** of UNHCR staff, and all other individuals on UNHCR premises.

Facilities used by UNHCR for RSD procedures should preserve the right of asylum-seekers to **confidentiality**. The layout of UNHCR Offices should permit asylum-seekers to communicate with UNHCR staff in private. There should be adequate partitions between meeting rooms and other office spaces to ensure confidentiality of counselling sessions and interviews.

UNHCR Offices should establish **waiting areas** and should take all feasible steps to ensure that the conditions in the waiting areas promote the health and well-being of the individuals who use them.

STANDARDS & GUIDELINES

EVERY EFFORT SHOULD BE MADE TO ENSURE THAT WAITING FACILITIES IN UNHCR OFFICES SHOULD MEET THE FOLLOWING STANDARDS:

- Adequate space including private space for breastfeeding women and a child friendly corner;
- Sufficient number of chairs and benches;
- Access to bathrooms;
- Access to drinking water;
- Shelter from severe weather conditions; and
- Adequate heating, air conditioning, lighting.

Whenever possible, **private areas** should be made available for breastfeeding women. Where cultural norms or individual circumstances make it appropriate, separate waiting facilities should be made available for women and children or other asylum-seekers with specific needs. Waiting areas should also contain culturally sensitive, child-friendly and gender and age-appropriate information and materials, and contain anti-fraud messaging on display (e.g. posters, leaflets).

Wherever possible, waiting areas should be established within UNHCR premises or another location **under the direct control of UNHCR**. This will help to promote the confidentiality of UNHCR RSD procedures and minimize the risk or harassment, intimidation or arrest of asylum-seekers.

The layout and furnishing of reception and interview rooms and any other areas used for the RSD processing should comply with guidelines and recommendations from UNHCR Headquarters relating to security in UNHCR Offices (see § 2.4 – *Office Security*).

2.4 Office Security

2.4.1 General Security Procedures

The risk of incidents involving violence against UNHCR staff members or other persons on UNHCR premises, or acts or threats of self-injury, must be taken into account and effectively managed in UNHCR RSD operations. All facilities and procedures for RSD in UNHCR Offices should **ensure the safety and security of UNHCR staff and asylum-seekers and other persons of concern who approach UNHCR**.

Protection staff will not be expected to take the lead role in the development and implementation of security measures and procedures for the Office, but should be involved and aware that such procedures **may have a direct impact on the quality of RSD procedures**. In particular, inadequate or inappropriate security procedures may affect the ability of asylum-seekers and other persons of concern to have access to UNHCR Offices and staff. Lack of effective security procedures can also deter asylum-seekers from approaching UNHCR.

Coordination is necessary between UNHCR Protection staff and other staff or individuals who are responsible for security in the UNHCR Office, to ensure that:

- UNHCR security policies and guidelines are fully implemented in the RSD procedures;
- Protection concerns are taken into account in the development and implementation of security procedures in each Office.

STANDARDS & GUIDELINES

SECURITY PROVISIONS IN RSD PROCEDURES:

- Measures for crowd control and the orderly entry of individuals into UNHCR premises;
- Security guidelines for conducting individual counselling and interviews, including the lay out and furnishing of interview rooms;
- Procedures regarding the movement of asylum-seekers and other persons of concern in the UNHCR compound/premise and the areas and circumstances in which escorted access should be required;
- Effective measures for all UNHCR staff to alert security personnel (UNHCR Field Security Advisors) and unarmed private security services (security guards/security company)[1] of potential security incidents and to obtain prompt assistance, including the use of emergency panic buttons at reception and in spaces used for counselling and RSD Interviews;
- Appropriate and gender and age-sensitive response to security incidents involving asylum-seekers and refugees;
- Provision of sufficient space and resources in dedicated assembly points and safe rooms to ensure that asylum-seekers and other persons of concern who are on UNHCR premises for RSD purposes are kept safe in case of security and safety emergencies when they are not themselves the source of the security threat;
- Procedures for reporting security incidents to the appropriate staff members in the Office, as well as any other requirements for reporting within the region and to UNHCR Headquarters.

[1] Unarmed private security services (security guards/security company), armed privat security services host goverment security guards as these may all be guarding UN premises.

It should be noted that in addition to specific security procedures, the procedures that ensure **fair, transparent and consistent processing** of individual refugee status claims throughout the RSD process and **effective channels of communication** between UNHCR staff and asylum-seekers and other persons of concern are also vital elements of the Office security strategy. Keeping Applicants informed, providing timely responses to inquiries and concerns, and establishing confidence in the integrity of the procedures will serve to reduce misunderstandings and diffuse frustration and tensions that could escalate into security incidents.

2.4.2 Protection Staff Involvement in Security Guards' Procedures

In each UNHCR Office, a Protection staff member should be designated to act as the **Protection focal point for RSD-related security issues** in the Office. The individual who is assigned this role should, in principle, be the RSD Supervisor or another Protection staff member who is responsible for, or directly involved in activities relating to the reception of asylum-seekers in the UNHCR Office. Where this function is assigned to a Protection staff member other than the RSD Supervisor, the designated Protection focal point for RSD-related security issues should report to the RSD Supervisor.

Complaints by asylum-seekers or other persons of concern, or observations by UNHCR staff relating to **conduct by security company** at the UNHCR office, regardless of whether they are appointed by the host country, should be directed without delay to the Protection focal point for RSD-related security issues. Security procedures should outline specific responsibilities for following up on complaints received regarding security guards and procedures and reporting on action taken, in accordance with the principles set out in § 2.6 – *Complaints Procedures*.

2.4.3 Staff Training on RSD-related Security Issues

As part of UNHCR's security management policy procedures it is a requirement that all UNHCR staff participate in a **security awareness briefing** upon arrival in an UNHCR Office and thereafter on a regular basis as appropriate. This briefing should include RSD-related security aspect in consultation with the senior protection officer.

TRAINING

THE SECURITY AWARENESS BRIEFING ON RSD RELATED-ISSUES FOR ALL UNHCR STAFF SHOULD INCLUDE:

- The overall procedures relating to security in the Office and plans of action in the event of an emergency. Where possible, training should include exercises to allow staff to practice established ways of responding to specific emergencies and security incidents that may arise in RSD procedures;
- Briefings on the specific threats and relevant security factors related to RSD procedures in the particular environment in which the Office is operating;

- Existing means and techniques for effective communication to avoid and diffuse RSD-related security incidents including:
  - Non-antagonistic interview techniques
  - Delivering bad news
  - Responding to threats
  - Diffusing anger
  - Responding to persons who are mentally ill or under the influence of drugs or alcohol.

2.4.4 Security in Physical Facilities Used for RSD

UNHCR Offices should consult relevant UNHCR resources including Field Security Advisor(s) in the region or the Field Security Service at UNHCR Headquarters (where no FSA exists) as necessary to ensure that the physical facilities and layout of the particular UNHCR Office are appropriate for conducting RSD procedures in the specific security environment. UNDSS may also be a resource and should be consulted if the facility is in a common UN premises.

STANDARDS & GUIDELINES

GUIDELINES FOR SECURITY IN PHYSICAL FACILITIES FOR RSD

- The facilities should comply with the standardized UN physical security requirements in terms of perimeter protection, access control, electronic security, fire safety, and, where applicable, explosive threat mitigation / building structural resistance.
- The **entrance gate** for asylum-seekers and other persons of concern should be physically separate from the staff and visitors' entrance.
- **Areas used for reception and designated waiting areas** should be separated from the main Office space by a guarded door.
- The **layout of the Office** should permit a simple and direct routing of asylum-seekers and other persons of concern between the waiting area and the rooms used for interviewing.
- All **spaces used for reception and interviewing** should permit easy unobstructed exit for UNHCR staff. Interview rooms should be cleared of breakable objects or any items that could be used as a weapon, this includes cables and wires. All interview rooms should be equipped with panic buttons.
- Where the threat assessment deems it necessary and depending on the operational environment, RSD personnel should check the rooms to ensure that nothing has been placed or modified that may be used as a weapon, self-harm or could compromise the confidentiality of the interview.
- Where used, clear provisions should be made on the handling of video and/or audio recordings in line with UNHCR's policies on the protection of personal data of persons of concern.

2.4.5 Access procedure

Access procedures are applied at UN facilitates. In addition to registration and identification verification, security screening of persons and any property will be conducted. In some instances this may be undertaken through a manual physical search where security equipment is not available, operational or initial electronic screening determines the need for further physical search.

Where physical searches are deemed to be necessary, they should be conducted in a r**espectful and gender-sensitive manner**. Physical searches should be conducted by a security guard of the same sex as the person being searched in circumstances where no guard of the same sex is available – UNHCR staff may be asked to assist. Clear training on this is required.

2.4.6 Unarmed Private security services (guard force)

The Protection staff focal point for RSD-related security issues should ensure that the guards employed at UNHCR premises receive **appropriate training and direction**. These personnel must receive training on the following issues related to RSD. This training will be delivered by UNHCR staff:

TRAINING

TRAINING FOR SECURITY GUARDS

- Refugee protection principles and the mandate of the UNHCR Office;
- Rights of asylum-seekers and refugees, including the right to have access to UNHCR Offices and Protection staff;
- RSD procedures in the UNHCR Office;
- Appropriate treatment and protection of persons with specific needs (i.e relating to gender, age, disability etc.);
- Identification and appropriate response to persons who may be suffering from trauma or mental illness;
- Non-confrontational responses to diffuse security incidents involving refugees and asylum seekers;
- Direction to use physical restraint or force as a last resort, and only to the degree required to prevent a refugee or asylum-seeker from harming him/herself or other persons on the premises.

This training is in addition to the training determined by the United Nations Security Management System see – Security Policy Manual and Security Management Operations Manual – Unarmed private security services.

Every effort should be made to hire **female security guards** in UNHCR Offices, and to ensure that at least one female security guard is on duty during hours when asylum-seekers and other persons of concern are received at the UNHCR Office.

Security guards should not perform other tasks related to RSD unless the tasks are assigned in consultation with the Protection focal point for RSD-related security issues, and the security guard has received the necessary training and direction to carry out the tasks assigned.

2.4.7 Security Guards Assigned by Host Country

Each UNHCR Office is responsible to ensure that where security guards are appointed by a host country to provide security to UNHCR premises, the guards **do not impede access to the UNHCR Office**, and that they carry out their functions in a manner that is consistent with UNHCR standards for the reception and treatment of asylum-seekers and other persons of concern, and in line with the UN Human Rights Due Diligence Policy (HRDDP).

The Protection focal point for RSD-related security issues should ensure that security guards who are appointed by the host country are briefed on the rights of asylum-seekers and on the international protection function of the UNHCR Office. In the absence of a Field Security Advisor/Field Security Assistant, the Protection focal point for RSD-related security issues should also monitor security guards' activities to ensure that they are consistent with UNHCR's protection function. Any concerns should be brought to Head of Office/ focal point responsible for overseeing the security guard company.

UNHCR staff and host country appointed security guards should receive **clear directions regarding the appropriate scope of the involvement** of host country appointed guards with in UNHCR operations. This should include, at a minimum, relevant provisions of the Convention on the Privileges and Immunities of the United Nations and of the agreement between UNHCR and the host country (MOU, MOA or LOA).

STANDARDS & GUIDELINES

GUIDELINES REGARDING HOST COUNTRY APPOINTED SECURITY GUARDS

- Host country appointed security guards should not be involved in registration and RSD procedures for asylum-seekers in UNHCR Offices;
- Host country appointed security guards should not be used to disseminate information regarding the mandate or procedures of the UNHCR Office;
- Under no circumstances should host country appointed security guards be used to receive or distribute UNHCR documents or any materials relating to individual asylum-seekers;
- Host country appointed security guards should not enter UNHCR premises without the invitation of UNHCR staff, unless their presence is required to respond to an immediate and compelling security incident involving a threat to UNHCR staff or other persons on the premises or to UNHCR property.

The Protection focal point for RSD-related security issues should be immediately advised if host country appointed security guards fail to observe the guidelines noted above, or engage in any other conduct that is inconsistent with the procedures established by the UNHCR Office, or UNHCR policies regarding the reception and treatment of asylum seekers and refugees.

As part of the office security plan, calling the local police may be useful under certain circumstances to diffuse a situation. If a person is self-harming, an immediate response by police and paramedics would be important to assist with a RSD-related security incident in a UNHCR Office. RSD-related security contingency plans should be drafted, regularly updated and rehearsed by UNHCR staff and security guards as part of the overall Office security plan. To ensure an effective, appropriate and timely response, the UNHCR Office should ensure that the host country security forces are briefed in advance on UNHCR's mandate and operations, and that they formally agree to the proposed RSD-related security contingency plan and the overall response plan.

Annex: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to Office Security for RSD operations. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

UNHCR

UNHCR, *Manual on Security of Persons of Concern First Edition*, November 2011, available at: https://www.refworld.org/pdfid/4f6313032.pdf

UNHCR, *Safety Guidelines for Handling Threats, Verbal Abuse and Intimidation from Refugees*, April 2003, available at: https://bit.ly/2lBjpf2

United Nation Security Management

UNITED NATIONS SECURITY MANAGEMENT SYSTEM, *Security Policy Manual, (UN Internal)*; *Chapter IV Section K – Unarmed Private Security Services and Chapter IV section I Armed Private Security Companies*, April 2016 available at: https://bit.ly/2ltMyJb

UNITED NATIONS SECURITY MANAGEMENT SYSTEM, *Security Management Operations Manual (UN Internal)*, available at: https://bit.ly/2jYwcrH

UNITED NATIONS SECURITY MANAGEMENT SYSTEM, *Security Management Operations Manual (UN Internal), Guidelines on the Use of Armed Security Services from Private Security Companies, Annex A*, November 2012 available at: https://bit.ly/2ktyWgK

UNITED NATIONS SECURITY MANAGEMENT SYSTEM, *Security Management Operations Manual (UN Internal), Guidelines on the Use of Unarmed Private Security Services*, August 2016 available at: https://bit.ly/2lxyZbE

UNITED NATIONS SECURITY MANAGEMENT SYSTEM Security Management Operations Manual (UN Internal), *Guidelines on Security Management of United Nations Common Premises*, August 2016 available at: https://bit.ly/2kqQc6r

2.5 Interpretation in UNHCR RSD Procedures

2.5.1 Access to Interpreters

All communications between an Applicant and UNHCR must take place in a language that the Applicant understands and in which he/she is able to communicate clearly. In many cases, this will be the native language of the Applicant, but in many others that will not be possible. Applicants should have access to the services of **trained and qualified Interpreters** at all stages of the RSD process, including during registration, first instance RSD, appeal, cancellation, revocation, cessation and re-opening procedures (for information regarding qualifications of UNHCR interpreters, see § 2.5.2 – *Qualifications and Training of UNHCR Interpreters*).

Interpretation services for UNHCR RSD procedures[1] should be provided by **UNHCR Interpreters** unless otherwise specified in this chapter. UNHCR Interpreters should be understood as persons recruited by UNHCR to work as interpreters when communicating with persons of concern, regardless of whether they work full or part-time or whether they may or may not be required also to do translations, as well as interpreters contracted through professional interpretation services or provided through regular arrangements with designated implementing partners (see § 2.5.2 – *Qualifications and Training of UNHCR Interpreters*). Exceptionally, where no qualified UNHCR Interpreters are available, it may be necessary to conduct an interview with the services of a non-UNHCR Interpreter, including the Applicant's own interpreter (see § 2.5.3 – *Interpretation by Persons other than UNHCR Interpreters*).

Wherever possible, Applicants should be given the option to communicate with Interpreters of the **sex** they prefer. Each UNHCR Office should make every effort to ensure that an adequate number of competent Interpreters, of both sexes, is available to meet the RSD processing requirements. Where gaps in the Interpreter resources exist, priority must be given to requests for Interpreters by Applicants with specific needs or vulnerabilities, including children, survivors of torture, persons with physical and mental disabilities, and individuals with diverse sexual orientations and gender identities.

All UNHCR staff who conduct interviews in mandate RSD procedures must receive training and direction on communicating effectively with Applicants through Interpreters.

[1] For the purposes of this section and unless otherwise specified, the term "UNHCR RSD procedures" includes RSD (first instance and appeal), as well as cancellation, revocation, cessation and re-opening procedures carried out under UNHCR's mandate.

2.5.2 Qualifications and Training of UNHCR Interpreters

Interpreters who are engaged to provide services in UNHCR RSD procedures need to have **adequate language and interpreting skills** and the **necessary training**. Whenever possible, UNHCR should engage certified interpreters. For guidance on recruitment procedures for UNHCR Interpreters, please refer to the *Guidelines for the field on recruitment procedures, conditions of service, training and supervision of interpreters* annexed to the IOM-FOM 005/2009.

As a general rule, refugees, asylum-seekers and asylum-seekers whose claims have been rejected should not be hired to provide interpretation services in UNHCR RSD procedures. Where a UNHCR Office does not have an adequate number of interpreters who speak the languages required, UNHCR Offices may use the interpretation services of **recognized refugees**, provided that they have the **necessary training and skills**. In such situations, UNHCR Offices should make every effort to employ refugees who have a legal status in the host country/country of asylum allowing them to work, or refugees who have been accepted for resettlement to a third country and are awaiting travel. If UNHCR has no other viable option than to select as an interpreter an individual who has no right to work in the host country, all possible efforts should be made by the Office to negotiate the issuance of a work permit to the person concerned on exceptional grounds on the basis of existing national law provisions. Interpretation by refugees who do not have a right to work in the host country/country of asylum may be used only as an exceptional and temporary arrangement until UNHCR interpreter staff shortages can be addressed.

UNHCR Offices may use the services of **interpreters provided by regular arrangement with designated implementing partners**, provided that such interpreters receive training on interpreting in UNHCR RSD procedures, as set out below, and the services provided are subject to effective monitoring and supervision by UNHCR Protection staff (see § 2.5.9 – *Supervision and Oversight of Interpreters*).

The Eligibility Officer must ascertain that the Interpreter is fluent in the language and dialect of the Applicant as well as the language of the Eligibility Officer. Where interpretation has to be carried out in a dialect other than that of the Applicant due to gaps in resources, this should be taken into account in assessing the credibility of the Applicant's account.

Every person engaged by UNHCR to provide interpretation services in mandate RSD procedures must sign the **UNHCR Interpreter Undertaking of Confidentiality and Impartiality (Annex 2-1)**, as well as the UNHCR **Code of Conduct for non-UN personnel**, before assuming their responsibilities.

All UNHCR Interpreters must receive induction training on UNHCR's mandate and the RSD process.

TRAINING

INDUCTION TRAINING FOR UNHCR INTERPRETERS

- UNHCR's refugee protection mandate and operations
- Registration and RSD procedures and relevant Standard Operating Procedures in the relevant UNHCR Office
- Essential refugee terminology that is likely to be used in Interviews
- Objectives of the Interview and responsibilities as an Interpreter, including the type of interpretation that will be required for Interviews, as well as the importance of fully and accurately interpreting what is said by the Applicant and the Eligibility Officer
- Impartial and neutral role of the UNHCR Interpreter, including not answering on behalf of the Applicant or the Eligibility Officer
- Obligation of confidentiality in all UNHCR procedures
- Gender, age, diversity and cultural sensitivity in carrying out interpretation responsibilities
- Possible indicators of trauma that could arise during an Interview and how to carry out interpretation responsibilities in such circumstances
- Security procedures and risks, such as familiarity with the physical environment, as well as other relevant issues in light of the particular operational context of the UNHCR Office

In addition to the induction training, UNHCR Offices must, to the extent possible, provide opportunities for Interpreters to improve their knowledge and skills, including by encouraging participation in **regular training** on relevant aspects of UNHCR's work. UNHCR Offices may explore with local institutions or organisations, in particular universities, the possibility of collaborating on training for UNHCR Interpreters, as well as the development of linguistic reference materials and glossaries.

2.5.3 Interpretation by Persons other than UNHCR Interpreters

Where UNHCR Interpreters are not available due to gaps in resources or do not have the required language skills and/or appropriate profiles, and where other means of interpretation, such as remote interpretation arrangements (see § 2.5.5 – *Remote Participation of Interpreters in Interviews*), are not feasible or would result in long processing delays for the Applicant, interpretation may exceptionally be conducted by persons other than UNHCR Interpreters. These may include the Applicant's own interpreter, asylum-seekers or refugees who are not UNHCR Interpreters, other UNHCR protection staff (including Eligibility Officers), as well as interpreters provided through *ad hoc* arrangements with implementing partners, non-governmental organizations, linguistic institutes, or other such means.

When interpretation by persons other than UNHCR Interpreters is necessary, UNHCR staff must take appropriate measures to **assess and promote the effectiveness of the interpretation** provided, and to **preserve the confidentiality and integrity of the RSD procedures**.

KEY CONSIDERATIONS

The UNHCR staff member who conducts the Interview should take the following steps in order to assess the ability of the interpreter and ensure the quality of the interpretation:

- Briefly question the Interpreter on his/her language background and interpreting experience;
- Ascertain the Interpreter's relationship with the Applicant;
- Explain to the Interpreter the character and purpose of the Interview and type of interpretation that will be expected, as well as the obligation to preserve the confidentiality of the procedures, and ask that he/she signs the *UNHCR Interpreter Undertaking of Confidentiality and Impartiality* (Annex 2.5-2);
- Include a written note in the file of any details that may be relevant to the quality or the reliability of the interpretation, including the Interpreter's language proficiency, and any potential conflict of interest or exploitative relationship between the Interpreter and Applicant;
- Ask the Applicant whether he/she consents to the interpretation arrangement, wherever possible not in the presence of the proposed Interpreter, and record the consent or any reasons for objecting to such arrangement on file.

Where the Applicant does not consent to interpretation being conducted by a non-UNHCR Interpreter, or where serious concerns arise regarding the skills and ability of the proposed Interpreter to provide effective, impartial, and accurate interpretation, including because of a conflict of interest or exploitative relationship between the Interpreter and the Applicant, the UNHCR staff member may refuse the participation of the non-UNHCR Interpreter in the Interview. The Applicant and the Interpreter should be informed of the reasons for the refusal and a note to this effect should be put on the Applicant's file.

As a general rule, asylum-seekers or refugees who are not qualified and trained UNHCR Interpreters should not be requested to provide interpretation in UNHCR RSD procedures unless there are no other means of communicating with an Applicant. Where the interpretation services of asylum-seekers or refugees who are not UNHCR Interpreters are used, the interpretation should be limited to communication at the initial reception stage, and every effort needs to be made to obtain the services of a qualified UNHCR Interpreter for any necessary counselling as well as the Registration and RSD Interviews. UNHCR staff who communicate with the Applicant under this arrangement must take all feasible steps to preserve the confidentiality of the Applicant's claim, including limiting the use of questions likely to elicit identifying bio-data or details of the refugee claim.

Exceptionally, where no qualified UNHCR Interpreter is available and it is necessary to conduct the interview, Applicants may be permitted to use the services of their **own interpreter**. However, given the reluctance some Applicants may have to disclose facts that are relevant to their claim in the presence of another family member, and the difficulty of assessing whether the Applicant truly consents to the attendance of family members in RSD procedures, every effort needs to be made to find **alternatives to interpretation by family members** of an Applicant in UNHCR RSD procedures.

Persons acting as **legal representative** to Applicants should not provide interpretation services in UNHCR RSD procedures.

Where interpretation is carried out by a non-UNHCR Interpreter, the Eligibility Officer must be particularly vigilant about the quality and accuracy of the interpretation. Any concerns regarding the quality of the interpretation or the conduct of the Interpreter should be addressed immediately (for further guidance see § 2.5.4 – *Concerns relating to the Participation of an Interpreter*) and be taken into account in assessing the credibility of the Applicant's account.

2.5.4 Concerns relating to the Participation of an Interpreter

Applicants who have concerns about the participation of an Interpreter (whether a UNHCR Interpreter or not) in the Interview must be given the opportunity to raise and explain their concerns, in confidence, to the UNHCR staff member who conducts the Interview.

The Eligibility Officer should ensure, at the beginning of the Interview, that the Applicant fully understands the language or dialect in which the interpretation is provided, and inform the Applicant of his/her right to raise concerns relating to the quality of interpretation or the assigned Interpreter at any point during the Interview. All concerns raised by the Applicant and the measures taken to address them have to be noted on the Applicant's file.

If the Applicant raises concerns after the start of an Interview, the Interview should be stopped and the Eligibility Officer should address such concerns immediately. Concerns unrelated to the language or dialect of interpretation should not be discussed in the presence of the Interpreter.

If an Applicant raises serious concerns regarding the participation of an Interpreter (such as a conflict of interest, the existence of an exploitative relationship, cultural, religious or ethnic biases or the sex of the Interpreter) which cannot be addressed by the Eligibility Officer and are likely to result in problems with disclosure during the Interview, the Interview should be stopped and an assessment should be made in consultation with the RSD Supervisor regarding the concerns raised, their impact on the process, and whether a different Interpreter should be used. Where a replacement of Interpreter is assessed to be appropriate in a particular case, the Interview may be resumed with a different qualified Interpreter, if available, or rescheduled as soon as possible. In UNHCR RSD procedures, every effort should be made to ensure that reasonable, or otherwise genuinely held concerns of Applicants are anticipated and accommodated through the assignment of appropriate interpreters.

If the Applicant does not understand the language or dialect of the interpretation, or if the Eligibility Officer has concerns regarding the quality of interpretation, the conduct/behaviour of the Interpreter, or any other factors that are likely to affect disclosure during the Interview, the Eligibility Officer should stop the Interview and address such concerns with the Interpreter and the Applicant immediately. If the concerns are serious including when they relate to the conduct/behaviour of the Interpreter, it may be appropriate to address such concerns outside the presence of the Applicant. The Eligibility Officer may, after consultation with the RSD Supervisor, request that a different Interpreter is assigned and reschedule the Interview if necessary. Any communications the Eligibility Officer may have with the Interpreter in the Applicant's presence need to be interpreted for the benefit of the Applicant and recorded on the file. Where concerns are not discussed in the presence of the Applicant, such concerns should be summarized for him/her and recorded on the file. The break and reasons for interrupting the Interview, as well as the change of Interpreter, if applicable, will be noted on the Applicant's file and the reasons for change of Interpreter explained to the Applicant.

The Eligibility Officer needs to **remain alert to any signs of potential problems with the quality of the interpretation** throughout the Interview and address any concerns immediately.

STANDARDS & GUIDELINES

SOME SIGNS OF POTENTIAL PROBLEMS WITH THE QUALITY OF THE INTERPRETATION

- The Applicant's response does not answer the question asked, or only partially answers it;
- The interpretation of a question or an answer is significantly longer or shorter than appears necessary;
- Words recognized without interpretation (for example, proper names or words in a language that the Eligibility Officer understands) are not interpreted;
- Exchanges between the Interpreter and the Applicant are not interpreted;
- There are non-verbal cues that the Applicant does not understand or is not comfortable answering a question in the presence of the Interpreter.

2.5.5 Remote Participation of Interpreters in Interviews

In cases where language requirements cannot be met by a UNHCR Office, **remote interpretation arrangements may be necessary to permit the participation of qualified interpreters in RSD or other protection Interviews** (for remote interviewing arrangements see § 4.3.2 – *Remote Participation of the Applicant in the RSD Interview)*. Remote interpretation arrangements can exceptionally be considered, for example, in instances where locally present Interpreters do not have the required language skills and/or appropriate profiles, or to avoid long processing delays and backlogs resulting from gaps in locally present interpreter resources. The factors set out in the following paragraphs should be taken into account when considering implementing remote interpretation arrangements.

Given the associated technical challenges and limitations, remote interpretation arrangements should, as a general rule, be relied upon as an exceptional measure when no qualified interpreter resources can be identified in the location where the Interview will take place.

The **technology used to support remote interpreter participation should permit clear, reliable and uninterrupted audio and, where applicable, video transmission**. The technology employed needs to be adequate to avoid gaps in the communication and/or unrecoverable speech in the audio and/or video transmission. If reliable technical arrangements cannot be achieved, remote interpretation will generally not be appropriate as it could seriously compromise the efficiency, effectiveness and accuracy of communication in the Interview.

The technology used in remote interpreter arrangements also needs to permit **confidential and secure communication**. The assessment of whether and how appropriate levels of confidentiality can be achieved will have to be informed by existing communications systems and other factors in the specific operational context. Technical advice should be sought as appropriate.

Wherever possible, the Interpreter should participate in the Interview from a location arranged by UNHCR, in order to ensure that the interpretation services are provided in a setting which preserves the confidentiality of the proceedings, and are free from background noise and interruptions. Where such

facilities cannot be arranged, the relevant guidelines and undertakings for Interpreters require that the Interpreter work from a space where he/she is free from interruption, noise and the presence of any other individual. Secure audio and/or video communications need to be arranged.

The Applicant must be informed of the conditions under which the remote Interpreter is working and receive an explanation of the confidentiality of the arrangement, including, where used, those related to the use and storage of electronic records of the Interview, as well as the role, obligations and undertakings of the Interpreter in the performance of his/her responsibilities. The Applicant should be given the opportunity, at the start of the Interview, to ask any questions or express any concerns regarding the remote interpretation arrangement. If an Applicant raises serious concerns about the use of a remote interpretation arrangement, which are likely to result in problems with disclosure during the Interview, and cannot be resolved by the Eligibility Officer, an assessment will need to be made in consultation with the RSD Supervisor regarding the concerns raised, their impact on the process, and the appropriateness of proceeding with a remote interpretation arrangement.

For remote interpretation arrangements, whether through audio or video transmission, the Applicant's consent should ideally be sought. Given the importance of establishing a relationship of trust and ensuring that the Applicant is comfortable with the Interview setting to encourage full and truthful disclosure, if the Applicant raises objections to video-conferencing, audio participation by the Interpreter, without video transmission, will generally be preferable.

The Eligibility Officer needs, as with an Interpreter physically present, to ensure that the Interpreter and Applicant understand each other's language and dialect and, additionally, that **the quality of the audio and/or video transmission is adequate throughout the Interview** for the Applicant as well as the Interpreter. The Eligibility Officer should ask both to signal any problems with the sound and/or video quality or transmission that may arise during the interview, and seek immediately to address them. Should technical problems persist which are compromising the quality and accuracy of the communication between the Interpreter and the Applicant, the Interview should generally be adjourned until appropriate interpretation can be achieved.

Given the specific challenges posed by remote interpreter arrangements, they will generally not be appropriate in Interviews with **Applicants in detention or Applicants who have specific needs or vulnerabilities**, in particular child Applicants, persons with hearing impairment and certain other mental or physical disabilities, and persons who are suffering the effects of trauma or torture (See § 4.3.2 – *Remote Participation of the Applicant in the RSD Interview*).

2.5.6 Impartiality of UNHCR Interpreters

The **impartial and neutral role of the Interpreter** should be maintained throughout the RSD process. The following guidelines need to be observed by all UNHCR staff and Interpreters:

STANDARDS & GUIDELINES

GUIDELINES TO PRESERVE THE IMPARTIALITY AND QUALITY OF INTERPRETATION

- Interpreters should interpret verbatim, fully and accurately all communications between the Eligibility Officer and the Applicant, and promptly inform the Eligibility Officer and Applicant where precise interpretation is not possible.
- Eligibility Officers should not call upon Interpreters to assess the credibility of an Applicant's account, or to investigate or comment on the reliability of evidence provided by an Applicant, except as it relates to the use of language and dialect by the Applicant. In this regard, the Interpreter's input should generally be limited to issues arising in the interpretation process, such as explaining the cultural meaning of a word or other nuances in the language, as well as indicating where a term or a phrase does not have an exact equivalent in the language of interpretation. Where information regarding the Applicant's language or dialect brings into question the Applicant's asserted nationality, ethnicity, place of origin, or other material fact, this should generally prompt further examination of the relevant aspect of the Applicant's account and the credibility of the particular fact should be assessed in light of all the available evidence.
- Interpreters should not allow personal biases or cultural factors to influence the quality of interpretation, and should at all times treat Applicants with dignity and respect and maintain a professional attitude.
- Interpreters should never engage in advocacy or intervene with UNHCR on behalf of Applicants nor should they seek to undermine Applicants' claims.
- UNHCR Interpreters should not accept requests to meet with asylum-seekers and refugees outside of UNHCR Office, or engage in any other exchange that could affect their impartiality in UNHCR RSD procedures. If there are urgent circumstances where the Interpreter's assistance is required outside the UNHCR office in connection with the Applicant's claim, the Interpreter must obtain prior written authorization from the appropriate UNHCR staff member.
- Interpreters should be instructed to promptly notify the UNHCR staff member to whom they provide services, or the RSD Supervisor if appropriate, of any factors which could be perceived to affect the Interpreter's impartiality, including previous personal knowledge of, or contact with, an asylum-seeker, or another potential conflict of interest, as well as threats or offers of bribery received by the Interpreter.
- Interpreters should not select Applicants for whom they provide interpreting services, and should not be informed of the identity of the Applicants before the day on which they provide the interpreting services. Exceptions can be made in cases where the Interpreter may need to prepare for Interviews during which specific types of technical language is likely to be used, or where the Applicant presents security risks so that the Interpreter has the opportunity to decline to provide interpretation due to such risks.
- Wherever possible, Interpreters should be assigned to different Eligibility Officers and repeated involvement by an Interpreter in a particular case should be avoided when scheduling Interviews. For Applicants with specific needs or vulnerabilities, it may however be appropriate to use the same

Interpreter if more than one RSD Interview is conducted if this would be conducive to building a relationship of trust and encouraging full and truthful disclosure.

- Wherever possible, Interpreters should not be assigned to cases of Applicants of the same nationality, ethnicity or belonging to the same refugee community.
- Any contact between Interpreters and Applicants other than in the course of interpretation should be avoided. Interpreters should not be left alone with Applicants prior, during or after the RSD Interview.
- As a general rule, UNHCR Offices must avoid tasking Interpreters with the provision of counselling to Applicants or assigning them other tasks unrelated to interpretation where this could undermine the impartiality of the Interpreter in the RSD process.

2.5.7 Duty of Confidentiality

Interpreters need to strictly maintain confidentiality regarding the information they receive when carrying out their responsibilities for UNHCR, and should not comment on or reveal this information to persons other than UNHCR staff who are involved in RSD. This obligation to maintain the confidentiality of information received during the course of their work with UNHCR extends beyond the length of their actual contract with UNHCR.

All interpreters must sign the **UNHCR Interpreter Undertaking of Confidentiality and Impartiality (Annex 2.5-2)** in which they confirm their understanding and acceptance of their obligations of confidentiality and impartiality.

2.5.8 Access by Interpreters to Individual Files of Applicants

Interpreters should not have access to general file storage areas or to electronic databases containing personal information related to persons of concerns. As a general rule, Interpreters should not handle individual files of persons of concern. Where interpreters have exceptionally been assigned additional tasks which require access to individual files, this access needs to be strictly limited to what is necessary to carry out authorized responsibilities, and should be closely supervised. Interpreters are not allowed to maintain records of their communications / interactions with Applicants and refugees, and should be asked to hand their notes over to the Eligibility Officer at the end of the Interview. The Interpreter's notes must be kept on file if they may be useful for review purposes in the future.

2.5.9 Supervision and Oversight of Interpreters

Each UNHCR Office should designate a Protection staff member to supervise the work of Interpreters in UNHCR procedures. The RSD Supervisor is generally responsible to oversee the quality of interpretation services in UNHCR RSD procedures. The **RSD Supervisor**, or a Protection staff member designated by the RSD Supervisor, has to be directly involved in the hiring, training and supervision of UNHCR Interpreters, and should ensure that UNHCR Interpreters have the necessary skills and training, as well as the appropriate attitude, to interpret effectively in RSD procedures.

UNHCR Offices should conduct regular performance assessments for Interpreters and should also conduct *ad hoc* checks, including where there are concerns about the integrity, confidentiality or quality of the work of one or more individual Interpreter. Such checks could consist of listening to the recording of selected communications or Interviews to ensure that the interpretation provided has been accurate and has been carried out in a professional and neutral manner.

The complaint procedures established in each UNHCR Office to provide persons of concern with the opportunity to report misconduct of UNHCR staff should also be used to channel **comments and complaints about the services of Interpreters**. These procedures need to be clearly communicated to all Applicants and UNHCR staff. All complaints regarding the quality of interpretation, the impartiality or confidentiality of Interpreters, or other matters relating to the conduct of Interpreters, should be referred to the Protection staff member who is responsible to oversee the quality of interpretation in RSD or other procedures. Complaints procedures regarding the services of Interpreters should specify responsibilities for follow-up on complaints received and reporting on action taken, in accordance with the principles set out in § 2.6 – *Complaint Procedures*.

UNHCR Offices always need to give due consideration to the Interpreters' **psychosocial and physical well-being** in order to prevent burnout and to help limit fraud and security risks. Given the high likelihood of exposure to trauma, Interpreters should at a minimum undergo security and trauma preparation including understanding the basics of the prevention of stress and trauma, and should be included in staff welfare trainings, see § 4.2.4 – *Duty of Care in Individual Case Processing*. Offices should facilitate their access to on-going psychosocial support available to the protection team in the operation. Stress management and coping mechanisms should be introduced in each Office to manage the level of the Interpreters' vicarious trauma. These can include alternating interpretation and translation work, and rotating Interpreters between RSD, resettlement and community services work whenever possible.

For further guidance on training and supervision of Interpreters, please refer to the *Guidelines for the field on recruitment procedures, conditions of service, training and supervision of interpreters* annexed to the IOM-FOM 005/2009.

Annexes

Annex 1: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to interpretation in UNHCR RSD procedures. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

Guidelines for the field on recruitment procedures, conditions of service, training and supervision of interpreters, UNHCR, IOM-FOM 005/2009, 19 January 2009, https://bit.ly/3arZILa

Self-Study Module 3: Interpreting in a Refugee Context, UNHCR, 1 January 2009, http://www.refworld.org/docid/49b6314d2.html

Policy on the Protection of Personal Data of Persons of Concern to UNHCR, May 2015, http://www.refworld.org/docid/55643c1d4.html

Annex 2: UNHCR Interpreter Undertaking of Confidentiality and Impartiality

UNITED NATIONS
HIGH COMMISSIONER
FOR REFUGEES

NATIONS UNIES
HAUT COMMISSARIAT
POUR LES RÉFUGIÉS

UNHCR INTERPRETER UNDERTAKING OF CONFIDENTIALITY AND IMPARTIALITY

Name of Interpreter: .....

In addition to my agreement to abide by the principles set out in the UNHCR *Code of conduct*, I make the following undertakings in respect of performance of my role as UNHCR interpreter:

Obligation of Confidentiality

I undertake not to disclose or discuss any information about asylum seekers, refugees, internally displaced persons, returnees, stateless persons, (all these categories are hereinafter referred to as persons of concern to UNHCR), colleagues or other work related matters that come to my knowledge as a result of my role as an interpreter with UNHCR. I understand and accept that my obligation to maintain the confidentiality of information I have received in UNHCR continues beyond the termination of my assignment with UNHCR.

Obligation of Impartiality

I undertake to carry out my responsibilities and to conduct myself at all times, both in and outside of UNHCR premises, in a manner that is fully consistent with my obligation of impartiality as a UNHCR interpreter. In particular:

- I will, to the best of my abilities, provide accurate and complete interpretation;
- I will provide interpretation services in a neutral and non-judgemental manner;
- I will refrain from engaging in advocacy on behalf of persons of concern to UNHCR;

- I will not accept payment or favour from or on behalf of persons of concern to UNHCR;
- I will not engage in contact or exchanges with persons of concern to UNHCR or other third parties that could undermine, or be perceived to undermine, either my impartiality as an interpreter or the fairness and integrity of UNHCR procedures;
- I will carry out my responsibilities in a manner that is consistent with UNHCR standards for cultural, gender and age sensitivity in UNHCR procedures.

Duty Report

I undertake to inform the UNHCR staff member for whom I am providing interpretation services, and to report to my direct supervisor any facts or incidents that could undermine, or be perceived to undermine, my impartiality or effectiveness in the performance of my responsibilities. Specifically, I agree to report without delay:

- Any ties, professional or personal, I have with a person of concern to UNHCR in relation to whom I have been assigned to provide interpretation services;
- Any employment, association or private interest I have which could be inconsistent with, or perceived to be incompatible with, my role as a UNHCR interpreter;
- Any other factors that could adversely affect my competence to provide interpretation services that have been assigned to me.

Consequences of Breach of the Undertaking

I understand that this signed Undertaking of Confidentiality and Impartiality will be maintained on my personal file, and that failure to comply with the undertakings above, without reasonable excuse, will amount to misconduct and may result in disciplinary proceedings against me and/or legal action.

I have read, understand and accept each of the undertakings set out above.

Signature of Interpreter: .....

Date: .....

Place: .....

2.6 Feedback and Complaints

2.6.1 General Observations

Each UNHCR Office must **establish and maintain a confidential and accessible feedback and complaints mechanism to enable the Office to receive and respond to complaints, comments and suggestions** by Applicants or other individuals about the services provided in UNHCR RSD procedures. Together with proactive measures to engage persons of concern to UNHCR, such as participatory assessments and focus groups, feedback and complaints mechanisms are an essential managerial tool that can permit the detection of any problems, potential areas of improvement or successes in the procedures for individual RSD case processing in UNHCR operations.

2.6.2 Information regarding RSD Feedback and Complaints Mechanisms

Information regarding the basic rights of asylum-seekers who approach or are registered with UNHCR, and the **procedures for giving feedback regarding the RSD process and procedures** should be communicated to Applicants as early as possible in, and throughout the RSD process. Information about existing feedback and complaints procedures in the UNHCR Office should be made available in the main languages spoken by refugees and asylum-seekers registered with the Office, and should be communicated widely and through a variety of methods, including methods accessible to persons with disabilities (see also § 3.1.3 – *Dissemination of Information to Asylum-Seekers*). Means of communicating may include posting information outside the premises of each UNHCR Office, on electronic notice boards, via SMS systems, through information videos, on the UNHCR Office website or social media platforms, during community meetings or through UNHCR partners involved in providing services and assistance to asylum-seekers and refugees registered with UNHCR.

UNHCR Offices should also clearly communicate to asylum-seekers and refugees, throughout the RSD process and by using a variety of means and channels, that the services of UNHCR and partners are **free-of-charge**, and that any request by UNHCR staff or staff of partners for monetary or non-monetary compensation (e.g. gifts or favours) from Applicants should be immediately reported to UNHCR. Offices should also provide information about the mandate of the **Office of the Inspector General** (IGO) and how an asylum-seeker or other individuals can report directly to the IGO any information about suspected **misconduct of UNHCR staff** or any person or entity that has a contractual link to UNHCR (e.g. consultants or staff of partner agencies). The IGO can also receive anonymous reports of possible misconduct.[1]

UNHCR Offices should ensure that asylum-seekers and refugees have appropriate alternative channels of communication with the UNHCR Office regarding the status of their application or other case processing related queries.

Information on the feedback and complaints procedures should also be shared with UNHCR partners, so that they can advise asylum-seekers and refugees on the nature and purpose of the procedures and can assist them in using the established mechanism to submit complaints, comments or suggestions.

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[1] The IGO can be contacted at the following email address: inspector@unhcr.org. For further information regarding complaints to the IGO, please visit www.unhcr.org/php/complaints.php.

2.6.3 Scope of RSD Feedback and Complaints Procedures

Existing UNHCR feedback and complaints procedures should be used **to provide suggestions, comments or complaints relating to the RSD procedures**, including but not limited to concerns about **procedural fairness**, such as issues related to the quality, availability or conduct of the staff involved in the RSD process, the premises where the RSD is conducted, or of access to the UNHCR Office. Information on the feedback and complaints procedures should make clear that these procedures are **distinct from appeal or re-opening procedures** and should not be used to request a review of the correctness of the RSD decision. Furthermore, Applicants should be advised that reporting through feedback and complaints procedures **will not in any way prejudice or positively influence the consideration of their refugee claim**.

2.6.4 RSD Feedback and Complaints Procedures

UNHCR Offices should establish procedures that allow asylum-seekers and refugees to provide feedback or make complaints regarding the RSD Procedures at any point during the RSD process or following a final determination of a refugee status claim.

Feedback and complaints can be given or made in **writing or orally**. Where feedback or complaints are given orally, the date and details of the issue should be recorded in writing and forwarded to the designated UNHCR staff member dealing with feedback on RSD according to the established procedures in the Office.

Feedback and complaints procedures can encourage but not require that **persons submitting the feedback or complaints identify themselves** by registration number alone if they prefer, so as to allow any necessary follow-up with the individual concerned. However, asylum-seekers and refugees should be given the possibility to also make complaints or provide feedback **anonymously**.

It is recommended that feedback and complaints procedures incorporate a **Feedback/Complaint Form** to encourage individuals to submit relevant and detailed information about the substance of the issue, and to provide their identity and contact details, if they wish to do so. Feedback and complaints procedures should permit individuals who are illiterate, or otherwise require assistance in UNHCR RSD procedures, to receive assistance in submitting feedback or complaints from a staff member other than the staff member who may be the subject of the feedback or of the complaint.

All feedback and complaints should be received and reviewed by the UNHCR Office no matter in which form they are submitted.

The feedback and complaints mechanism established in each Office should include accessible channels for providing feedback in a confidential manner (**at a minimum**, a confidential box that is easily accessible, including to those who do not have access to UNHCR's premises, i.e. outside of the gate of the UNHCR office/compound). Additional means of receiving feedback and complaints may include dedicated email addresses, telephone helplines and SMS/messaging or similar systems. Offices are encouraged to develop multiple means of receiving feedback and complaints, and of communicating with asylum-seekers and refugees that are appropriate to their operational contexts.

UNHCR Offices should establish clear referral lines allowing RSD-related feedback or complaints made to units other than the RSD Unit to be forwarded to the RSD Supervisor without delay.

UNHCR Offices should establish procedures for screening of feedback and complaints, as well as timeframes for responding (where applicable) and taking appropriate action. Procedures should include appropriate **safeguards to ensure that complaints submitted to the UNHCR Office are not intercepted or referred for follow-up by staff members against whom the complaints are made**. Safeguards should also be in place to prevent disclosure of the identity of the person who made the complaint, or against whom the complaint was made. As a recommended practice, feedback and complaints relating to the RSD process and procedures in a particular Office should be considered/read on a regular basis, not less than once weekly, by the RSD Supervisor and the Head of the Office, or another senior Protection staff member designated by the Head of the Office.

The **RSD Supervisor**, or another senior Protection staff member designated by the Head of Office, should be responsible for reviewing all feedback and complaints received by the Office regarding the UNCHR RSD procedures, and for referring them to the appropriate staff member for follow-up or directly to the IGO if the subject matter of the complaint involves suspected misconduct by of a staff member or any person or entity that has a contractual link to UNHCR. Complaints or feedback that indicate that fraud by persons of concern may be occurring in the RSD procedures should be referred to Anti-Fraud Focal Point in the UNHCR office.

The date of the referral of the feedback or complaint for follow-up and the name of the staff member assigned to follow up on the feedback or complaint should be noted in the Office central record system for feedback and complaints and on the feedback/complaint form, where applicable.

UNHCR Offices with limited numbers of Protection staff should make necessary and appropriate arrangements for referral of complaints to the Representative or other senior Officers, or to the appropriate UNHCR Regional Office.

Staff to whom the feedback or complaints are referred should be required to **follow up on the individual feedback or complaint and report on the action taken in a timely manner** and according to established procedures. Where appropriate, given the subject matter of the complaint, a record of the feedback or complaint, as well as any action taken in response to it, should be maintained in the individual's RSD file. Where possible and appropriate, the individual who provided the feedback or made the complaint should be informed in writing of the action taken or of the reasons why no action is considered necessary in a particular case.

Feedback and complaints procedures in the UNHCR Office should also include effective measures for UNHCR staff to report suspected misconduct by UNHCR staff members, including supervisory staff or managers, and any person or entity that has a contractual link to UNHCR. All UNHCR staff should be aware of their obligation to report suspected misconduct, without delay, directly to the IGO.

2.6.5 Monitoring and Oversight

The procedures should set out responsibilities for **monitoring and assessing the timeliness and the adequacy of the response to feedback or complaints**.

All feedback and complaints received by the UNHCR Office should be recorded in a centralized system at operation level to enable effective monitoring and follow-up. The centralized feedback and complaints record should be accessible only to UNHCR staff members who are designated to have such access by the Representative or Head of Office. Where appropriate, the feedback or complaint, as well as the response when one is required, should also be kept on the individual RSD files.

Feedback and complaints mechanisms provide an important source of information regarding the quality and integrity of all aspects of the RSD procedures in UNHCR Offices. In each UNHCR Office, the **Representative or Head of Office** should monitor the nature and content of feedback and complaints received regarding UNHCR RSD procedures, as well as the response by the responsible staff members, and should take all necessary measures to promote the effectiveness of feedback and complaints procedures as an oversight tool.

Annex: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to Feedback and Complaints in UNHCR RSD Procedures. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

UNHCR, *Policy for Addressing Fraud Committed by Persons of Concern*, UNHCR/HCP/2017/3, 29 September 2017, https://bit.ly/2S6vnbD

UNCHR, *Operational Guidelines on Addressing fraud Committed by Persons of Concern*, UNHCR/OG/2017/1, 1 October 2017, https://bit.ly/2KoeSoA

UNHCR, *Strategic Framework for the Prevention of Fraud and Corruption*, July 2013, available at: http://www.refworld.org/docid/5433a4e54.html

UNHCR, *Policy on Age, Gender and Diversity*, UNHCR/HCP/2018/1, 8 March 2018 https://bit.ly/2v9hwrh

UNHCR, *Administrative Instruction on Protection against Retaliation*, UNHCR/AI/2018/10, 1 September 2018, https://bit.ly/2FwbJnY

2.7 Legal Representation in UNHCR RSD Procedures

2.7.1 Legal Representation in UNHCR RSD Procedures

Legal representation includes legal and procedural advice, assistance with the completion of various forms, including the RSD Application form, preparation of oral and written submissions, collection and submission of supporting evidence, and attendance of Interviews throughout the RSD process, including where applicable at the appeal stage, as well as in re-opening procedures and procedures for cancellation, revocation or cessation of refugee status. In all instances, **legal representation must be consistent with the non-adversarial nature of UNHCR RSD procedures**.

Legal representation is an important factor in establishing fair and transparent mandate UNHCR RSD procedures and strengthening the quality of decision-making. It can assist in the identification of international protection needs of Applicants by helping them put forward all the information relevant to their refugee claims, as well as discouraging the submission of false claims by dispelling misguided or exploitative information, and thus contributes to the efficiency and expediency of the RSD process.

UNHCR Offices should encourage the participation of responsible, high quality legal representation in mandate UNHCR procedures. Wherever possible and appropriate, UNHCR Offices should develop partnerships with established legal aid providers that offer responsible, high quality legal representation in mandate RSD procedures, and which have appropriate systems of training and ensuring accountability for their staff.

2.7.2 Right to Legal Representation

Applicants have the **right to engage the services of qualified legal representatives at their own cost or on a *pro bono* basis**, where such services are available. Applicants should be informed of this right as soon as practicable and UNHCR Offices should generally facilitate the Applicants' ability to exercise this right, wherever possible. Where Offices have implemented an accreditation system for legal representatives or have developed partnerships with legal aid providers, information on accredited legal representatives or legal aid organizations should also be provided to all Applicants.

The absence of legal representation should in no way delay or otherwise adversely impact the determination of the Applicant's refugee claim.

In the case of **unaccompanied or separated child Applicants**, the legal representative cannot also act as the child's appointed guardian or designated representative unless there are compelling reasons to exceptionally allow it (see, inter alia, § 3.4.6 – *Child Applicants (Under 18)/Unaccompanied or Separated Children* and § 4.3.7 – *Interviewing Child Applicants*).

As a general rule, processing timelines and scheduling of Interviews need to provide Applicants with enough time to obtain legal representation. Where there are compelling protection reasons to process the claim on a priority basis or where the claim is manifestly unfounded or clearly abusive, UNHCR Offices may, however, implement shorter timelines in accordance with set accelerated RSD procedures (see § 4.9 – *Accelerated RSD Processing*). The implementation of accelerated procedures should not preclude the Applicant's right to legal representation.

2.7.3 Authorization to Act as Legal Representative

(a) Qualifications to Act as Legal Representative

In order to act as a legal representative in mandate RSD procedures, an individual must have the **necessary training and/or experience to perform this role**. While a formal law degree or current professional legal accreditation is not required, individuals proposed as legal representatives need, as a general rule, to possess the following:

i. a working understanding of international refugee law;

ii. a working understanding of UNHCR procedures;

iii. experience in assisting refugee status claimants;

iv. a thorough understanding of the Applicant's claim; and

v. be bound by a code of ethics or professional responsibility, such as the *Model Rules of Ethics for Legal Advisors in Refugee Cases* ("Nairobi Code") (see § 2.7.4(c) – *Professional Conduct and Adherence to Code of Ethics*).

An individual who:

i. possesses a valid license or professional legal accreditation from a member State of the United Nations as a lawyer, solicitor, attorney, barrister, counselor-at-law or equivalent professional designation; or

ii. is a member of an established and reputable organization providing free or low-cost legal representation to asylum-seekers and refugees with which UNHCR has a partnership arrangement; or

iii. has already been authorized by UNHCR to act as legal representative in mandate RSD procedures;

is deemed to possess the qualifications set out above unless there are good reasons to believe that they are not qualified.

Where an individual is **not deemed to possess the required qualifications** set out above, UNHCR Offices should make appropriate inquiries to ascertain whether he/she has the necessary training or experience to be authorized to act as legal representative in UNHCR RSD procedures. Such inquiries should be carried out by the RSD Supervisor or another designated staff member in accordance with set procedures and/or the provisions of partnership arrangements with established and reputable organizations providing free or low-cost legal representation to asylum-seekers and refugees, where such agreements exist. The determination whether a person has the qualifications and/or experience to act as legal representative in UNHCR RSD procedures should be conducted on a case-by-case basis, in a fair and timely manner.

In cases where the proposed legal representative possesses the required qualifications, UNHCR may, nevertheless, deny him or her authorization to act as legal representative for reasons related to conflict of interest, past gross misconduct, an exploitative relationship or other serious ethical concerns. This will also be the case, even where an individual has already been authorized by UNHCR to act as legal representative, where the reasons set out above exist.

A determination that a proposed legal representative **does not have the qualifications, or is otherwise not suitable** to act as a legal representative should be explained to the Applicant and the prospective legal representative, unless there are compelling reasons not to do so, such as protection or security concerns for the Applicant or UNHCR staff. The reasons for such a decision should **be recorded on the Applicant's file**. Wherever possible and appropriate, the UNHCR Office must endeavor to refer the Applicant to alternative providers of legal representation. UNHCR Offices should use discretion in determining whether it would be appropriate to permit a proposed legal representative, who does not have the required qualifications or is otherwise not suitable, to observe the RSD Interview under the conditions set out in § 4.3.4 – *Attendance by Third Parties other than a Legal Representative*.

UNHCR Offices should maintain, for future reference, a record of all individuals who have been authorized to act as legal representatives.

To facilitate the process of authorization and appointment of legal representatives, UNHCR Offices may consider implementing an **accreditation system** to acknowledge the qualifications of legal representatives who represent Applicants in UNHCR RSD procedures.

As a general rule, an individual has to be physically present in the host country/country of asylum to be authorized to act as legal representative in UNHCR RSD procedures. Out-of-country representation may, however, be appropriate in certain circumstances, including where there are no quality legal aid providers in the host country/country of asylum, or for compelling protection reasons. Legal representatives not physically present in the host country/country of asylum should possess the same qualifications and abide by the same procedural requirements as in-country legal representatives.

(b) Appointment of the Legal Representative

An Applicant may appoint a legal representative at any stage of UNHCR RSD procedures, provided that the proposed legal representative has the qualifications to perform this role as set out in § 2.7.3(a) – *Qualifications to Act as Legal Representative*. Such representation may be full or partial, and may include inter alia counseling, preparation of written submissions, and Interview preparation and attendance (see § 2.7.4(a) – *The Role of the Legal Representative*).

The Applicant must provide written consent to the participation of the legal representative (Annex 2.7-2 – *Authorization to Act as Legal Representative*) and has to inform UNHCR whether there are any limitations on the legal representation. Until such time as the required consent form is received by UNHCR, the Office will not enter into correspondence with the legal representative, nor allow his or her attendance at Interviews or other appointments with the Applicant.

Any documentation or related information pertaining to the appointment of the legal representative should be kept or recorded on the Applicant's file and, where confirmed, recorded in the registration database.

(c) Termination of Legal Representation

The Applicant may withdraw from his or her legal representative the authority to act on his or her behalf at any time and for any reason, and must inform UNHCR in writing to this effect. The termination of legal representation has to be duly recorded on the Applicant's file.

The legal representative may withdraw from representation in accordance with their professional code of ethics and/or the Nairobi Code, and should inform UNHCR in writing to this effect. The legal representative must also inform the Applicant and, wherever possible, refer the Applicant to alternative providers of legal representation.

UNHCR Offices may, at any time, reconsider the authorization of the legal representative to participate in UNHCR RSD procedures, where there are good reasons to believe that the legal representative no longer possesses the required qualifications set out in § 2.7.3(a) – *Qualifications to Act as Legal Representative*, or where legal representation may be affected by a conflict of interest, gross misconduct, a exploitative relationship or other serious ethical concerns.

UNHCR Offices may, at their discretion and at any time, make inquiries with the Applicant and/or legal representative to ascertain whether a withdrawal of authorization to act as a legal representative in UNHCR procedures is appropriate in a particular case for the abovementioned reasons. As a general rule, a decision to withdraw authorization to act as legal representative has to be made by the RSD Supervisor or another designated protection staff member in accordance with set procedures and/or the provisions of partnership agreements with established and reputable organizations providing free or low-cost legal representation to asylum-seekers and refugees, where such agreements exist. UNHCR must notify the legal representative, the organization with which the legal representative is affiliated, and the Applicant of the withdrawal of authorization in writing and the reasons for such decision should be recorded in the Applicant's file. Wherever possible and appropriate, UNHCR should endeavor to refer the Applicant to alternative providers of free or low cost legal representation.

2.7.4 Role and Responsibilities of the Legal Representative

(a) The Role of the Legal Representative

The role of the legal representative is to provide an Applicant sound, confidential legal and procedural advice, to ensure that the Applicant's refugee claim is fully and accurately presented, and that the Applicant's rights are protected and respected throughout the UNHCR RSD procedure.

A legal representative may assist in the preparation of oral and/or written submissions, the collection and submission of supporting evidence, including country of origin information, and may submit legal arguments in support of the Applicant's claim.

UNHCR offices must accept and consider all material submitted by a legal representative on behalf of the Applicant in a timely manner, in accordance with specified timeframes, and prior to a decision being taken in the Applicant's case. UNHCR Offices shall develop fair and transparent rules governing the form and timeframe for making written submissions.

Applicants may be accompanied by their legal representative during any RSD or Appeal Interview, as well as any Interview in which UNHCR gathers information that is relevant to the determination of the Applicant's refugee status, or to the cancellation, revocation or cessation of his/her refugee status.

The Applicant's legal representative may request, in writing and with the Applicant's consent, a postponement of the Interview and rescheduling at a later date. The request for a postponement needs to be made in a timely manner, in accordance with set procedures, and should be granted where the legal representative presents legitimate reasons (e.g. the need to obtain supporting evidence or to make written submissions) and where the request does not unduly prejudice the rights or safety of the Applicant. The legal representative should take all possible steps to avoid delaying an Interview for personal reasons, including by making alternative arrangements for the Applicant's legal representation. If the postponement is granted, the legal representative's request for postponement should be documented on the Applicant's file and the Interview rescheduled according to established scheduling procedures (see § 3.5 – *Scheduling of RSD Interviews and Appointments*).

At the beginning of the Interview the Eligibility Officer has to explain to all present at the Interview the role and responsibilities of the legal representative. The legal representative should refrain from interrupting the Eligibility Officer or the Applicant during an Interview, and should limit interventions during the Interview to those relating to breaches of procedural fairness that could not be adequately addressed or remedied if they were raised in submissions at the end of the Interview. The legal representative may not testify on behalf of the Applicant about the facts of a case, nor bring his or her own interpreter to the Interview without prior approval by UNHCR. The legal representative may take notes during the Interview, but cannot otherwise record it. The legal representative will be given the opportunity to make brief oral submissions at the end of the Interview and these submissions should be recorded in the Interview Transcript and/or audio recording.

The involvement of the legal representative in the Interview should at all times **be consistent with the non-adversarial character of RSD and other procedures conducted by UNHCR**, and serve to promote full and reliable disclosure of the Applicant's claim. Should the involvement of a legal representative obstruct these objectives, he or she will be asked to withdraw from the Interview. In any case where an Eligibility Officer denies or withdraws permission of a legal representative to participate in an Interview (after consultation with the RSD Supervisor), the reasons for this decision must be explained to the Applicant and recorded in detail on the Applicant's file. The Eligibility Officer should use discretion in determining whether it would be appropriate to continue the Interview in the absence of a legal representative or whether the Interview should be stopped and rescheduled to allow, *inter alia*, the Applicant to seek alternative legal representation.

(b) Communication and Access to Information

Unless otherwise requested by the Applicant in writing, UNHCR Offices must communicate with the Applicant and/or his/her authorized legal representatives on all matters relevant to the determination, cancellation, revocation or cessation of the Applicant's refugee status, including Interview scheduling, notification of decisions and reasons for negative decisions. In cases where the legal representative is not physically present in the host country/country of asylum, all communications may be addressed solely to the Applicant, who can then inform his/her legal representative as appropriate. Legal representatives should be informed of the applicable form and timeframe for making submissions.

In addition to written submissions, authorized legal representatives may communicate with UNHCR on behalf of Applicants on all procedural matters, such as scheduling, giving notice of appeals, notifying UNHCR about interpretation or other special needs, submitting supporting or missing documentation and other issues relevant to the conduct of the RSD procedures.

Authorized legal representatives may request, with the express consent of the Applicant, and UNHCR must share, to the extent possible, all medical, psychiatric and other expert reports as well as any other documents submitted by or on behalf of the Applicant. Legal representatives may, on request, access on the UNHCR Office premises and under supervision, or through other secure and appropriate means as established by UNHCR Offices, the transcript or audio recording of the Interview with the Applicant. All **disclosure of information** to a legal representative must be **in accordance with UNHCR's data protection policy** and must **respect the Applicant's right to confidentiality**.

(c) Professional Conduct and Adherence to Code of Ethics

A legal representative must be bound by a code of ethics or professional responsibility. This may be established through a national system of bar registration, or through organizational or individual adherence to a code of ethics such as the Nairobi Code.

At the time of the recognition of the authorization to act as a legal representative, UNHCR should inform the Applicant of the obligation of the legal representative to abide by a code of ethics. The legal representative should provide the Applicant with a copy of the applicable code of ethics on request. In cases where the legal representative does not have professional accreditation or is not a member of an established and reputable organization providing legal representation to asylum-seekers and refugees, a copy of the Nairobi Code should be provided to the legal representative as well as the Applicant.

Applicants need to be made aware of existing standard office complaints procedures by which they are able to bring issues to the attention of UNHCR, including in relation to the professional conduct and ethical practices of legal representatives.

Legal representatives must also be made aware of existing standard office complaints procedures by which they are able to bring issues to the attention of UNHCR.

Annexes

Annex 1: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to legal representation in UNHCR RSD procedures. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

Policy on the Protection of Personal Data of Persons of Concern to UNHCR, May 2015, http://www.refworld.org/docid/55643c1d4.html

Model Rules of Ethics for Legal Advisors in Refugee Cases ("Nairobi Code"), Southern Refugee Legal Aid Conference (SRLAC), 1 February 2007, http://www.refworld.org/docid/4700d1572.html

Annex 2: Authorisation to Act as Legal Representative

UNITED NATIONS
HIGH COMMISSIONER
FOR REFUGEES

NATIONS UNIES
HAUT COMMISSARIAT
POUR LES RÉFUGIÉS

AUTHORIZATION TO ACT AS LEGAL REPRESENTATIVE

To be Completed by the Applicant

Name of Applicant:

Date of birth:

RSD File no.:

This is to certify that ..... is acting as my legal representative for all matters relating to my application for refugee status with the United Nations High Commissioner for Refugees.

I hereby authorize UNHCR to disclose to the above-named individual information or documents that I have provided directly to UNHCR, and to inform the above-named individual of decisions taken by UNHCR regarding my application for refugee status.

This Authorization is valid until a final determination in my refugee claim has been made by UNHCR, or the date upon which I give notice to UNHCR that the person named above is no longer authorized to act as my legal representative.

Applicant's Signature:

Date:

2.8 Children in UNHCR RSD Procedures

2.8.1 General Considerations relating to Child Applicants

Children have the **right to make an independent refugee status claim**, regardless of their age or whether they are accompanied, unaccompanied or separated. Child Applicants should receive all necessary assistance and support in making their claim. Whether a child is making an individual refugee status claim[1] or applying for derivative refugee status as a dependant of a recognized refugee (for guidance on derivative refugee status see, § 5 – *Processing Claims based on the Right to Family Unity*), the principles and procedural standards set out in this section and, more broadly, the RSD Procedural Standards, must be observed. Where applicable, additional standards and recommendations relating to child Applicants are set out in other Units of the RSD Procedural Standards (see, for example, § 3.2.6 – *Registration Interview of Family Members/Dependants*, § 3.4.6 – *Child Applicants (under 18) / Unaccompanied & Separated Children*, § 4.3.7 – *Interviewing Child Applicants*, and § 5.3.2 – *Derivative Refugee Status Applications Involving Children*).

The child-specific terms used in this section and elsewhere in the RSD Procedural Standards should be understood as follows:

Definitions:

- **Child:** A person who is under 18 years of age. This term encompasses a wide range of developmental stages and levels of maturity, from early childhood to the late teens.
- **Child Applicant:** A child who makes an individual refugee status claim or who applies for derivative refugee status as the dependant of a recognized refugee.
- **Unaccompanied Child:** A child who has been separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so. A child who is unaccompanied for the purposes of this definition may, therefore, be physically accompanied by an adult whose relationship with the child has not reached a standard of legal or customary custody of the child (see also 'customary caregiver' below) – for example, an acquaintance or neighbor.
- **Separated Child:** A child separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. Where the relative in question has long been the primary caregiver of the child to the extent that they are legally or customarily considered to hold custody (see also 'customary caregiver' below), the child would not be considered separated.
- **Parent:** The biological or adoptive parent of the child.
- **Customary Caregiver:** A customary caregiver is a person that the community has accepted, either by tradition or common practice, to provide the daily care, protection and supervision of a child. The customary caregiver may (or may not) be related to the child. A customary caregiver is usually a person other than a parent who has cared for a child for an extended period of time in country of origin, transit or in country of asylum.

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[1] All Applicants who meet the refugee criteria under the UNHCR's mandate should be recognized as refugees in their own right even if they have applied for refugee status as part of a family rather than on individual basis (see § 5.2 – *Derivative Refugee Status*).

- **Legal caregiver:** A legal guardian or another person legally responsible for the child. For the purposes of UNHCR mandate RSD procedures, the rights and responsibilities of legal caregivers/guardians assume vis-à-vis a child are akin to those of parents.
- **Guardian:** A person designated to assist an unaccompanied and separated child in all stages of the RSD process and to ensure that the child is properly represented, that his/her views are expressed and that any decisions taken are in the child's best interests. A guardian in UNHCR mandate RSD procedures is not responsible by law for the care and general welfare of the child. The legal representative cannot undertake the role of a guardian (see § 2.8.4 (b) – *Guardians* and § 2.7 – *Legal Representation in UNHCR RSD Procedures*).
- **Support person:** A trusted adult who may accompany the child Applicant throughout the RSD process with the aim of providing moral and emotional support and encouraging the expression of the child's views and preferences (see § 2.8.4 (c) – *Support Persons*).

All aspects of RSD procedures involving child Applicants must be conducted in a child-friendly and age and gender-appropriate manner, in accordance with the best interests principle. This requires taking into account the child's level of emotional, mental and intellectual development and maturity, ability to understand the RSD process and procedures, as well as their personal and contextual circumstances, including but not limited to their age, gender, sexual orientation, gender identity and gender expression, disability, cultural and/or religious background, level of education, state of health and vulnerabilities, as well as the circumstances of flight, transit and arrival in the host country/country of asylum.

The best interests of the child must also be a primary consideration in all decisions affecting the child Applicant throughout the RSD process. This includes decisions whether to interview a child; to have a support person present during an interview; to prioritize the processing of the child's claim; or to share his/her personal data with family members, host country/country of asylum authorities and implementing partners. **When considering the best interests of the child Applicant, his/her views must be taken into account. The views of a child Applicant should be given due weight** in accordance with their age, and the level of development and maturity. In exceptional cases, where a child's level of development and maturity cannot be readily assessed, Eligibility Officers may consult with child-protection staff or partners with specialised knowledge in child protection issues.

At the earliest opportunity in the RSD process, Eligibility Officers responsible for determining the refugee status claims by child Applicants **should coordinate with other Protection staff to gather and share the information required to inform the RSD procedures and accommodate any specific protection needs and vulnerabilities of child Applicants during the RSD process**. Any protection concerns that arise during the RSD procedures and that require a protection response should be brought to the attention of the relevant Protection staff without delay. As a good practice, it is recommended that UNHCR Offices establish procedures to facilitate the coordination of protection interventions and sharing of relevant information pertaining to child Applicants between Protection staff conducting registration, RSD and child-specific protection activities.

2.8.2 Best Interests Procedures and the RSD process

Assessing the best interests of the child Applicant within the context of the RSD process generally requires that due regard is given to the child's specific situation and needs. It is not always necessary to conduct a formal or separate assessment of the child's best interests. Generally, recording on the file how the child's best interests were assessed and made a primary consideration is sufficient. A separate best interest assessment (BIA)[2] or a best interest determination (BID)[3] may, however, be necessary in certain circumstances, such as where the decision to be taken is of particular weight. Where a BIA is needed for a protection concern, or where a BID is needed, this should be conducted by qualified Protection staff as part of the Best Interests Procedure.[4] The outcome of this procedure should inform the RSD process to ensure that appropriate safeguards are put in place.

As a general rule, in order to ensure that the best interests of the child are a primary consideration in decisions that affect them, child Applicants' views should be sought throughout the RSD process. This may, for example, occur at the beginning of the RSD Interview, during counseling, at the registration Interview, as well as wherever the child Applicant's consent or assent is sought in respect to sharing of personal data. Information about the child Applicant, whether obtained in the course of RSD process or other protection interventions by UNHCR, or provided by family members, primary or customary caregivers, the child's legal representative, or UNHCR partners should also inform the RSD process. The use of any information regarding the child Applicant should respect the confidentiality of UNHCR procedures and data protection policies (see also § 2.8.4(d) – *Confidentiality and Data Protection)*.

As a general rule, a best interests assessment (BIA)[5] should be conducted to determine the appropriateness of interviewing for RSD a child Applicant who is of **young age**[6] (see also §§ 4.3.8 – *Interviewing Child Applicants* and 5.3.2 – *Derivative Refugee Status Applications Involving Children*). A BIA for these purposes may exceptionally be conducted by the Eligibility Officer to whom the case is assigned or a child-protection staff member. Depending on the child Applicant's personal and contextual circumstances and the circumstances of the case, a BIA may also be conducted for other Applicants to assess whether pursuing a RSD Interview is in the child's best interests. Such a BIA can also inform the selection of an appropriate interview environment and child-friendly and age-appropriate interviewing techniques and/or recommend the presence of a support person to facilitate the child's account.

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2 A "best interests assessment" (BIA) is an assessment made by staff taking action with regard to individual children, except when a BID procedure is required, designed to ensure that such action gives a primary consideration to the child's best interests. The assessment can be done alone or in consultation with others by staff with the required expertise and requires the participation of the child.

3 A "best interests determination" (BID) describes the formal process with strict procedural safeguards designed to determine the child's best interests for particularly important decisions affecting the child. It should facilitate adequate child participation without discrimination, involve decision-makers with relevant areas of expertise, and balance all relevant factors in order to assess the best option.

4 In addition, the Best Interests Procedure should be followed with respect to actions relating to the overall care and protection of child Applicants with specific needs and/or significant protection concerns, regardless of their status in the RSD process.

5 This is not a formal process and, as a consequence, it does not require the use of the standard BIA Form.

6 Whether a child is too 'young' to undergo a RSD Interview will not only depend on the chronological age, but also his/her level of emotional and mental development and maturity. As such, it is not possible to provide a definitive age scale for the purposes of RSD interviewing.

In considering whether the best interests of the child are served by conducting a RSD Interview, the following and other relevant factors should be taken into account:

STANDARDS & GUIDELINES

FACTORS TO BE TAKEN INTO ACCOUNT WHEN DECIDING WHETHER A RSD INTERVIEW IS IN THE CHILD'S BEST INTERESTS:

- whether the child has made a refugee status claim in his/her own right or whether he/she has applied for derivative refugee status;
- whether the Applicant is an unaccompanied or separated child;
- the child's age;
- the child's level of psychological and mental development and maturity;
- the child's capacity to understand the RSD process and procedures and the rights and obligations it entails (and thus capacity to consent);
- whether information about the child Applicant's profile and experiences in country of origin must be gathered from the Applicant in order to determine the claim;
- relevant information already available from other sources (such as COI, family members, caregivers, etc.);
- any specific needs or vulnerabilities the child Applicant may have, including but not limited to physical and mental health issues and disabilities;
- the length of time since the child Applicant left the country of origin (this may affect ability to recall and recount events/experiences in the country of origin) and the Applicant's age at the time of departure;
- the child's views and preferences.

2.8.3 Child-friendly and Age-appropriate RSD Procedures

In order to ensure the full and effective protection of children, RSD procedures involving child Applicants must be child-friendly and age and gender-appropriate. This includes the physical environment within which the procedure is conducted, the attitudes, behaviour and skills of Eligibility Officers and other actors involved in or supporting the child through the RSD process (e.g. interpreter, guardian, etc), counselling and information provided to child Applicants about the RSD process and procedures, as well as other child-specific support measures and safeguards addressed in this Unit and elsewhere in the RSD Procedural Standards. Additional procedural safeguards may be put in place by individual UNHCR Offices, as appropriate.

Wherever possible, children should be consulted about how RSD procedures can be made more child-friendly and age and gender-appropriate, for example, through participatory assessments.

(a) Physical Environment

UNHCR Offices must ensure that all stages of the RSD process, from reception through to the RSD interview, are conducted in a child-friendly and non-threatening environment. To ensure that child Applicants are at ease and to encourage their participation in the RSD process, areas dedicated to children should feel safe, secure and welcoming. This can be done in a variety of ways, including having a separate reception/waiting area for children, displaying age-appropriate information and materials, or making available play and learning materials.

Special consideration should also be given to the interviewing environment, in particular the set-up of the room, the seating arrangements, and the materials in the room. For example, a more informal seating arrangement (such as a round table with lower chairs comfortable for both children and adults) and taking hand-written notes rather than using computers may create a less intimidating physical environment and an atmosphere of trust conducive to disclosure. Where present, the child's legal representative, guardian or support person should be sitting close to the child.

(b) Attitudes, Behaviors and Skills of RSD Staff

Wherever possible, RSD procedures involving child Applicants should be carried out by trained **staff who have the knowledge and experience** in interviewing and assisting child asylum-seekers. This includes Eligibility Officers, interpreters, as well as other Protection staff involved in or supporting RSD procedures. Eligibility Officers must be attentive to child Applicants' specific needs and vulnerabilities and be able to adapt the manner in which the interview is conducted to the child's age, level of emotional and mental development and maturity, but also gender, disability, culture, education and socio-economic background and other relevant factors. Like Eligibility Officers, Interpreters should also be sensitive to child Applicants' specific needs and vulnerabilities and be provided with specific training and guidance to enable them to work effectively with children. The Eligibility Officer's and Interpreter's gender, cultural and linguistic background should be considered when assigning an RSD case. All RSD staff, including Interpreters, should be given the opportunity to participate in child-specific training programmes.

Resources permitting, UNHCR Offices should consider designating a **focal point(s)** within the RSD team to provide advice and support to Eligibility Officers when adjudicating claims by child Applicants ('Children Focal Point'). The Children Focal Point may also assume responsibility for ensuring appropriate liaison with other Protection staff within the UNHCR Office to ensure the Applicant's protection needs and vulnerabilities inform the RSD procedures and are appropriately addressed within the context of RSD procedures.

Given the importance of creating an atmosphere of trust and building rapport with a child Applicant, the Eligibility Officer needs to remain alert throughout the interview to any signs of potential problems with the quality of the interpretation or the attitude and behaviour of the Interpreter, and address any concerns immediately (see § 2.5.4 – *Concerns relating to the Participation of an Interpreter*). Child Applicants and their legal representatives, guardians or support persons should be made aware of existing standard Office complaints procedures by which they are able to bring to the attention of UNHCR issues regarding the conduct and behaviour of RSD staff (see § 2.6 – *Complaints Procedure* and § 2.5.9 – *Supervision and Oversight of Interpreters*).

(c) Counselling and Information

As with any asylum-seeker who approaches UNHCR offices, children must be provided with the necessary information and support to present their refugee status claims (see Unit 1 – *Core Standards for Due Process in Mandate RSD*). Information about the RSD process and procedures must be provided as early as possible, and throughout the RSD procedures as necessary (see, for example, § 3.1.3 – *Dissemination of Information to Asylum Seekers*, § 3.1.4 – *Counselling on UNHCR RSD Procedures*, and § 7.1.2 – *Informing Applicants of the Right to Appeal*). Where applicable, information about the availability of legal aid should also be provided as early as possible in the RSD process.

In order to permit child Applicants to understand the RSD process and the rights and obligations that ensue and to assist them to present their claim, such information should be provided in a child-friendly and age-appropriate manner. It is recommended that UNHCR Offices develop information materials accessible to children of various ages, cultural backgrounds or specific needs, as well as effective and safe methods of dissemination of such information. Child Applicants and their legal representative, guardian or support person should also be provided with an opportunity to ask questions and to receive additional support and information in understanding the requirements of the RSD procedures at any point during the process.

(d) Child-friendly and Age-appropriate Interviewing Techniques

Children do not have the same communication skills and may not be able to articulate their refugee status claims in the same way as adults. A child may be too young or lack the level of maturity to evaluate what information is relevant or to recall and recount what they have witnessed or experienced. Depending on their age, background and experiences, children may need to feel rapport and a sense of trust in order to be forthcoming about their reasons for seeking protection. Children are different from adults in terms of access to memory, vocabulary, concrete/abstract thinking, suggestibility, emotions and risk-taking. As such, it is important that interviewing techniques employed are adapted to ensure they are child-friendly and age and gender-appropriate.

While older children may be able to engage with a more adult-focused approach, i.e. respond verbally to direct questions in an interview context, children of a younger age or with specific needs, may require alternative methods of communication to put them at ease and enable them to share their experiences. Drawings, role plays, games, storytelling, singing or writing can be useful communication tools with younger children in an interview (see also § 4.3.8 – *Interviewing Child Applicants*). Children may also require more time for their interview, or several RSD Interviews and more breaks during the interview.

2.8.4 Support Measures and Other Safeguards

(a) Priority and Accelerated Processing

Applications for refugee status by child Applicants may be processed on a priority basis where there is a clear protection benefit to do so, such as access to a durable solution or to rights or assistance in the host country/country of asylum. Where appropriate, Applications for refugee status by child Applicants may also be referred to accelerated procedures for processing within shorter timelines in accordance with § 4.6 – *Accelerated RSD Processing*. A decision to prioritize or accelerate the refugee status claim of a child Applicant should not be based on chronological age alone, but on a holistic assessment of a child's specific needs and situation (see also § 2.8.4(e) – *Considerations Relating to Age*).[7] This requires that mechanisms are put in place to identify claims by child Applicants, and any specific needs they may have, as soon as practicable. Accelerated processing should allow sufficient time for the child Applicant to understand relevant procedures and ensuing rights and obligations, and to prepare for their RSD Interview.

While a child's specific needs, vulnerabilities and circumstances may warrant a referral to accelerated processing, a careful assessment of the appropriateness of accelerated procedures must be conducted in every case. A child Applicant's personal and contextual circumstances may, for instance, require longer processing timeframes to allow for other protection interventions, which may render accelerated processing inappropriate. Similarly, several RSD Interviews may be necessary to facilitate a meaningful participation of the child in the RSD process and a correct determination of his/her claim.

As a general rule, where the claim of a child Applicant is related to the claims of accompanying family members, including where the child is applying for derivative refugee status, it will not be necessary or appropriate to process the child's application on a priority and/or accelerated basis, unless the family members' applications are also processed on a priority/accelerated basis or unless there are compelling reasons to do so. Referral of such cases for priority and/or accelerated processing should be made on a case-by-case basis, considering the individual vulnerability or special needs of the child.

(b) Guardians

Wherever appropriate and insofar as possible, **a guardian may be designated for unaccompanied and separated child Applicants** through established **national frameworks for guardianship in the host country/country of asylum** to assist the child in all stages of the RSD process and to ensure that the child is properly represented, that his/her views are expressed, and that any decisions taken are in his/her best interests.[8] The appointment of a guardian for the purposes of UNHCR RSD procedures must be in the child's best interests and not compromise the integrity and confidentiality of UNHCR RSD procedures. While UNHCR Offices must ensure that child Applicants receive age and gender appropriate information and, where needed, counselling regarding UNHCR RSD process and procedures, there is no requirement that UNHCR Offices appoint a guardian for unaccompanied and separated children outside a State guardianship scheme.

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[7] A more holistic approach to prioritization of claims has the advantage of preventing the chronological age from becoming a contested issue necessitating significant time and human resources to assess it, as well as of mitigating incentives for age-related fraud.

[8] For the purposes of UNHCR mandate RSD procedures, the term "guardian" should be distinguished from the concept of "legal guardian" and, more generally, from other persons legally responsible for the child. Children who are accompanied by legal guardians are neither "unaccompanied" nor "separated" and, as such, will not need a guardian to assist them in UNHCR RSD procedures.

STANDARDS & GUIDELINES

CORE ROLES AND RESPONSIBILITIES OF GUARDIANS IN UNHCR RSD PROCEDURES:

- Assist and guide the child throughout the RSD procedures, including by providing information about the RSD process and procedures and by assisting in gathering and submitting relevant information in support of the claim. This should be done in coordination with the child's legal representative where there is one appointed;
- Advocate for all decisions affecting the child to be taken in his or her best interests;
- Provide information about the various stages of the RSD process and procedures and support the child to navigate these;
- Respect the confidentiality and integrity of UNHCR RSD procedures and abide by existing data protection policies.

It is recommended that, where appointed, guardians have **sufficient knowledge and understanding of the various aspects of the UNHCR RSD process and procedures, and experience in working with children. The views of the child should be solicited and given due weight in relation to the selection and appointment of a guardian**. To enable the child Applicant to form a view in this regard, the role and responsibilities of the guardian should be explained to him/her in a manner and a language that he/she understands.

In the case of unaccompanied or separated child Applicants, the role of a guardian cannot be assumed by the child's legal representative, where one is appointed, unless there are compelling reasons to exceptionally allow it (see § 2.7.2 – *Right to Legal Representation*). Guardians must at all times respect the confidentiality of UNHCR RSD procedures. All guardians must sign an undertaking of confidentiality.

(c) Support Persons

Child Applicants should be given the option to be accompanied throughout the RSD process by an adult support person, such as a parent, older sibling or a professional working with them whom they trust. Unaccompanied or separated children who have an appointed guardian may also be assisted in the process by a support person.

The role of the support person is mainly to provide moral and emotional support to the child and encourage the expression of the child's views and preferences at various stages of the RSD procedure. The presence of a support person may instil a feeling of comfort in the child, and can be particularly critical at the beginning of the RSD Interview, for example, to help foster an environment of trust for the child and encourage the building of a rapport between the Eligibility Officer and the child during the Interview. The support person should not testify on the child's behalf nor otherwise intervene in a manner that it is disruptive or otherwise undermines the objectives of the interview.

The Eligibility Officer should explain the role and responsibilities of the support person and obtain the consent of the child Applicant to the participation of the support person, which should be duly recorded on the file. Where the child Applicant cannot provide free and informed consent, the Eligibility Officer should seek the child Applicant's views regarding the participation of the support person in the Interview before determining whether the presence of such person is appropriate in a particular case. The Eligibility Officer should verify the identity of the support person and keep a copy of the relevant identity documents

and contact details on file, as well as explain to the support person the confidentiality of UNHCR RSD procedures.

In some circumstances, Eligibility Officers may, however, decide that the presence of the support person in the RSD Interview is not appropriate. In assessing the appropriateness of the participation of a support person in the interview, Eligibility Officers should consider any specific needs and vulnerabilities of the child Applicant, the nature of the relationship between the child Applicant and the support person, as well as any factors indicating that the attendance of the support person would be likely to promote or undermine the objectives of the RSD Interview (for more guidance on the participation of a support person in a RSD Interview, see § 4.3.4 – *Attendance by Third Parties other than Legal Representative*).

(d) Legal Representation

All child Applicants, whether making a refugee status claim in their own right or applying for derivative refugee status, have the right to engage the services of qualified legal representatives at their own cost or on a *pro bono* basis where such services are available. Child Applicants should be informed of this right as soon as practicable and UNHCR Offices should facilitate a child Applicant's ability to exercise this right, wherever possible, with the support and involvement of any other actors supporting the child (for further guidance on legal representation see § 2.7 – *Legal Representation in UNHCR RSD Procedures*).

Where children are legally represented in RSD procedures, Eligibility Officers should communicate with the child's legal representative at the earliest opportunity or, at least, at the beginning of the RSD Interview in order to obtain any relevant information regarding the child's specific needs, including needs relating to interpretation, access to premises, physical or mental health, in order to make the necessary accommodations.

(e) Considerations Relating to Age

A child Applicant's age may be relevant to the determination of their refugee claim, particularly where they have international protection needs in their own right. Age may be relevant in the determination of a claim for refugee status insofar as it gives rise to child-related manifestations of persecution and/or child-specific forms of persecution. In certain circumstances, young adults of 18 years of age or slightly older may also exceptionally face similar risks upon return as children.[9]

Where age is a relevant consideration in the determination of an Applicant's refugee status claim, it should be examined in the same way as any other material element of the Applicant's claim.

(f) Confidentiality and Data Protection

Like all asylum-seekers, children have the right to confidentiality in UNHCR RSD procedures and to the protection of their personal data and should be informed of these rights (see also § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*). As a general rule, child Applicants require specific protection as they may be less aware of the risks and consequences, as well as safeguards and rights, related to the confidentiality of procedures and the processing of their personal data.

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[9] For guidance on child-specific forms and manifestations of persecution, please see UN High Commissioner for Refugees (UNHCR), *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, available at: http://www.refworld.org/docid/4b2f4f6d2.html.

Based on an assessment of their evolving capacity, including their age, level of maturity and development, and/or other factors, children can in certain circumstances provide **free and informed consent** to data processing. **A child's ability to consent depends on his/her capacity to understand the process and its ensuing rights and obligations, and is determined on a case-by-case basis.** For children who are not able to give consent, for example due to young age, but can understand and agree to participate in the RSD process, the child's informed assent should be sought. **Assent is the expressed willingness and views of a child to participate in the RSD process**, for example to be accompanied by a support person during the RSD Interview or to have a guardian appointed.

Any limits to confidentiality or data protection should be explained to the child Applicant in a manner that they understand. As a general rule, consent to personal data collection and/or sharing should be obtained from the child's parent, family member with parental responsibility, or legal or customary caregiver, in addition to the consent or assent of the child him/herself obtaining the consent of the parent or legal or customary caregiver is neither necessary nor appropriate where it is not in the best interests of the child to share information with the child's parents and/or caregiver or in situations where the parent of caregiver is not reachable. For example, information provided by a child that apparently contradicts information material to a family member's refugee status claim should not be disclosed without the child's consent or assent and, in any case, not if it is not in the best interests of the child. In exceptional circumstances, where it is determined to be in the best interests of the child, disclosure of personal data may be done without the consent/assent of the child Applicant or the consent of his/her parent or legal or customary caregiver (for further guidance see § 4.3.14 – *Interview of Family Members or other Dependants*).

2.8.5 Unaccompanied and Separated Children

While the principles and procedural standards set out in this Unit apply to all child Applicants, some additional safeguards and procedures are required for Applicants who are unaccompanied and separated children.

Because they are separated from both parents or from their previous legal or customary primary caregiver,[10] unaccompanied and separated children should be identified as early as possible in the RSD process. Identification should be facilitated where the child-friendly and age-appropriate procedures set out below are in place.

Reception and registration processes should be adjusted for this category of children to facilitate the collection of information necessary to assess the child's assistance and protection needs, including the need to initiate tracing or family unity measures, make appropriate care arrangements, designate a guardian, and decide on appropriate procedures for processing the child's claim[11] (see § 3.2.4 – *Distribution and Completion of the RSD Application Form*, § 3.2.5 – *The Registration Interview*, and § 3.4.1 – *General Procedures for Applicants with Special Needs*). Where appropriate, UNHCR should ensure that such processes and measures are integrated with the existing national child protection systems of the host country.

[10] Separated children may, nevertheless, be accompanied by other relatives. See § 2.8.1 – *General Considerations relating to Child Applicants*.

[11] Unaccompanied and separated children should complete the full RSD application form as well as the registration family tracing form designed for this group of children – see Annex 3.2 – *Registration Form for Unaccompanied and Separated Children*. They should also receive an individual registration interview.

An RSD interview of an unaccompanied or separated child, including Family Unity Interviews (See § 5.3 – *Family Unity Procedures*), may be conducted in the presence of the child's guardian, where one has been appointed, if the child so wishes (see §§ 2.8.4(b) – *Guardians* and 4.3.8 – *Interviewing Child Applicants*). Unaccompanied children in particular should have access to a support person, if they so desire, and it may be necessary to provide additional support to ensure that children have access to legal aid or other support provisions.

Claims by unaccompanied or separated children applying for derivative refugee status as a dependant of a recognized mandate refugee in another host country/country of asylum should generally be processed on an accelerated basis to facilitate and expedite family reunification.

Finally, when notifying unaccompanied and separated children of RSD decisions, specific considerations must be made regarding direct notification and the child's guardian and legal representative, where one exists, should also be notified (see § 6.3 – *Notification of RSD Decisions to Third Parties*).

Wherever possible, UNHCR staff members who provide assistance and counselling to unaccompanied and separated children should have experience with child Applicants, training in interviewing children, as well as knowledge of the laws in the host community regarding children's rights and the available resources for the care and guardianship of children.

Annex: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to Children in UNHCR RSD Procedures. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: http://www.refworld.org/docid/3ae6b38f0.html

UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, available at: http://www.refworld.org/docid/4b2f4f6d2.html

UNHCR, *Guidelines on Determining the Best Interests of the Child*, May 2008, available at: http://www.refworld.org/docid/48480c342.html

UN High Commissioner for Refugees (UNHCR), *Guidelines on Assessing and Determining the Best Interests of the Child*, November 2018, available at: https://www.refworld.org/docid/5c18d7254.html

UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, November 2011, available at: http://www.refworld.org/docid/4e4a57d02.html

UNHCR, *Facilitator's Notes for the implementation of UNHCR BID Guidelines*, November 2011, available at: http://www.refworld.org/docid/4e4a58dc2.html

UNHCR, *Handbook for Registration*, available at: https://www.unhcr.org/registration-guidance/

UNHCR, *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*, February 1997, available at: http://www.refworld.org/docid/3ae6b3360.html

UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994, available at: http://www.refworld.org/docid/3ae6b3470.html

Inter-Agency Guiding Principles on Unaccompanied and Separated Children, January 2004, available at: http://www.refworld.org/docid/4113abc14.html

UNHCR Policy on Refugee Children, 6 August 1993, EC/SCP/82, available at: http://www.refworld.org/docid/3f9e6a534.html

UNHCR, *The Heart of the Matter – Assessing Credibility when Children Apply for Asylum in the European Union*, December 2014, available at: http://www.refworld.org/docid/55014f434.html

UNHCR, *Listen and Learn: Participatory Assessment with Children and Adolescents*, July 2012, available at: http://www.refworld.org/docid/4fffe4af2.html

Action for the rights of children, ARC Resource Pack, a capacity building tool for child protection in and after emergencies, produced by Save the Children, UNHCR, UNICEF, OHCHR, International Rescue Committee and Terre des Hommes, 7 Dec. 2009, http://www.savethechildren.net/arc

UNHCR, *UNHCR observations on the use of age assessments in the identification of separated or unaccompanied children seeking asylum*, 1 June 2015, available at: http://swigea56.hcrnet.ch/refworld/docid/55759d2d4.html (Internal Document);

European Union: European Asylum Support Office (EASO), *EASO Age assessment practice in Europe*, December 2013, available at http://www.refworld.org/docid/532191894.html;

UNHCR and UNICEF, *Safe and Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, October 2014, available at: http://www.refworld.org/docid/5423da264.html;

UNICEF, *Age Assessment: A Technical Note*, January 2013, http://www.refworld.org/docid/5130659f2.html;

Separated Children in Europe Programme, *Position Paper on Age Assessment in the Context of Separated Children in Europe*, 2012, available at http://www.refworld.org/docid/4ff535f52.html

UN Committee on the Rights of the Child (CRC), *General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, 1 September 2005, CRC/GC/2005/6, available at: http://www.refworld.org/docid/42dd174b4.html

UN Committee on the Rights of the Child (CRC), *General comment No. 9 (2006): The rights of children with disabilities*, 27 February 2007, CRC/C/GC/9, available at: http://www.refworld.org/docid/461b93f72.html

UN Committee on the Rights of the Child (CRC), *General comment No. 10 (2007): Children's Rights in Juvenile Justice*, 25 April 2007, CRC/C/GC/10, available at: http://www.refworld.org/docid/4670fca12.html

2.9 Applicants with Mental Health Conditions or Intellectual Disabilities in UNHCR RSD Procedures

2.9.1 General Considerations relating to Applicants with Mental Health Conditions or Intellectual Disabilities

Persons with mental health conditions and intellectual disabilities may also face challenges to actively engage in the RSD process, as it may affect their responsiveness during interviews or in other interactions with the UNHCR Office in the host country/country of asylum. Mental health conditions and intellectual disabilities may affect an individual's ability to meaningfully participate in the RSD process, i.e. his/her **ability and willingness to recall and recount the events leading up to his/her departure from the country of origin, as well as his/her capacity to understand the RSD process and procedures, including the rights and obligations they entail**.

Applicants with mental health conditions[1] or intellectual disabilities[2] may also face additional risk factors that heighten their vulnerability and hence, affect their ability to engage. For instance, Applicants with mental health conditions may be separated from sources of support (e.g. family/community or specialized support in the country of origin) as a result of their displacement and may face greater hardship in the host country/country of asylum. Such individuals often face stigmatization and/or discrimination in their host communities, which may lead to isolation and can detrimentally impact both their willingness to participate in the RSD process and their general health and wellbeing.

An Applicant's mental health or intellectual disability may also be relevant to the determination of his/her refugee status claim where the particular condition or disability gives rise to a risk of persecution upon return to that person's country of origin. Where an Applicant's mental health condition or intellectual disability is a relevant consideration in the determination of his/her refugee status claim, it should be examined in the same way as any other material element of the Applicant's claim.

Applicants with mental health conditions or intellectual disabilities should receive all **necessary assistance and support in making their claim** (see also § 3.2.4 – *Distribution and Completion of the RSD Application Form* and § 7.2.1 – *Assistance with Submitting the Appeal Application*).[3] **UNHCR Offices should take all reasonable steps to ensure that Applicants with mental health conditions or intellectual disabilities are able to meaningfully participate in the RSD process.** The principles and procedural standards set out in this section and, more broadly, the RSD Procedural Standards, must be observed whether the Applicant is making an individual refugee status claim (see, in particular, § 4.3 – T*he RSD Interview and Assessment*) or

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1 For the purposes of the RSD Procedural Standards, the term "mental health condition" is used to designate a broad range of conditions affecting the mental health of an individual, with different symptoms, generally characterized by some combination of abnormal thoughts, emotions, behaviour and relationships with others, and which may be of an innate or an acquired nature (such as ongoing effects of a trauma).

2 A disability that can be related to intellectual functioning (referring to general mental capacity, such as learning, reasoning, problem solving etc.) and adaptive behaviour (the total of conceptual, social, and practical skills that are learned and performed by people in their everyday lives). Intellectual disability is also sometimes referred to as cognitive or learning disability.

3 Applicants may also receive assistance in submitting their RSD or Appeal Application and information supporting their claim from their legal representatives (see § 2.7.4 – *Role and Responsibilities of the Legal Representative*).

applying for derivative refugee status as a dependant of a recognized refugee (for guidance on derivative refugee status see § 5 – *Processing Claims based on the Right to Family Unity*).[4] Additional procedural safeguards will apply to Applicants with mental health conditions and/or intellectual disabilities who are children (for further guidance, see § 2.8 – *Children in UNHCR RSD Procedures*).

Persons with mental health conditions or intellectual disabilities, and where applicable their accompanying family members or caregivers, should be consulted (for instance through participatory assessments, individual counseling sessions, focus groups) about how RSD procedures can better accommodate their specific needs.

2.9.2 Procedural Safeguards and Accommodation and Support Measures

(a) Identification and Protection Interventions

Reception procedures in UNHCR Offices should include **measures and mechanisms to facilitate the identification** of Applicants who may have mental health conditions or intellectual disabilities in order to accommodate and respond to their specific needs in a timely fashion. Early identification may be achieved in a variety of ways, including tailored protection screening, community, partner or UNHCR Protection staff referrals, or self-identification. Identification should also be facilitated throughout the RSD process, whether at the reception, registration or RSD stage.

UNHCR Protection staff may form a view that an individual has specific needs as a result of, or linked to, their mental health condition or intellectual disability, before or in the absence of a formal assessment by a mental health professional, and should take appropriate measures to accommodate such needs (for further guidance on accommodation and support measures see § 2.9.2(b)-(f) below).

If mental health needs are identified, **counselling** with the Applicant should be conducted, preferably by UNHCR staff or implementing partners with training and expertise in assisting persons with mental health conditions or intellectual disabilities, with a view to determining whether there is a need for additional support or tailored assistance in the registration and RSD process (see also § 2.9.2(b) – *Counselling and Information*). The counselling may also help to assess the **need for referral to medical, psycho-social or other specialized services and resources** available to the individual in the host country/country of asylum. Referral to such services can only be made with the **Applicant's consent** or, if the Applicant is not capable of providing free and informed consent, in accordance with his/her will and preferences (for further guidance, see § 2.9.2(i) – *Confidentiality of UNHCR RSD Procedures and Data Protection)*.

[4] All Applicants who meet the refugee criteria under UNHCR's mandate should be recognized as refugees in their own right even if they have applied for refugee status as part of a family rather than on individual basis (see § 5.2 – *Derivative Refugee Status*).

(b) Counseling and Information

Applicants with mental health conditions or intellectual disabilities must be provided with clear, accessible and easy to understand information about the RSD process and procedures, and adequate support to present their refugee status claims (see §1 – *Core Standards for Due Process in Mandate RSD*).[5] Information about the RSD process and procedures must be provided as early as possible, and throughout the RSD procedures as necessary (see, for example, § 3.1.3 – *Dissemination of Information to Asylum-Seekers*, § 3.1.4 – *Counselling on UNHCR RSD Procedures*, and § 7.1.2 – *Informing Rejected Applicants of the Right to Appeal*). Where applicable, information about the availability of legal aid must also be provided as early as possible in the RSD process.

In order to enhance the ability of Applicants with mental health conditions or intellectual disabilities to understand the RSD process, the rights and obligations that ensue, and to assist them to present their claim, such information must be provided in accessible formats and language. It is recommended that UNHCR Offices develop accessible information, including in easy-to-read formats, as well as effective methods of dissemination of such information. Such Applicants, their legal representative and support person should also be provided with an opportunity to ask questions and to receive additional information and counseling to facilitate their understanding of the requirements of the RSD procedures at any point during the process.

(c) Attitudes, Behaviors and Skills of RSD Staff

RSD procedures involving Applicants with mental health conditions or intellectual disabilities should be carried out by **trained staff who have the knowledge** and, wherever possible, **experience** in interviewing and assisting asylum-seekers with such conditions or disabilities. This includes Eligibility Officers, interpreters, as well as other Protection staff involved in or supporting RSD procedures. Eligibility Officers must be attentive to the specific needs and vulnerabilities of Applicants and be able to adapt the manner in which the interview is conducted to the Applicant's communication needs and preferences and other relevant personal and contextual circumstances (see also § 2.9.2(g) – *RSD Interview and Adjudication* for further guidance on interviewing techniques). Interpreters should also be sensitive to the specific needs and vulnerabilities of Applicants with mental health conditions or intellectual disabilities and be provided with training and guidance to carry out their work effectively.

Resources permitting, UNHCR Offices should consider designating a **focal point(s)** within the RSD team to provide advice and support to Eligibility Officers when adjudicating claims by Applicants with mental health conditions or intellectual disabilities ('Mental Health Focal Point'). The Mental Health Focal Point may also assume responsibility for ensuring appropriate liaison with other Protection staff within the UNHCR Office or partner staff to ensure the Applicant's specific protection needs and vulnerabilities are appropriately addressed within the context of RSD procedures.

[5] It is recommended that information regarding the RSD process and procedures is developed in consultation with mental health professionals, where possible, and in various forms, such as brochures, guidance for Protection staff, etc.

(d) Support Persons

Where appropriate and with a view to facilitate their participation in the RSD process, Applicants should be given the option to be accompanied during interviews and other appointments with UNHCR staff by a support person, such as a family member, a caretaker or a professional working with them and whom they trust.

STANDARDS & GUIDELINES

MAIN ROLES AND RESPONSIBILITIES OF SUPPORT PERSONS FOR APPLICANTS WITH MENTAL HEALTH CONDITIONS OR INTELLECTUAL DISABILITIES IN UNHCR RSD PROCEDURES:

- Accompany and support the Applicant throughout the RSD process by providing moral and emotional support;
- Support communication throughout the process and facilitate the expression of the Applicant's will and preferences at all stages of the RSD process;
- Avoid any conflict of interest with the Applicant; and
- Respect the confidentiality and integrity of UNHCR RSD procedures and abide by existing data protection policies (see also § 4.3.4 – *Attendance by Third Parties other than Legal Representative*).

The presence of a support person may be particularly beneficial during the RSD Interview to help create a comfortable and trusting environment and to encourage rapport building and disclosure during the Interview. The support person can also play a key role in helping Eligibility Officers and other UNHCR Protection staff understand the Applicant's will and preferences relating to decisions affecting him/her, such as the way the RSD Interview is conducted, referral to medical or psycho-social support or evaluation, or disclosure of personal data to the authorities of the host country/country of asylum.

The **support person can, however, neither testify on behalf of the Applicant nor otherwise intervene in a manner that it is disruptive or otherwise undermine the objectives of the interview. His/her role is limited to facilitating the expression of the Applicant's will and preferences and he/she must not be asked to make decisions on the Applicant's behalf.**

The Eligibility Officer should explain the role and responsibilities of the support person and obtain the consent of the Applicant to the participation of the support person, which should be duly recorded on the file. Where the Applicant cannot provide free and informed consent, the Eligibility Officer should seek the Applicant's views regarding the participation of the support person in the Interview before determining whether the presence of such person is appropriate in a particular case. The Eligibility Officer should verify the identity of the support person and keep a copy of the relevant identity documents and contact details on file, as well as explain to the support person his/her duty to preserve the confidentiality of UNHCR RSD procedures.

The presence of a support person in the RSD Interview may not always be appropriate or conducive to disclosure. In assessing the appropriateness of the participation of a support person in the interview, Eligibility Officers should consider the Applicant's specific needs and vulnerabilities, the nature of the relationship between the Applicant and the support person, as well as any factors indicating that the attendance of the support person would be likely to promote or undermine the objectives of the RSD Interview. The reasons for refusing to allow a support person to attend the RSD Interview should be

explained to the Applicant and noted on his/her file. As a general rule, Applicants should be given the option to proceed with the RSD Interview without the support person present or to reschedule the interview in order to allow for the identification and participation of a different support person (for more guidance on the participation of a support person in a RSD Interview, see § 4.3.4 – *Attendance by Third Parties other than Legal Representative*).

(e) Legal Representation

Like all Applicants in UNHCR RSD procedures, individuals with mental health conditions and/or intellectual disabilities have the right to engage the services of qualified legal representatives at their own cost or on a pro bono basis where such services are available. Applicants with mental health conditions and/or intellectual disabilities must be informed of this right as soon as practicable and UNHCR Offices should facilitate such Applicants' ability to exercise this right, wherever possible, with the assistance and involvement of any other actors supporting them (for further guidance on legal representation see § 2.7 – *Legal Representation in UNHCR RSD Procedures*).

Where individuals with mental health conditions and/or intellectual disabilities are legally represented in RSD procedures, Eligibility Officers must communicate with that person's legal representative at the earliest opportunity or, at least, at the beginning of the RSD Interview in order to obtain any relevant information regarding the individual's specific needs, including needs relating to the person's mental and/or physical health, interpretation or access to premises, in order to make any necessary accommodations.

(f) Assessing Capacity to Meaningfully Participate in the RSD Interview

The fact that an individual has a mental health condition or an intellectual disability does not, by itself, indicate that the individual is not capable of understanding and effectively participating in the RSD process. Applicants with identified mental health conditions or intellectual disabilities should be registered for RSD processing in accordance with the guidance set out in § 3 – *Reception and Registration for Mandate RSD*, subject to any accommodation and support measures necessary.

In exceptional cases, where there are **serious indications that an Applicant's mental health condition or intellectual disability would fully prevent his/her meaningful participation in the RSD Interview**, either permanently or temporarily, including by removing his/her ability to provide information relevant to the refugee claim, an assessment of whether it is appropriate to conduct the RSD Interview with the particular Applicant should be undertaken. (*For more information on protection avenues in such circumstances, see* § 2.9.2 (g).)

An assessment of the Applicant's capacity to meaningfully participate in the RSD Interview will generally not be necessary in cases where a decision on the Applicant's claim may be reached on the basis of reliable information already available, including information provided by the Applicant in the earlier stages of the RSD process.

STANDARDS & GUIDELINES

EXAMPLES OF CASES WHERE AN ASSESSMENT OF THE CAPACITY TO PARTICIPATE IN THE RSD PROCESS MAY NOT BE NECESSARY INCLUDE:

- Child Applicants making an application for derivative refugee status based on their close family relationship with a recognised refugee;
- Adult Applicants making an application for derivative refugee status based on their relationship of dependency with a recognised refugee; or
- Applicants who are part of caseloads or profiles to which a *prima facie* approach applies or which benefit from a presumption of inclusion.[6]

Provided that there are no exclusion or other serious credibility concerns relating to the core material elements of the claim (see also § 2.9.2(g) – *RSD Interview and Adjudication*).

An assessment as to an individual's capacity to meaningfully participate in the RSD Interview (and thus whether such interview should be conducted) **must be based on the information gathered during the reception and registration processes and other protection interventions, as well as on the interactions with the Applicant and information provided by or on his/her behalf, with due consideration to any available medical/psychological assessments**.

Wherever possible and relevant and **subject to their consent, Applicants should be referred to medical/mental health professionals for a psychological evaluation** to determine whether the individual has a mental health condition or intellectual disability that impacts on his/her ability and willingness to recall and recount information relevant to the material elements of the claim.[7] The qualifications of the source of the psychological/medical assessment, as well as the quality, details and relevance of the information provided are factors to consider in determining the evidentiary weight to be given to a psychological or medical assessment (see also § 4.3.9 – *Review of Original Documents in the RSD Interview*).

It is also recommended that the Eligibility Officer meet with the Applicant and his/her support person and legal representative, where available, for the purposes of assessing the nature of any support needed as well as the Applicant's capacity to meaningfully participate in the RSD Interview. Applicant's will and preferences must also be taken into account in determining whether conducting a RSD Interview (or Complementary Interview) is appropriate in a particular case.

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[6] Exceptionally, where a refugee status claim is processed through simplified RSD procedures, refugee status may be recognised on the basis of the information gathered at registration and through the RSD Application Form alone, without conducting an individual RSD Interview, provided that the information available is sufficient to establish that the Applicant meets the inclusion criteria of the applicable refugee definition and that no credibility or exclusion concerns arise. This may be the case for caseloads or profiles to which a *prima facie* approach applies or which benefit from a presumption of inclusion (for further guidance, see § 4.10.4 – *Procedures for Simplified RSD Processing*).

[7] Depending of the circumstances of the case, information regarding the Applicant's mental health condition or intellectual disability (such as for how long has the Applicant suffered from the condition and the circumstances that may have caused it, or how the mental health condition or intellectual disability may affect the Applicant's behaviour, reality perception, etc.) may also be relevant to the determination of the claim.

STANDARDS & GUIDELINES

FACTORS TO BE TAKEN INTO ACCOUNT IN ASSESSING AN APPLICANT'S CAPACITY TO MEANINGFULLY PARTICIPATE IN THE RSD INTERVIEW INCLUDE:

- Ability to understand a question and provide an answer that is coherent/can be understood;
- Whether lack of understanding can be overcome, for instance through re-formulation, further clarification or tailored counselling;
- Ability to communicate orally, in writing, through drawings, etc.;
- Demonstrated understanding of the rights and obligations associated with the RSD process and procedures, including by providing relevant information regarding his/her claim and the outcome of the process;
- Degree of engagement with the RSD process.

The assessment should be carried out by the Eligibility Officer to whom the case has been assigned in consultation with the Mental Health Focal Point, where available, the RSD Supervisor and other relevant Protection staff. The assessment must be recorded on the Applicant's file.

In addition to forming the basis of a decision regarding the appropriateness of conducting a RSD Interview with the Applicant, the **assessment should inform what accommodation and support measures** can and should be taken to facilitate his/her effective participation in the RSD Interview. These may include adapting the interviewing techniques or questions, additional counselling, adjusting the time and length of the interview, facilitating the identification of a support person and his/her attendance at the interview (for more guidance on accommodation and support measures, please see § 2.9.2(c)-(i) below).

If the conclusion of the assessment is that the Applicant fully lacks the capacity to meaningfully participate in the RSD process (and thus is not able to provide any reliable information relevant to the claim), the assessment should be endorsed in writing by the RSD Supervisor. **Participation in the RSD process, in particular the RSD Interview, must always be encouraged; therefore it should only be in the clearest of cases that an individual is found to fully lack capacity to participate.** Thus, all efforts should be made to enable the Applicant to participate to the extent that he/she is able to do so without experiencing undue stress or other harm. Where a lack of capacity to meaningfully participate in the RSD process may be the result of **a temporary condition, all efforts should be made to provide the Applicant with the necessary assistance and support**, including referral to specialized medical/mental health and psychosocial services services, **to enable his/her future participation**.

The information provided by the Applicant should be given appropriate weight in light of the conclusions of the assessment conducted, with any limitations on the Applicant's ability or willingness to provide reliable information taken into account in the credibility determination (see also § 2.9.2(g) – *RSD Interview and Adjudication*).

(g) RSD Interview and Adjudication

Applicants with mental health conditions or intellectual disabilities may be unable or unwilling to provide the information that is necessary to determine their claim. This may be due to a variety of reasons, including but not limited to a lack of understanding of the RSD process and ensuing obligations, fear or distrust of authorities, impaired memory, the traumatic nature of the events underlying his/her claim, reduced attention and concentration, mood disturbances, diminished cognitive functions, etc.

At the earliest opportunity in the RSD process, Eligibility Officers responsible for determining the refugee status of Applicants with mental health conditions or intellectual disabilities **should coordinate with other Protection staff and when required, liaise with partners for Mental Health and Psychosocial Support (MHPSS), to inform the RSD procedures and accommodate any specific protection needs and vulnerabilities of such Applicants during the RSD process**. Any protection concerns that arise during the RSD procedures and that require a protection response should be brought to the attention of the relevant Protection staff without delay. It is recommended that UNHCR Offices establish procedures to facilitate the coordination of protection interventions and sharing of relevant information pertaining to Applicants with mental health conditions and/or intellectual disabilities between Protection staff conducting registration, RSD and other protection activities.

Insofar as possible, the Eligibility Officer should discuss, prior to the interview, with the Applicant and his/her support person and legal representative, where available, what, if any, specific measures or accommodations could reasonably be implemented to maximize effective participation of the Applicant at interview. These may include the identification of a support person and their attendance at the interview, re-scheduling of the interview in order to allow for access to including services for mental health and psychosocial support or other specialized services, scheduling of multiple shorter interviews, tailoring the interviewing techniques and integration of other forms of expression, such as drawing or writing. The Eligibility Officer should also consult with relevant Protection staff and, where applicable, implementing partners or medical or MHPSS professionals who have been in contact with the Applicant regarding any specific needs he/she may have and means to accommodate them to the extent possible. Consideration should also be given to the interviewing environment, in particular the set-up of and materials in the room, the seating arrangements, as well as any necessary security measures that may need to be put in place in order to ensure the safety of the Applicant and UNHCR staff participating in the interview (*See Unit 2.4- Office Security*).

The Applicant's capacity to understand the RSD process and procedures should inform the way that the RSD Interview is to be conducted, in particular the interviewing techniques and communication methods. **Regular breaks** or **multiple and/or shorter RSD interviews**, as well as the **presence of a support person** may be useful to facilitate the Applicant's meaningful participation in the RSD interview and encourage full and truthful disclosure. At the beginning of the RSD Interview, the Eligibility Officer should take particular care to explain, in a manner that the Applicant would understand, the procedures and objective of the interview, including the fact that the interview may need to cover issues that may be difficult for the Applicant to talk about (for further guidance on the opening of the RSD Interview see § 4.3.6 – *Opening the RSD Interview*).

In cases where **the Applicant is reluctant to discuss particular facts or events** relevant to the determination of his/her claim, it may be appropriate to provide additional counselling or to postpone or cease questioning on the particular aspect of the account, including in order to avoid re-traumatization. Where the Applicant becomes distressed, manifests aggression or other behaviour impeding the interview, including refusal to cooperate with the Eligibility Officer or interpreter, the Eligibility Officer may call for a break or stop and reschedule the interview in order to de-escalate any mounting tension or fear in the Applicant, to minimize the risk of self-harm, and to ensure the safety of UNHCR staff. The case may also be reassigned to a different/more experienced Eligibility Officer and/or Interpreter if this might encourage the Applicant to be more forthcoming regarding information relevant to his/her claim; however, due care should be taken not to unnecessarily re-interview the Applicant and risk re-traumatisation.

In assessing the information gathered through the RSD process that is relevant to the determination of the claim, the Eligibility Officer should be mindful of whether and, if so, how the mental health condition or intellectual disability may have affected the Applicant's ability or willingness to recall and recount the events leading to his/her departure from the country of origin. Inconsistencies or a lack of specificity of detail in the Applicant's account may, for instance, be due to an impaired ability to recall or unwillingness to recount past traumatic events. Similarly, fear, shame or distrust associated with stigma against persons with mental health condition or intellectual disability may be the cause of an apparent refusal to cooperate. Where there are indications that the mental health condition or intellectual disabilities may have affected the Applicant's ability or willingness to provide an account or his/her participation in the RSD interview more generally, it may be appropriate to conduct a complementary interview taking all steps necessary (e.g. additional counseling, presence of support person, adapted interview techniques, etc.) to encourage the fullest disclosure possible.

Where the Applicant faces significant obstacles to his/her participation in the RSD process as a result of his/her mental health condition or intellectual disability, and where conducting a RSD/complementary Interview is not appropriate in a particular case, it will be necessary to **use other reliable sources** (such as accompanying family members, caregivers, friends, witnesses or other persons acquainted with them) **to obtain relevant information about the Applicant's eligibility for refugee status**. The Applicant's consent or, if the Applicant is not capable of providing **consent**, his/her views should be obtained prior to contacting family members, caregivers or other witnesses for information regarding the Applicant's claim (for further guidance regarding consent, see § 2.9.2(i) – *Confidentiality of UNHCR RSD Procedures and Data Protection*).

In some cases, it may be possible to **reach a decision regarding the Applicant's refugee status claim on the basis of already available information from other reliable sources**, including objective information relating to risks upon return for persons with similar profile as the Applicant, **without conducting a RSD Interview**. This includes information provided by the Applicant himself/herself, and any supporting information provided by family members or other persons with first-hand knowledge of the Applicant's situation in the country of origin, and up-to-date COI.

Where the Applicant fully and permanently lacks the capacity to meaningfully participate in the RSD Interview and a determination of the Applicant's claim is not possible due to insufficiency of information relating to the material elements of the Applicant's claim, UNHCR Offices should advocate for and pursue other protection avenues (e.g. granting of humanitarian protection, regularisation of status through national immigration channels, etc.) with the authorities of the host country/country of asylum.

Notification of RSD decisions to Applicants with mental health conditions or intellectual disabilities should be done in accordance with the guidance in § 6 – *Notification of RSD Decisions*. Offices should make every effort to ensure that Applicants with mental health conditions or intellectual disabilities have the possibility of meeting with a UNHCR staff member to receive counselling on the reasons for the negative RSD decision and on appeal procedures. Applicants may be accompanied by their legal representatives and, where appropriate, support persons for the purposes of in-person notification and counselling.

(h) Priority and Accelerated RSD Processing

Applications for refugee status by Applicants with mental health conditions or intellectual disabilities may be processed on a priority basis and/or referred to accelerated RSD processing where there is a clear protection benefit to do so, such as access to a durable solution or to rights or assistance in the host country/country of asylum (see also § 4.9 – *Accelerated RSD Processing*). A decision to prioritize

or accelerate the refugee status claim of an Applicant with mental health conditions or intellectual disabilities should be based on a holistic assessment of that individual's specific needs and personal and contextual circumstances. This may include, for example, considerations as to whether more extensive counselling, shorter and/or multiple RSD Interviews, or a longer time to understand the RSD procedures, achieve a level of trust and prepare for the interview, is necessary in order to facilitate a meaningful participation of the Applicant in the RSD process and a correct determination of his/her claim.

Where appropriate, priority and/or accelerated processing must allow sufficient time for the Applicant to receive any necessary protection interventions, such as medical or psycho-social support, as well as to understand the relevant procedures and to adequately prepare for their RSD Interview.

As a general rule, where the claim of an Applicant with a mental health condition or intellectual disability is related to the claims of accompanying family members, including where he/she is applying for derivative refugee status, it will not be necessary to process the refugee status application on a priority and/or accelerated basis, unless the family members' applications are also processed on a priority/accelerated basis, or unless there are compelling reasons to do so (for instance in order to access durable solutions or medical care/services). Referral of such cases for priority and/or accelerated processing should be made on a case-by-case basis, considering the individual vulnerability or special needs of the Applicant in question.

(i) Confidentiality of UNHCR RSD Procedures and Data Protection

Applicants with mental health conditions and/or intellectual disabilities have the same right to the protection of their personal data, including rights to make decisions in respect to the use of their personal data, as other asylum-seekers (for further guidance on data protection see § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*). Depending on the specific needs and capacity to understand the RSD process and procedures of the Applicant, tailored communication methods and additional counselling regarding the confidentiality of UNHCR RSD procedures and data protection may be needed.

In the absence of indications to the contrary, Eligibility Officers should assume that Applicants with mental health conditions and/or intellectual disabilities have the capacity to provide **consent** to processing of personal data, including disclosure of such data and other information relating to or provided by them. In cases where the Applicant does not adequately understand the RSD process and procedures, and, as such, may not be able to consent, a decision to disclose or not the information should be informed by the Applicant's will and preferences. A support person may help facilitate understanding and communication of the Applicant's will and preferences. If it is determined that an individual is not able to adequately understand the process, and its ensuing rights and obligations, the Applicant's personal data may be processed on an alternative legitimate basis, such as vital and best interests, in accordance with UNHCR data protection policy and guidance (see § 2.1.2 – *General Criteria for Disclosure of Personal Data and Other Information on Individual RSD Flies*).

Annex: List of Additional Resources

UN General Assembly, *Convention on the Rights of the Persons with Disabilities*, 13 December 2006, A/RES/61/106, Annex I, available at: http://www.refworld.org/docid/4680cd212.html

UN Committee on the Rights of Persons with Disabilities, *General comment No 1 (2014) – Article 12: Equal recognition before the law*, 19 May 2014, available at https://bit.ly/2SgTXH4

UNHCR, *Policy on the Protection of Personal Data of Persons of Concern to UNHCR*, May 2015, available at: http://www.refworld.org/docid/55643c1d4.html

UNHCR, *Guidance on the Protection of Personal Data of Persons of Concern to UNHCR*, 23 August 2018, available at: http://www.refworld.org/docid/5b360f4d4.html

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Unit 3

RECEPTION AND REGISTRATION FOR MANDATE RSD

3.1 Reception of Asylum-Seekers

3.1.1 Reception Procedures

Reception is generally the first point of contact between persons of concern and UNHCR, particularly in urban operations. Individuals may, for instance, approach UNHCR Offices to obtain information regarding UNHCR's mandate and activities, seek assistance and protection, including asylum, renew UNHCR-issued documents, or report protection problems and seek assistance. In host countries/countries of asylum where UNHCR does not have a physical presence, reception activities may be conducted through partners. In such instances, UNHCR must provide relevant training and exercise oversight of reception procedures. The guidance in this Unit is relevant and should inform to the extent possible the reception arrangements with UNHCR partners.

Each UNHCR Office should establish detailed procedures for the reception of asylum-seekers and refugees who approach the Office.

UNHCR Offices should make the necessary arrangements to ensure that individuals can contact or approach UNHCR without an appointment (e.g. specifically designated time slots, flexible daily schedules with time allotted for unscheduled arrivals, etc.). Wherever possible and appropriate, different reception time slots should be established for individuals who do not feel safe to approach the Office during normal reception hours.

UNHCR Offices should maintain adequate physical facilities for the reception of asylum-seekers and other persons of concern to UNHCR and should ensure that asylum-seekers with disabilities and other specific needs have adequate access to UNHCR facilities. Conditions in established waiting areas should promote the health and well-being of the individuals who use these facilities (for further guidance on establishing appropriate UNHCR RSD facilities see § 2.3 – *Physical Facilities for RSD Procedures, as well as UNHCR's Guidance on Registration and Identity Management*).

In each UNHCR Office, a designated Reception staff member, assisted by security staff and other Reception staff as required, should coordinate the orderly entry and appropriate reception of asylum-seekers in the Office (see also § 2.4 – Office Security). All efforts should be made to protect the dignity and privacy of individuals during reception (for further guidance see § 3.1.5 – *Confidentiality in Reception Procedures*.

The designated Reception Staff member should meet with all individuals **as soon as possible after their arrival at the UNHCR Office gate**, to assess the type of assistance they are seeking and to coordinate referral to the appropriate UNHCR procedures. Individuals who wish to apply for RSD should be referred to procedures to apply for RSD (see § 3.2 – *Registration Procedures for Applicants for RSD*).

Applicants who have a scheduled RSD Interview or appointment should be asked to present their Appointment Slip or other appropriate means to confirm that an interview or appointment was scheduled (see § 3.5.1 – *General RSD Scheduling Procedures*). Once the appointment is confirmed, the appropriate staff member should be notified and the Applicant should be directed to the reception waiting area until the staff member is able to receive the Applicant.

When long waiting periods are anticipated in reception, UNHCR Offices should develop a system for orderly processing (i.e. assigning numbers or recording names on a list used by Reception staff). Reception

staff should be available to respond to inquiries and to keep individuals informed of the status of their processing.

Reception procedures should include measures **to identify promptly asylum-seekers who may have specific protection or assistance needs**, and to refer them for appropriate support in the RSD procedures or other available assistance and protection resources as required (see § 3.4 – *Applicants with Specific Needs*, as well as *UNHCR's Guidance on Registration and Identity Management*).

3.1.2 Supervision and Oversight of Reception Procedures

Reception procedures should include **clearly defined responsibilities and staff assignments** and should incorporate effective supervision and oversight mechanisms.

Depending on the specific context and registration activities conducted in the UNHCR Office, the Registration Supervisor or RSD Supervisor, or another designated Protection staff, should supervise all activities and procedures relating to the reception of asylum-seekers and refugees. The **designated Protection staff member should carry out clearly defined supervisory responsibilities in reception at all times when asylum-seekers and refugees are received** in the UNHCR Office.

In operations where registration is conducted solely for the purposes of RSD, the **RSD Supervisor should have the overall responsibility to oversee the implementation of reception procedures** to ensure that appropriate standards for the reception and treatment of asylum-seekers are met.

3.1.3 Dissemination of Information to Asylum-seekers

Asylum-seekers who approach UNHCR Offices should be provided with necessary information to permit them to understand the RSD process and UNHCR procedures, with a view to enable them to apply for refugee status. Each UNHCR Office should develop materials and procedures to disseminate relevant information to all asylum-seekers in an accessible and easy to understand format and language (see also § 3.1.4 – *Counselling on UNHCR RSD Procedures*).

Information regarding access to the UNHCR Office should be posted in a visible location outside each UNHCR Office. The following information must be posted in this manner:

STANDARDS & GUIDELINES

POSTED INFORMATION ON ACCESS TO UNHCR[1]

- Reception hours and procedures;
- Directions on how to contact UNHCR after hours of operation in case of an emergency;
- Notice that access to UNHCR premises and all UNHCR and partner services are free of charge;
- Procedures for providing feedback and making complaints regarding UNHCR staff, interpreters, security guards or UNHCR partners, or other difficulties relating to access to the UNHCR Office.

[1] Where reception and registration are carried out by Implementing Partners on behalf of UNHCR, information regarding access to Implementing Partners should also be posted in a visible location outside the UNHCR Office.

In addition, asylum-seekers should be provided clear and easy-to-understand information regarding the RSD process and procedures as early as possible in the RSD process, and upon approaching the UNHCR Office.

STANDARDS & GUIDELINES

GENERAL INFORMATION ON UNHCR RSD PROCEDURES:

- The eligibility criteria for refugee status under UNHCR's mandate, including the eligibility criteria for derivative refugee status;
- The rights and responsibilities of asylum-seekers and refugees;
- Procedures to apply for RSD and the various stages of the RSD process, including appeal procedures and available assistance for Applicants in these procedures;
- Procedures for registering accompanying family members/dependants, including the requirement that they all attend the UNHCR Office in person for registration and that each accompanying adult family member or other adult dependant be interviewed individually by a UNHCR Registration staff member (see § 3.2.6 – *Registration Interview of Family Members or Dependants*);
- The right of accompanying family members/dependants who have independent grounds for seeking refugee protection to make an independent refugee status claim, and to obtain information and assistance in this regard from a UNHCR staff member;
- The supporting documentation that should be presented at the time of registration (see § 3.2.8 – *Supporting Documents*)
- Confidentiality of UNHCR RSD procedures and protection of personal data, and any applicable limits on the confidentiality of information provided (see § 2.1.1 – *The Applicant's Right to Confidentiality*);
- The right of Applicants to request that Registration and RSD Interviews be conducted by UNHCR staff and interpreters of a preferred sex, where available;
- The consequences of recognition, including limitations regarding the availability of durable solutions;
- Any information about the host country/country of asylum laws and procedures that may affect the rights of refugees and asylum-seekers;
- Information on how to provide feedback or make complaints regarding UNHCR staff, security guards or UNHCR partners (see § 2.6 – *Feedback and Complaints Mechanism*).

Each UNHCR Office should determine the **most effective and feasible methods of communicating and disseminating the information** described above, taking into account the **principal languages** and varying degrees of literacy and education of the Applicants registered with the Office. All efforts should be made to ensure that the information is accessible to **Applicants with specific needs or vulnerabilities**, such as children, older asylum-seekers and individuals with mental health conditions or physical or intellectual disabilities. Methods of dissemination of information should include a combination of written text and illustrations on posters or notices displayed outside the UNHCR Office and in information leaflets, as well as counselling by qualified UNHCR staff where necessary.

Procedures to disseminate information to asylum-seekers should take into account the needs of populations who may be in remote locations, including **refugee camps** and **detention facilities** (e.g. detention centres, police stations, airport facilities, etc.).

Where, as a result of cultural or social factors, women are more likely to be excluded from involvement in public and administrative matters affecting the family unit, UNHCR Offices should take any additional measures required to ensure that **women asylum-seekers**, including women who are accompanied by male family members, receive the general information regarding the RSD process, their rights and responsibilities as asylum-seekers, and the right to make an independent refugee status claim should they have individual protection needs (see also § 3.2.6 – *Registration Interview of Family Members and Dependants*).

3.1.4 Counselling on UNHCR RSD Procedures

As a general rule, asylum-seekers should have the **opportunity to meet with a UNHCR staff member**, or designated UNHCR partner, before the RSD Interview, to receive general information on the RSD process and procedures.

While UNHCR Offices should take reasonable steps to accommodate requests for individual counselling, where counselling relates to general procedures applicable to all or to certain caseloads or profiles, it may be conducted on a group basis. Efforts should be made to provide counselling and assistance to Applicants with specific needs or vulnerabilities, including unaccompanied and separated children, individuals with mental health conditions or physical or intellectual disabilities, and applicants in detention.

Counselling to asylum-seekers should be provided by persons who are **trained and knowledgeable** about UNHCR and the procedures for RSD in the relevant UNHCR Office.

3.1.5 Confidentiality in Reception Procedures

All UNHCR staff should take **appropriate measures in reception to preserve the confidentiality** of UNHCR RSD procedures and the privacy of asylum-seekers. UNHCR staff should avoid calling the names of asylum-seekers in the presence of other asylum-seekers. Alternative methods (including assigning numbers, distributing cards etc.) should be used when communicating with or about asylum-seekers in these areas.

The facilities and procedures in UNHCR Offices should permit Applicants to provide identifying bio-data or other personal information to UNHCR staff under conditions that do not undermine the right to privacy and confidentiality of personal data.

UNHCR staff should not request the assistance of other asylum-seekers or refugees in reception to provide interpretation, unless no qualified interpreters are available and there are no other means to communicate with asylum-seekers in reception. Where the services of another asylum-seeker or refugee must be used, the directions set out in § 2.5.3 – *Interpretation by Persons other than UNHCR Interpreters should be followed*.

3.2 Registration Procedures for Applicants for RSD[2]

3.2.1 UNHCR Registration and Applying for Mandate RSD

Registration with UNHCR and applying for RSD are two distinct UNHCR processes. In UNHCR mandate RSD operations, procedures for receiving applications for RSD are generally carried out concurrently with procedures for collecting or updating UNHCR registration information for these Applicants. In each UNHCR Office, the relevant procedures must promote the standards and objectives of UNHCR registration as well as mandate RSD.

UNHCR registration is the individual recording, verifying and updating of information on persons of concern to UNHCR with the aim of protecting, assisting and documenting them and of implementing durable solutions. The registration process allows UNHCR to collect and record standardized personal data through individual interviews, individual photographs and the collection of anatomical data through biometric tools. The registration information also permits UNHCR to make more informed assessments of the number and profiles of persons of concern, and to design programmes for protection and assistance. The registration information also facilitates the identification of persons with specific needs, and the provision of appropriate referrals and assistance. As Applicants for RSD are persons of concern to UNHCR, UNHCR must maintain current standard registration information for each individual Applicant, including Applicants for derivative refugee status, in accordance with UNHCR's *Guidance on Registration and Identity Management*.

The purpose of **procedures to apply for RSD** is to formally initiate procedures for mandate RSD, and to gather additional and more detailed information than is collected in standard UNHCR registration, including the reasons and circumstances of the Applicant's flight from the country of origin and other information that is relevant to the determination of the Applicant's eligibility for refugee status.

The RSD **Application Form (Annex 3-2)** has been developed to gather standard UNHCR registration information, as well as the additional information required for mandate RSD procedures, including information relating to the reasons and circumstances of departure from the home country. Standard UNHCR registration information is gathered in the **Individual Registration Form**, which is the first part of the RSD Application Form.

While the standard UNHCR registration information will be recorded in the RSD Application Form for use in RSD procedures, in each UNHCR Office procedures for **management of the information recorded on the Individual Registration Form**, including in UNHCR's electronic case management database, should also ensure that the information is available for verification and updating in subsequent registration procedures, and for use in other procedures (e.g. resettlement, voluntary repatriation, etc.) or protection interventions. Regular updating and verifying of registration data as part of day-to-day case management activities (e.g. RSD, resettlement, protection interventions, etc.) ensures that Applicants' personal information is accurate and up-to-date. When verifying and updating registration data in the context of RSD procedures, UNHCR Offices must ensure that such procedures remain fully consistent with and **support broader UNHCR registration objectives and initiatives**.

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[2] Unit 3 of the RSD Procedural Standards focuses only on registration for the purposes of conducting refugee status determination. For detailed guidance on registration procedures and activities more generally, please refer to UNHCR's *Guidance on Registration and Identity Management*.

3.2.2 Supervision and Oversight of Registration Procedures

Registration procedures for Applicants who are applying for RSD should promote **accurate and thorough information gathering and fairness and efficiency** of UNHCR procedures. The Registration Supervisor has the responsibility for the oversight of registration procedures and activities, and should consult with the RSD Supervisor regarding **the procedures to register Applicants for RSD**, as well as any other RSD-specific considerations arising at the registration stage. In each UNHCR Office, the registration procedures should include clearly defined responsibilities for supervision and support of Registration staff.

STANDARDS & GUIDELINES

RESPONSIBILITIES FOR SUPERVISION OF REGISTRATION ACTIVITIES:

- Ensuring that all Registration staff have appropriate training and support to carry out their responsibilities effectively;
- Supervising Registration staff in the exercise of their assigned duties, including *ad hoc* monitoring of Registration Interviews and counselling sessions conducted by Registration staff, to ensure the accuracy and consistency of information provided to Applicants for RSD;
- Reviewing complaints received regarding the registration procedures for Applicants for RSD, coordinating appropriate follow-up, and reporting on action taken (see § 2.6 – *Feedback and Complaints*);
- Supervising the preparation and issuance of documents issued by UNHCR to registered Applicants for RSD (see § 3.3 – *Identity Documentation for Registered Asylum-Seekers*).

Where registration for RSD is conducted through UNHCR partners, for example in as situations where UNHCR does not have a physical presence in the host country/country of asylum, UNHCR must provide relevant training and exercise oversight of registration procedures. The procedural guidance in this Unit is relevant and should inform registration arrangements with UNHCR partners (see also § 3.2.11 – *Alternative Procedures for Registration of Applicants for RSD*).

3.2.3 Registration Staff

Registration procedures for Applicants for RSD should be carried out by **qualified Registration staff**, who should receive the necessary training for the responsibilities assigned to them.

TRAINING

TRAINING FOR UNHCR REGISTRATION STAFF

- UNHCR's mandate and protection activities of the UNHCR Office;
- Refugee protection principles and the rights of asylum-seekers and refugees, including confidentiality of UNHCR procedures;
- UNHCR registration standards and guidance;
- The specific procedures in the UNHCR Office for the registration and processing of Applicants for RSD;
- Identifying and assisting individuals who may have specific assistance and protection needs, including assistance/protection referral mechanisms;
- Age, gender and diversity sensitivity when working with asylum-seekers;
- Interviewing techniques, including conducting interviews with children, individuals with mental health conditions or intellectual disabilities or suffering from trauma, and other vulnerable Applicants; and
- Working with interpreters.

Every effort should be made to ensure that there are **sufficient numbers of male and female Registration staff members** to accommodate requests by Applicants to have a Registration Interview with a Registration staff member of the sex preferred by the Applicant.

In operations where registration is conducted primarily for the purposes of RSD, Registration staff may report to the RSD Supervisor, who should have the requisite technical training on registration.

3.2.4 Distribution and Completion of RSD Application Forms

Registration staff should distribute RSD Application Forms to Applicants, including to accompanying family members/dependants, and should ensure that they are able to read and understand the document, including the type of information they are required to provide.

UNHCR registration standards require that the **Individual Registration Form** at the front of the RSD Application Form should be completed for all Refugee Status Applicants and every accompanying adult family/dependant, including children, who apply for derivative refugee status. The **Registration Information Sheet** for young children who are applying for derivative refugee status may be completed by the Refugee Status Applicant or another accompanying adult, or by UNHCR Registration staff as appropriate. Alternatively, the required information may be captured on UNHCR's case management database at the time of the Registration interview.

Refugee Status Applicants and all accompanying adult family members/dependants applying for derivative refugee status must complete all parts of the RSD Application Form. The requirement that all accompanying adult family members/dependants complete the RSD Application Form permits UNHCR to gather comprehensive registration information about Applicants for derivative refugee status and to identify individuals who may have specific needs and vulnerabilities. It is also intended to give all adult Applicants the opportunity to inform UNHCR of any individual protection needs they may have. The information on the RSD Application Form permits UNHCR to more systematically identify, at an early stage in the process, accompanying family members/dependants who may have independent grounds for seeking refugee protection, and whose eligibility for refugee status should be examined as Refugee Status Applicants in the RSD procedures.

Unless accompanying family members/dependants of a Refugee Status Applicant request to have their claim determined independently, or there are other indications (at registration or later in the RSD process) that this would be appropriate, accompanying family members/dependants should be processed as **Applicants for derivative refugee status** (see § 5 – *Processing Claims based on the Right to Family Unity*).

As a general rule, **members of the Refugee Status Applicant's household who are under 18** years need not complete the entire RSD Application Form, unless they are applying to have their eligibility for refugee status determined independently of the claim of accompanying adults, or there are other reasons why this would be appropriate.

Children who are applying for refugee status in their own right should complete all sections of the RSD Application Form, and should be referred to an individual Registration Interview to receive any assistance they require from UNHCR Registration staff in making their application.

All unaccompanied or separated children should complete the RSD Application Form in full (see § 3.4.6 – *Child Applicants (Unaccompanied and Separated Children*). In addition, reception and registration processes should be adjusted for unaccompanied and separated children to facilitate the collection of information necessary to assess the child's assistance and protection needs, including the need to initiate tracing or family unity measures, make appropriate care arrangements, designate a guardian, and decide on appropriate procedures for processing the child's claim (see also § 2.8.5 – *Unaccompanied and Separated Children*).

Given the importance of the factual information gathered on the RSD Application Form for the determination of the refugee status claim, every effort should be made to ensure that Applicants have the **opportunity to complete the RSD Application Form under appropriate conditions**. Applicants should have sufficient time to receive and read information on the RSD process, to consider the evidence that may be relevant to their claim, and to complete all sections of the RSD Application Form. Every effort should be made to ensure that Applicants who complete the RSD Application Form at the UNHCR Office have adequate space and privacy, as well as assistance from Registration staff and interpreters where necessary.

As a general rule, Applicants who do not require assistance in completing the RSD Application Form should be permitted to take the RSD Application Form away to **complete independently** and return it to UNHCR on the day of the Registration Interview.

Applicants who are not able to read the RSD Application Form in the language provided, or who otherwise require assistance in completing the Form, should receive **necessary assistance**, including the use of a UNHCR interpreter.

Where UNHCR Staff members complete the RSD Application Form for the Applicant, they should take particular care to **accurately and completely record** the statements and responses of the Applicant, including by confirming the information recorded with the Applicant, and should indicate on the RSD Application Form the assistance they have provided.

3.2.5 Registration Interview

Registration Interviews should take place as soon as possible after asylum-seekers approach the UNHCR Office, preferably within a period of three months of having approached the Office. Early recording of the registration information, including the Applicant's identity data and family composition, as well as the basis for the refugee claim promotes greater accuracy and reliability of this information.

Registration interviews should generally be conducted in **person** (see also § 3.2.11 – *Alternative Procedures for Registration of Applicants for RSD*). Registration interviews must be conducted in a **non-intimidating, non-threatening, and impartial manner**, with due respect for the safety and dignity of asylum-seekers. At the beginning of the Registration Interview, Applicants should be provided clear and easy to understand information regarding, *inter alia*, the purpose of the interview, the process and rights and obligations that it entails, including the confidentiality of UNHCR procedures, as well as future processes applicable to the individual, including targeted protection interventions or RSD procedures.

Registration Interviews should be conducted by **Registration staff members who are qualified and trained** to perform this role. Where the Applicant has expressed a preference to be interviewed by UNHCR Registration staff and/or interpreters of a particular sex, the request should be noted in the appropriate section of the RSD Application Form, where one is distributed ahead of the Registration Interview, and in UNHCR's case management database. Every effort should be made to accommodate this request in the Registration Interview and subsequent RSD procedures.

As a standard procedure, every **Refugee Status Applicant and each accompanying adult family member/dependant applying for derivative refugee status should have an individual and confidential Registration Interview** (see § 3.2.6 – *Registration Interview of Family Members and Dependants*). As a general rule, child Applicants who are applying for derivative refugee status need not be referred for an individual Registration Interview, unless they so request or there are other factors indicating that this would be appropriate, such as situations where there are serious reasons to believe that the child may be in danger of exploitation or abuse or where it may be necessary to determine the child's specific assistance and protection needs. (see also § 2.8 – *Children in UNHCR RSD Procedures* and § 5.3.2 – *Derivative Refugee Status Applications Involving Children*).

Children who are applying for RSD as Refugee Status Applicants, in their own right, and all unaccompanied and separated children should generally be referred for an individual Registration Interview. The information gathered at the Registration Interview should inform decisions regarding the appropriate procedures for processing the child's claim and necessary follow-up measures for the care and protection of the child (see § 3.4.6 – *Child Applicants/Unaccompanied and Separated Children*).

Registration Interviews for child Applicants should be conducted in a child-friendly and age-appropriate manner, in accordance with the best interests principle. This requires taking into account the child's level of emotional, mental and intellectual development and maturity, ability to understand the RSD process and procedures, as well as their personal and contextual circumstances, including but not limited to their age, gender, sexual orientation, gender identity and gender expression, disability, cultural and/or religious background, level of education, state of health and vulnerabilities, as well as the circumstances of flight,

transit and arrival in the host country/country of asylum. Whenever possible, staff members who conduct Registration Interviews and provide assistance and counselling to child Applicants should have training, knowledge and experience in interviewing and assisting asylum-seeking and refugee children (for further guidance see § 2.8 – *Children in UNHCR RSD Procedures*).

STANDARDS & GUIDELINES

RSD-RELATED RESPONSIBILITIES OF REGISTRATION STAFF IN THE CONTEXT OF THE REGISTRATION INTERVIEW GENERALLY INCLUDE:[3]

- **Review the RSD Application Form** to ensure that all Applicants have completed the appropriate sections of the form (see § 3.2.4 – *Distribution and Completion of the RSD Applicant Form*). In instances where the information required in the RSD Application Form is captured at the time of the Registration Interview, **gather and accurately record** the RSD-related information;
- **Verify information provided on the Individual Registration Form** of the Refugee Status Applicant and of children in the household who are applying for derivative refugee status. Where available, missing information should be requested and added to the RSD Application Form and/or the UNHCR case management database, as appropriate;
- Confirm that the Refugee Status Applicant has identified **all family members/dependants** on the RSD Application Form, including where appropriate those who have not yet arrived in the host country/country of asylum and note the nature of each of the family/dependency relationship. Early and accurate recording of this information will assist any subsequent determination of eligibility for derivative refugee status (see § 5 – *Processing for Claims based on the Right to Family Unity)*;
- **Request and copy identity documentation** and any other documents that are relevant to the determination of the refugee status claim, including birth and marriage certificates, and any other documents that support the existence of the dependency relationship between the Refugee Status Applicant and family members/dependants applying for derivative refugee status (see § 3.2.8 – *Supporting Documents*);
- Confirm that all accompanying family members and dependants who are **applying for derivative refugee status are present for the Registration Interview**, and take appropriate steps to arrange for attendance of missing individuals;
- **Identify and assist Applicants with specific protection or assistance needs** and, where appropriate, initiate referral to Accelerated RSD Processing (see § 3.4 – *Applicants with Specific Needs*).

Where an Applicant indicates that he/she has been **previously registered with UNHCR**, Registration staff should obtain as much information as the Applicant is able to provide regarding the date and place of the registration, the purpose of the registration, the entity who was responsible for the registration, and the documentation that was provided. Wherever possible, Registration staff should follow up with the UNHCR Office where the Applicant was previously registered to obtain the relevant information. Where previous registration information is available, Registration staff should **verify and update the registration information, in particular information** regarding births, deaths, marriages, or other developments affecting the composition of the household or dependency relationships, or any changes in the status

[3] For detailed guidance on UNHCR Registration staff non-RSD related responsibilities, including in Registration Interviews, please refer to UNHCR's *Guidance on Registration and Identity Management*.

of members of the household with UNHCR. Current registration information should be recorded in the appropriate sections of the RSD Application Form and/or on the UNHCR case management database.

Information and advice to Applicants relating to the substantive elements of **the refugee claim** may only be provided by **UNHCR Protection staff members** who are responsible for RSD. Where Registration Interviews or counselling sessions are conducted by Registration staff who are not responsible for RSD, the Registration staff should receive precise instructions on the content and scope of the information they should provide to Applicants.

3.2.6 Registration Interview of Family Members and Dependants

As a standard procedure, all accompanying adult family members/dependants of the Refugee Status Applicant should have an **individual and confidential Registration Interview**, whether they apply for refugee status in their own right or for derivative refugee status.

Registration Staff should ensure that persons claiming derivative refugee status as family members/dependants of a Refugee Status Applicant are aware of the relevant eligibility criteria and the **right to make an independent refugee status claim** where they have individual protection needs.

UNHCR standards for the protection of refugee women require that UNHCR staff take all possible measures to ensure that women have access to UNHCR registration and RSD procedures and receive any necessary assistance and support in these procedures. In certain cultures or family units, women who have grounds to make a refugee claim may be reluctant to make an independent claim, or may be discouraged from doing so. All Registration staff should be sensitized to this issue and should use gender and culturally sensitive interviewing techniques to create an atmosphere of trust in which women who may have individual protection needs feel comfortable to discuss them with UNHCR staff (see also § 3.4.4 – *Women with Specific Needs*). Similar considerations should apply to Registration Interviews or other registration activities with children who may not fully understand UNHCR procedures or whether they would have grounds for making independent refugee status claims. UNHCR Registration staff should use a child-friendly and age-appropriate approach in interactions with child Applicants (for further guidance on procedural safeguards and measures relating to child Applicants see also § 3.4.6 – *Child Applicants/Unaccompanied and Separated Children* and § 2.8 – *Children in UNHCR RSD Procedures*).

As some individuals who have experienced persecution may not have disclosed the details of the persecution to family members, they may be reluctant to initiate an independent refugee status claim out of concern that the information they provide will be shared with their family members. This may be particularly relevant for individuals who have experienced gender-related persecution or sexual violence. Registration staff should therefore **emphasize the confidentiality of UNHCR procedures**, and, in particular, the fact that the RSD Interview will be conducted without any other family member present and that no information will be shared with them without the Applicant's prior consent.

3.2.7 Photographs and Biometrics

An **individual photograph** of each Applicant, including each family member/dependant applying for derivative refugee status, should be taken by a UNHCR staff member at the Registration Interview. Wherever possible, it is also recommended that each Applicant's **biometric data** (i.e. fingerprint, iris scan) be captured in UNHCR's biometrics and identity management system at the registration stage.

(a) Photographs

Photographs of the Refugee Status Applicant and each family member/dependant should be electronically **attached to the individual RSD Application Forms** and promptly and accurately recorded and linked to the Applicants' individual files in the UNHCR case management database. When a print out of the Applicant's photograph is physically attached to the RSD Application Form, UNHCR Offices should use the most effective methods available to minimize tampering, loss or removal of photographs.

Photographs should be of good quality, taken in accordance with UNHCR's *Guidance on Registration and Identity Management* and photograph specifications.

(b) Biometric data

UNHCR Registration staff should explain to Applicants the purpose of biometric enrolment and obtain the consent of the Applicant prior to collecting the biometric data in accordance with UNHCR's *Guidance on Registration and Identity Management* and data protection policy and guidance (see also § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*).

Biometric data should be updated if the fingers become damaged, scarred, or where the data becomes otherwise difficult to match against during verification of Applicant's identity. Wherever possible and necessary, the biometric data of child Applicants should be updated every two to three years to account for growth and ensure accuracy of records.

3.2.8 Supporting Documents

All Applicants should be asked to present originals, where available, or best available copies of all identity or other documents in their possession that support their refugee status or derivative refugee status claim. These may include national passports or other identity documents, as well as documents relating to marital status, age, country(ies) and place(s) of previous residence, family composition, level of education, health and specific needs, or previous asylum applications or registration with UNHCR.

Applicants should be asked to provide an **explanation for any missing documents**, or documents for which only copies are presented. The explanation should be recorded in the appropriate section of the RSD Application Form and/or UNHCR's case management database. Where Applicants are not in possession of a document that would support their claim, but they are able to acquire it without personal risk or risk to others, they should be asked to do so or to provide an explanation why they cannot acquire it. The request should be noted on the RSD Application Form and/or UNHCR's case management database, as appropriate. Where feasible, a **Document Appointment** should be scheduled and an Appointment Slip or another appropriate mean of confirmation of the appointment should be issued to the Applicant.

Under no circumstances should Applicants be asked to approach the authorities in **the country of origin** to obtain documents, or to take any other steps that could place family members or associates who remain in the country of origin at risk.

Copies should be made of all original documents provided by the Applicant.[4] A **description of each document**, including whether an original or copy was provided and the date it was received in the Office, should be noted in the appropriate section of the RSD Application Form and/or UNHCR's case management database, as appropriate.

UNHCR staff should take the utmost care in **handling original documents** of Applicants. When examining or copying original documents UNHCR staff should ensure that the documents remain intact and are not damaged or lost. Original documents presented by an Applicant should be returned to the Applicant promptly after copying, and should not be retained on the Applicant's file.

3.2.9 Assigning Registration Numbers

A **unique registration number** should be assigned to every individual who is registered with UNHCR. Refugee Status Applicants and each accompanying family member/dependant who is applying for derivative refugee status should also have an individual registration number. The registration number should remain static and should be **used to identify the individual for all purposes and through all stages of the RSD process and subsequent UNHCR procedures**, even if the status of the individual within the household unit, or with UNHCR, changes during the procedures.

3.2.10 Opening the RSD File

During or as soon as possible after the Registration Interview, an individual RSD file should be opened for each Refugee Status Applicant pursuant to established file management procedures (see § 2.2.2 – *Procedures for Opening RSD Files*). In order to promote the integrity and confidentiality of UNHCR RSD procedures, it is recommended that separate linked RSD files also be opened for family members/dependants applying for derivative refugee status.

3.2.11 Alternative Procedures for Registration of Applicants for RSD

As a general rule, Refugee Status Applicants and all accompanying family members/dependants should be required to **register with UNHCR and apply for RSD in person** (see also § 3.2.5 – *Registration Interview*).

Where known conditions in the host country/country of asylum or an individual's personal and contextual circumstances make it difficult for him/her to access UNHCR Offices to apply for RSD without undue economic hardship or exposure to security or other protection risks, UNHCR Offices should take all feasible steps to register Applicants for RSD in locations outside of the UNHCR Office (i.e. detention centres, police stations, airport or medical facilities, refugee camps, through home visits or mobile registration etc.).

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[4] All pages of documents presented by the Applicant at registration (such as national passports, birth or marriage certificates, etc.) should be copied and kept on the individual file.

Exceptionally, the Registration Interview may be conducted remotely via telephone or videoconference. This may be appropriate where there are security or other barriers impeding physical access to reception and registration processes or where UNHCR does not maintain a physical presence in the host country/country of asylum. Appropriate safeguards should be put in place to ensure insofar as possible the confidentiality of the interview and the quality of the communication (for further guidance, see UNHCR's *Guidance on Registration and Identity Management*).

Where necessary and appropriate, registration procedures may be conducted by approved and trained **implementing partners**. Alternative methods for registration of Applicants for RSD, such as registration by implementing partners or mobile/off-site registration, may be adopted where it is possible to incorporate **effective measures for UNHCR monitoring and supervision** to ensure the relevance and accuracy of the information collected, as well as the integrity of the registration and RSD procedures.

The use of alternative registration methods does not affect the requirement that each accompanying adult family member/dependant applying for derivative refugee status **complete a separate RSD Application Form** and that each adult be individually interviewed by UNHCR staff for RSD. The Refugee Status Applicant should be clearly informed that all named family members/dependants who are not present for registration will be required to be present to meet with a UNHCR staff member on the date of the Refugee Status Applicant's RSD Interview, and all named family members or dependants who did not attend a Registration Interview, will be required to attend the UNHCR Office on the date of the Principal Applicant's RSD Interview, or on another date specified by the Office.

3.3 Identity Documentation for Registered Asylum-Seekers

3.3.1 General Principles

At the end of the registration process, **individuals registered with UNHCR should generally be issued with documentation to enable them to demonstrate their identity, as well as their status as asylum-seekers** (i.e. proof that they have made a RSD Application with UNHCR) or as refugees,[5] as applicable.

In order to ensure the same level of protection and access to rights and available services as the nationals of the host country/country of asylum, UNHCR Offices should advocate that identification documents for persons of concern registered with UNHCR be issued by, or issued jointly with, the relevant authorities of the host country/country of asylum (for guidance relating to identity documentation for individuals recognized as refugees under UNHCR's mandate, see § 8 – *Refugees Identity Documentation*).[6]

Where identity documentation is not issued by, or jointly with, the Government of the host country/country of asylum, UNHCR Offices should provide necessary identity documentation to asylum-seekers registered with the Office in accordance with UNHCR's mandate and with the consent of national authorities.[7] In addition to providing proof of identity and status in UNHCR mandate RSD procedures, UNHCR-issued identity documentation may also serve to reduce protection-related risks in the host country/country of asylum, including detention and *refoulement*, and to facilitate access to services such as healthcare and education, as well as rights relating to freedom of movement and access to work for Applicants for RSD.

UNHCR Offices should undertake any necessary **demarches with the relevant authorities in the host country** to explain the form and significance of identity documentation issued by UNHCR to registered asylum-seekers, including Asylum-Seeker Certificates, and to promote recognition and acceptance of identity documents issued by UNHCR to asylum-seekers and refugees in the host country/country of asylum.

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5 This may be the case of individuals processed through merged Registration-RSD procedures, or individuals recognized as refugees through a prima facie approach in group-based determination (for further guidance on merged Registration-RSD processing, see § 4.11.1 – *Merged Registration-RSD Processing*. A *prima facie* approach means the recognition of refugee status on the basis of readily apparent, objective circumstances in the country of origin (or, in the case of stateless asylum-seekers, their country of former habitual residence) indicating that individuals fleeing these circumstances are at risk of harm which brings them within the applicable refugee definition, rather than through an individual assessment.

6 When identity documentation is issued by the authorities of the host country/country of asylum, or issued jointly by UNHCR and the national authorities, UNHCR Offices should advocate that they are issued with the same design and specifications applied to identity documentation issued to nationals. In addition, it is recommended that host Governments register vital events (such as birth, deaths, marriages, divorces) of asylum-seekers and refugees occurring on its territory and issue related documentation (for further guidance, see UNHCR's *Guidance on Registration and Identity Management*).

7 UNHCR-issued identity documents are distinct and should not be confused with entitlements documents, such as bank cards, cash cards, entitlement cards, ration cards, tokens, vouchers. Entitlements documents are generally issued per family unit or registration group.

UNHCR Offices should issue time-limited UNHCR asylum-seeker documents to all registered Applicants for RSD, including registered family members/dependants, **attesting to their status as asylum-seekers** whose eligibility for refugee status is being examined by UNHCR, and requesting that the authorities of the host country/country of asylum provide necessary protection and assistance until UNHCR has had the opportunity to make a final determination of the claim.

UNHCR Offices should issue asylum-seeker identity documents at the time of registration. However, if this is not feasible, asylum-seeker identity documents, including Asylum-Seeker Certificates, should be printed and distributed as soon as possible and within three months of the date of registration. In the interim, Applicants should be issued a provisional document attesting to the identity and status as asylum-seeker of the holder.

UNHCR Offices should determine, based on the operational environment and in consultation with the host Government as appropriate, the type of identity documentation to be issued to various categories of persons of concern registered with the Office. Applicants for RSD will generally be issued with UNHCR Asylum-Seeker Certificates. However, **there may be contexts in which additional or alternative approaches to the issuance of the standard UNHCR Asylum-Seeker Certificate may be required or preferable** to respond to the particular protection environment, to permit Applicants to access available assistance in the host country/country of asylum and/or to avoid any unintended adverse consequences that could dilute the protection value of the Asylum-Seeker Certificate. Where the issuance of the Asylum-Seeker Certificate is not considered to be appropriate, the UNHCR Office concerned should adopt alternative identity documentation in consultation with the relevant Bureau and DIP, as appropriate.

The uniformity of UNHCR Asylum-Seeker Certificates, and other UNHCR-issued identity documentation, and the harmonization of related procedures are intended to enhance the integrity, recognition and acceptance of documents issued by UNHCR to registered Applicants for mandate RSD.

3.3.2 Form of UNHCR Asylum-Seeker Identity Documentation

As mentioned above, UNHCR Offices may issue different types of identity documentation to registered Applicants for RSD depending on the protection context and operational environment, including Asylum-Seeker Certificates, ID cards, proof of registration certificates or other letter or documentation attesting to the identity and status of the holder.

UNHCR Asylum-Seeker Certificates should be issued in the standard format (**Annex 3-3**). UNHCR Asylum-Seeker Certificates should be issued in the language of the host country/country of asylum and the main working language of the UNHCR Office. In addition to the attestation referred to above, the document should **generally contain the following information**:[8]

[8] UNHCR Offices may tailor the information provided in Asylum-Seeker Certificates if required by the operational context and exigencies of the host country/country of asylum. Any amendments to the template Asylum-Seeker Certificate should be approved by the Senior Protection Officer in the UNHCR Office.

STANDARDS & GUIDELINES

UNHCR ASYLUM-SEEKER CERTIFICATE

- The name by which the Applicant is registered with UNHCR and other core bio-data including the date and place of birth, sex, and nationality;
- The UNHCR registration number of the Applicant;
- A photograph of the individual to whom the Asylum-Seeker Certificate is issued;
- The place and date of arrival in the host country;
- The unique document/reference number under which the document was issued by UNHCR;
- The date of issuance of the UNHCR Asylum-Seeker Certificate and the data of expiration/period of validity;
- Confirmation that the holder has been registered with UNHCR as an Applicant for RSD, and general statement of rights associated with the document;
- The signature of the Representative or another designated UNHCR staff member who is authorized to sign UNHCR Asylum-Seeker Certificates;
- UNHCR's logo and address and contact information for the UNHCR Office that issued the document.

It is recommended that the following information is not included:

- Bio data that may give rise to protection risks in the host country/country of asylum, such as ethnicity and religion;
- Information about the Applicant's family composition and size, or data relating to family members.

When ID cards are issued instead of UNHCR Asylum-Seeker Certificates, it is recommended that ID cards follow the design, format and content of national identity documents in the host country/country of asylum. As a general rule, they should contain the information listed above, and follow the standards regarding content and specification of UNHCR-issued cards set out in UNHCR's *Guidance on Registration and Identity Management* (see also § 8.2.1 – *Form of UNHCR Refugee Identity Documents*).

3.3.3 Oversight and Controls

UNHCR asylum-seeker identity documents should be prepared by **designated Registration staff**, who should work under the **direct supervision** of the Registration Supervisor, or another designated Protection staff member (ideally a Protection staff member who has supervisory responsibility in registration procedures).

Access to templates for UNHCR asylum-seeker identity documents and related materials (e.g. secure paper for printing UNHCR Asylum-Seeker Certificates), and circulation of UNHCR asylum-seeker identity documents during preparation and review procedures should be strictly controlled (e.g. through numbering and logging procedures, restricted access to and secure storage of templates and other materials, etc.). All efforts should be made to avoid misuse or theft of identification documentation materials.

Procedures for preparing and issuing UNHCR asylum-seeker identity documents should include effective review mechanisms/quality checks to ensure that the information they contain is **accurate**, and that they are **issued only to asylum-seekers who were duly registered** by UNHCR. **Each UNHCR asylum-seeker identity document should be reviewed/checked** by designated Protection staff members before it is issued, in accordance with established procedures. Where responsibility for review is delegated or rests with another Protection staff member, the Registration Supervisor should conduct regular and random reviews of UNHCR asylum-seeker identity documents to monitor the effectiveness of supervision and controls.

Each UNHCR Office, in consultation with UNHCR Headquarters as necessary, should employ the most effective techniques available to **prevent fraudulent production or tampering** of UNHCR Asylum-Seeker Certificates, including using carefully controlled and centrally serialized security paper, embossing, bar codes or dry seals, as well as recording the unique serial number on the Applicants' files in the UNHCR case management database.

3.3.4 Recipients of UNHCR Asylum-Seeker Identity Documentation

A UNHCR asylum-seeker identity document should be issued to each Refugee Status Applicant who registers with UNHCR, and to each accompanying family member/dependant claiming derivative refugee status, including children.

UNHCR asylum-seeker identity documents should only be issued to **Applicants who register with UNHCR in person**. Where, exceptionally, registration with UNHCR was not done in person, the individual in question must present himself/herself in person to the UNHCR Office to have a UNHCR identity document issued subject to verification of identity. Where registration is conducted by implementing partners on behalf of UNHCR, asylum-seeker documentation may exceptionally be issued by such partners provided that the necessary fraud prevention safeguards are in place.

3.3.5 Period of Validity of UNHCR Asylum-Seeker Identity Documentation

The period of the validity of UNHCR asylum-seeker identity documents, including Asylum-Seeker Certificates, should be **based upon the average processing times for first instance decisions in the UNHCR Office**, which, in any event, **should not exceed one year**. The period of validity should be the same for all Applicants in any given UNHCR Office unless a Protection staff member who is responsible for supervising the issuance of UNHCR asylum-seeker identity documents determines that a shorter or longer period of validity, not to exceed one year, is appropriate.

At the time that the UNHCR asylum-seeker identity document is issued, the Applicant should be informed of the procedures for renewal should it expire before the final RSD decision is issued.

3.3.6 Renewal of Expired and Replacement of Lost or Stolen UNHCR Asylum-Seeker Identification Documentation

Applicants should be required to attend the UNHCR Office to apply in person for the renewal of UNHCR asylum-seeker identity documentation, including Asylum-Seeker Certificates.

As a general rule, Refugee Status Applicants may apply for the renewal of UNHCR asylum-seeker identification documents on behalf of accompanying family members/dependants who are younger than 18 years. Adult accompanying family members and other dependants applying for derivative refugee status should present themselves in person to request the renewal of UNHCR asylum-seeker identity documentation. The attendance of accompanying family members/dependants under 18 years should be required where there is reason to doubt the legitimacy of the renewal request.

When applying for renewal, Applicants should **relinquish the original** of the most recent UNHCR asylum-seeker identity document issued to the Applicant and those of each accompanying family member/dependant of younger than 18 years, as applicable. UNHCR staff should verify the identity of the Applicant at the time of the renewal by requesting to see any other personal identification documents which are in the Applicant's possession as well as through verification of photographs and biometrics on file.

Renewal of UNHCR asylum-seeker identity documents, including certificates, should be subject to **effective review/check and approval procedures** by Protection staff who are designated to supervise the issuance of UNHCR documents.

Renewals should be granted for **a period corresponding to the average processing times for first instance decisions** in the UNHCR Office, unless the Protection staff member who authorizes renewal is satisfied that a shorter or longer period is appropriate. A new UNHCR asylum-seeker identity document, with a different unique serial number, should be issued to the Applicant and each accompanying family member/dependant, as applicable.

The **date of issuance and expiry** should be written on the renewed UNHCR asylum-seeker identity document and should be duly noted, along with the unique serial number of the document, in a central Office record and the UNHCR case management database (see § 3.3.7 – *Maintaining Office Records of UNHCR Asylum-Seeker Identity Documentation*).

Procedures for issuance and renewal of UNHCR asylum-seeker identity documents should set out appropriate means of storage or disposal of expired or otherwise retrieved identity documents and should be in accordance with UNHCR data protection policy and guidance.

Replacement of lost or stolen UNHCR asylum-seeker identity documents, including certificates, should be carried out pursuant to the procedures outlined above for renewal of UNHCR asylum-seeker identity documents. Applicants who report lost or stolen UNHCR asylum-seeker identity documents should be asked to provide a written and signed explanation of the circumstances of the loss or theft, and an undertaking to return the original document to the UNHCR Office if it is recovered.

3.3.7 Maintaining Office Records of UNHCR Asylum-Seeker Identity Documents

A copy of each UNHCR identity documentation, including ID cards and Asylum-Seeker Certificates, issued to an Applicant and any accompanying family member/dependant should be **retained on the appropriate individual RSD file**.

Each UNHCR Office should maintain a **central record of all UNHCR identity documents** issued by the Office, including renewals and lost ID cards and Asylum-Seeker Certificates.

STANDARDS & GUIDELINES

THE FOLLOWING INFORMATION REGARDING EACH INDIVIDUAL ID CARD AND OTHER UNHCR-ISSUED IDENTITY DOCUMENTATION SHOULD BE RECORDED ON THE CENTRAL RECORD OF UNHCR IDENTITY DOCUMENTS:

- The name and registration number of the recipient;
- The type of identity documentation (e.g. ID card, Asylum-Seeker or Refugee Certificate, Attestation Letter, etc.);
- The unique card serial number (if any);
- The date of issuance and period of validity;
- The reason for issuance (e.g. initial or temporary documentation, renewal, loss);
- The name and function of the UNHCR staff member who issued it;
- The date the identity documentation was handed back or retrieved;
- The name and function of the UNHCR staff member to whom the identity documentation was handed back or who retrieved it, and reasons for retrieval.

To ensure accountability and mitigate the risk of misuse of UNHCR-issued documentation, it is recommended that such information is also recorded on the individual Applicant's file and in UNHCR's electronic case management database.

3.3.8 Fraudulent Use of UNHCR Asylum-Seeker Identity Documents

Fraudulent use or fraudulent acquisition of asylum-seeker identity documents include situations where an individual has made or knowingly used a fake document, or where an individual has used another person's identity document.

Procedures relating to UNHCR-issued documents for Applicants for RSD registered with UNHCR, such as UNHCR Asylum-Seeker Certificates, should include appropriate measures to prevent, detect and respond to fraudulent acquisition or use of, refugee identity documents in accordance with UNHCR's policy and guidance for addressing fraud by persons of concern. Such measures may include, for instance, the use of unique security paper for refugee identity documents, as well as provision of counselling for asylum-seekers on the risks associated with fraud and mechanisms to report incidents of fraud (see also § 3.3.3 – *Oversight and Controls)*.

Established procedures should also include measures to confiscate and, where necessary, appropriately dispose of UNHCR identity documents used by persons other than the individual to whom they were issued. Misuse of UNHCR identity documents by asylum-seekers to whom they were legitimately issued should be dealt in accordance with UNHCR's policy and guidance for addressing fraud by persons of concern.

Any incident of suspected fraudulent production or use of UNHCR asylum-seeker identity documents should immediately be brought to the attention of the UNHCR Office **Anti-Fraud Focal Point** designated by the Representative in accordance with UNHCR's policy and guidance for addressing fraud by persons of concern. The Anti-Fraud Focal Point should take the necessary measures to address the situation, in consultation with DIP and other relevant entities in Headquarters as necessary.

3.4 Applicants with Specific Needs

3.4.1 General Procedures

Reception and registration procedures should include **measures to facilitate the identification of asylum-seekers who may have vulnerabilities or specific needs**, as early as possible in the RSD process. Such measures may include protection screening prior to registration, community, partner or UNHCR Protection staff referral mechanisms or measures to promote and facilitate self-identification. While early identification is preferable in order to ensure prompt assistance and support to asylum-seekers with specific needs, identification should also be facilitated throughout the RSD process.

The vulnerability or specific needs of asylum-seekers may be evident at reception, but more commonly, do not become known to UNHCR staff until the Registration Interview or at a later stage in the RSD process.[9] The procedures outlined below are intended to guide UNHCR staff in assisting asylum-seekers who are identified in reception and registration as having specific needs or vulnerabilities, including in relation to processing their claims. **These procedures are also applicable to asylum-seekers who are identified as having specific needs at any other stage of the RSD Process.**

STANDARDS & GUIDELINES

APPLICANTS WHO MAY BE VULNERABLE OR HAVE SPECIFIC NEEDS INCLUDE, BUT ARE NOT LIMITED TO:

- Persons manifestly in need of a protection intervention;
- Survivors of torture and persons suffering from trauma;
- Women with specific needs;
- LGBTI persons
- Certain child Applicants, in particular unaccompanied and separated children;
- Older asylum-seekers;
- Asylum-seekers with mental health conditions, or intellectual or physical disabilities;
- Asylum-seekers who require medical or psycho-social support and assistance.

Asylum-seekers whose specific needs or vulnerabilities are identified in reception should generally be given priority in reception and registration procedures.

Each UNHCR Office should designate and train Protection staff to counsel and assist Applicants with specific needs throughout the RSD process.

[9] It should be noted that reception and registration staff are not expected to identify specific needs that normally require specialized knowledge and interviewing skills (for further guidance see UNHCR's Guidance on Registration and Identity Management).

STANDARDS & GUIDELINES

COUNSELLING OF APPLICANTS WITH SPECIFIC NEEDS OR VULNERABILITIES SHOULD AIM TO:

- Assess the Applicant's need for assistance in Registration and RSD procedures;
- Identify other immediate protection or assistance needs and refer to available resources for support and assistance within UNHCR, its partners or in the host community;
- Identify and recommend cases for priority and/or accelerated processing pursuant to the procedures set out in § 4.9 – *Accelerated RSD Processing*.

The recommendations in § 3.4.2 – 3.4.9 below set out basic standards for the reception and registration processing of Applicants with specific needs or vulnerabilities. UNHCR staff who provide counselling and assistance to Applicants with specific needs or vulnerabilities should be familiar with **relevant UNHCR protection policies and guidelines**, which provide more detailed guidance on appropriate standards for treatment of specific categories of asylum-seekers with specific needs or vulnerabilities.

3.4.2 Persons Manifestly in Need of a Protection Intervention

Applicants who should be considered to be "manifestly in need of a protection intervention" are persons who **may be subject to immediate *refoulement* or arbitrary arrest or detention in the host country/ country of asylum**, or who may have **other serious legal or protection needs**.

Applicants who are identified as being manifestly in need of a protection intervention should be referred without delay to the RSD Supervisor, or another designated Protection staff member who has supervisory responsibilities in RSD. The RSD Supervisor or the designated Protection staff member should meet with the Applicant to assess and respond to immediate protection needs, provide appropriate protection counselling, and determine whether the Applicant should be referred to Accelerated RSD Processing (see § 4.9.4 – *Procedures for Accelerated RSD Processing*).

3.4.3 Survivors of Torture and Persons Suffering from Trauma

Survivors of torture and persons who are suffering from trauma, including victims of sexual violence, should have access to tailored protection counselling and should receive any necessary assistance in RSD procedures. Wherever possible, counselling should be provided by a UNHCR staff member or UNHCR partner who has training and expertise in assisting survivors of torture or trauma, as well as knowledge of the RSD process and procedures.

When survivors of torture or trauma are **suffering from ongoing mental and/or physical health problems**, they should be referred to appropriate facilities for treatment of immediate medical needs, and for specialized counselling and support services, where available. As a general rule, survivors of torture or trauma should be provided information on available resources and their consent should be obtained prior to referral to such medical or specialised services. Where relevant medical expertise is available and subject to the **consent** of the Applicant in question, UNHCR should seek an assessment of the nature and possible causes of the physical and psychological harm suffered, as well as long-term treatment requirements. Where the Applicant is not capable of providing consent, referral to medical or other specialised services may be made on another legitimate basis, such as the vital or best interests of the Applicant, taking into account his/her expressed will and preferences (see also § 2.9 – *Applicants with Mental Health Conditions or Intellectual Disabilities*).

3.4.4 Women with Specific Needs

Women who are **victims of sexual or domestic violence, and women who may be at risk in the host country because of cultural, domestic, social, or economic conditions**, should be promptly referred to counselling with a qualified female UNHCR staff member or partner. UNHCR staff or staff members of partner organizations who provide counselling to women should have knowledge of UNHCR RSD procedures and should be trained in interviewing and assisting women with specific needs. Counsellors should also be knowledgeable about available resources in the host community for appropriate medical treatment, psychological counselling, and social and legal support to which women may have access.

3.4.5 LGBTI Persons

Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) applicants may face a complex array of protection challenges and threats in the host country, and encounter problems in articulating their asylum claims and/or protection needs during the RSD procedures. LGBTI asylum-seekers should therefore receive necessary and AGD-sensitive support in the registration procedure, and throughout the RSD process, including any necessary assistance with the completion of the RSD Application Form by personnel who are trained in interviewing and providing support to LGBTI persons.

LGBTI asylum seekers who appear to be without any support and/or face protection risks should be met by protection personnel to assess and respond to identified social, legal, medical or other needs and vulnerabilities in a timely and appropriate manner. Partners working for UNHCR should be trained on issues and - concerns particular to LGBTI applicants and they should be knowledgeable about available resources in the host community, including appropriate community- and legal networks that LGBTI persons can access.

3.4.6 Child Applicants/Unaccompanied and Separated Children

The **best interests of the child** must also be a primary consideration in all decisions affecting the child Applicant throughout the RSD process, including at the registration stage. The views of a child Applicant should be given due weight in accordance with the age and maturity of the child.

All aspects of registration procedures involving child Applicants must be conducted in a child-friendly and age and gender-appropriate manner. They should take into account the child's level of emotional, mental and intellectual development and maturity, ability to understand the RSD process and procedures, as well as their personal and contextual circumstances (such as their age, gender, cultural and/or religious background, level of education, state of health, including any physical or intellectual disabilities, and other specific needs or vulnerabilities). UNHCR Offices should put in place effective measures and mechanisms to facilitate the early identification of unaccompanied and separated children,[10] as well as children with

[10] An "**unaccompanied child**" is a child who has been separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so. A child who is unaccompanied for the purposes of this definition may, therefore, be physically accompanied by an adult whose relationship with the child has not reached a standard of legal or customary custody of the child, for example an acquaintance or neighbour. A "**separated child**" is a child separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. Where the relative in question has long been the primary caregiver of the child to the extent that they are legally or customarily considered to hold custody the child would not be considered separated.

other specific assistance and protection needs. As a general rule, unaccompanied and separated children should receive priority in reception and should be referred without delay to a Registration Interview.

UNHCR registration standards require that registration information be collected for every child Applicant for RSD, including children who are applying for derivative refugee status as dependants of Refugee Status Applicants. Detailed **directions regarding the completion of the RSD Application Form by child Applicants** and the additional registration information gathering requirements for separated and unaccompanied children are set out in § 3.2.4 – *Distribution and Completion of the RSD Application Form*.

All unaccompanied and separated children must have an individual Registration Interview (see § 3.2.5 – *The Registration Interview*). Registration procedures for unaccompanied and separated children should permit UNHCR to gather sufficient information to assess the child's specific assistance and protection needs, including the need to initiate tracing or family unity measures and the appropriateness of care arrangements in the host country/country of asylum, and should inform decisions regarding the appropriate procedures for processing the child's claim.

While **accompanied child Applicants** must be present at the time of the Registration Interview of the Refugee Status Applicant in order to permit the verification of the family composition and the collection of photographs and biometric data, an individual Registration Interview will not always be required (for further guidance on Registration Interviews for accompanied children applying for refugee status in their own right or as Applicants for derivative refugee status, see § 3.2.5 – *The Registration Interview*).

Whenever possible, registration procedures involving child Applicants should be carried out by **staff who have training, knowledge and experience** in interviewing and assisting child asylum-seekers. In addition, **staff members who provide assistance and counselling to unaccompanied and separated children** should ideally have knowledge of the laws in the host country/country of asylum regarding children's rights and the available resources for the care and guardianship of children.

Wherever appropriate and insofar as possible, a guardian may be designated for unaccompanied and separated child Applicants through established national frameworks for guardianship in the host country/country of asylum. The primary role of the guardian is to assist the child in all stages of the RSD process, including at registration, and to ensure that the child is properly represented, that his/her views are expressed, and that any decisions taken are in his/her best interests (for further guidance on the role and responsibilities of guardians, see § 2.8.4 – *Support Measures and Other Safeguards*).

For additional detailed guidance on child-specific procedural safeguards and support measures, see § 2.8 – *Children in UNHCR RSD Procedures*.

3.4.7 Older Asylum-Seekers

Older asylum-seekers may have been **separated from the traditional support network** that was available in the country of origin (e.g. family/community or specialized support in the country of origin) as a result of their displacement and may be at **higher risk of neglect and abandonment** in the host country/country of asylum. Older asylum-seekers who appear to be without family or community support in the host country/country of asylum should receive counselling by UNHCR staff or a designated UNHCR partner at the earliest stages in the registration procedures, so that any social, medical and psychological needs can be identified and they can receive necessary assistance in accessing any available services and supports in the host community. Older asylum-seekers should receive any assistance and support they require in registration procedures, and throughout the RSD process, including any necessary assistance with the completion of the RSD Application Form.

3.4.8 Asylum-Seekers with Mental Health Conditions or Physical or Intellectual Disabilities

Asylum-seekers with mental health conditions or disabilities may have specific assistance and protection needs and **may face greater hardship** in the host country/country of asylum as a result of their condition or disability. They **may also require medical treatment or other assistance** in the host country/country of asylum. It is, thus, recommended that Applicants with mental health conditions or disabilities receive targeted counselling at the earliest stages in the registration procedures so as to enable an early and swift identification of their specific needs and provide them with the necessary assistance in accessing any available services and support in the host community. Applicants with mental health conditions or disabilities should receive any assistance and support they require in registration procedures, and throughout the RSD process, including any necessary assistance with the completion of RSD Application Form.

Where there are serious indications that an Applicant's mental health condition or intellectual disability would fully prevent his/her meaningful participation in the RSD process, including his/her ability to provide relevant information in support of his/her refugee status claim, a determination of the Applicant's capacity to participate should be undertaken in accordance with the principles and guidance set out in § 2.9.2(b) – *Assessing Capacity to Participate in the RSD Process*. For further guidance on specific procedural safeguards and support measures for Applicants with mental health conditions or intellectual disabilities, see § 2.9 – *Applicants with Mental Health Conditions or Intellectual Disabilities in UNHCR RSD Procedures*.

3.4.9 Recording Information relating to Applicants with Specific Needs

Specific needs or vulnerabilities of asylum-seekers should be noted in the appropriate section of the **RSD Application Form** and/or the UNHCR case management database, as appropriate.

UNHCR staff who provide individual counselling to Applicants with specific needs or vulnerabilities or any other Applicant at any stage in the RSD process, should maintain a note of the counselling provided on the Applicant's file.

STANDARDS & GUIDELINES

THE COUNSELLING SESSION NOTE SHOULD INCLUDE THE FOLLOWING INFORMATION:

- Date and time counselling began and ended;
- Type of counselling that was provided;
- Summary of the information provided by the Applicant regarding his/her refugee status claim, background, and any other relevant information about the Applicant's personal circumstances in the host country/country of asylum;
- Summary of the information or advice that was provided to the Applicant by the UNHCR staff member;
- Recommendations for appropriate follow-up.

Records of any action taken by UNHCR staff or designated implementing partners to assist Applicants with specific needs and any other relevant reports or documents should be retained on the Applicant's file.

3.5 Scheduling of RSD Interviews and Appointments

3.5.1 General RSD Scheduling Procedures

Scheduling of RSD Interviews and appointments in UNHCR Offices should be conducted according to established procedures and in an **orderly, fair and transparent manner**.[11]

With the exception of cases referred to the Accelerated RSD Processing procedures (see § 4.9.2 – *Appropriate Cases for Accelerated RSD Processing*), Applicants should generally be scheduled for RSD Interviews in the order that the RSD Application Form has been received by UNHCR. However, in some mandate RSD operations, it may be necessary to take a **differentiated approach** to scheduling, whereby certain caseloads or profiles may be scheduled with greater or lesser priority based on protection risks, case processing methodology or other operational exigency.

Scheduling procedures in UNHCR Offices should **promote the most efficient use of staff time and minimize inconvenience to Applicants**. To avoid unduly long waiting times for Applicants, and crowding in the Reception area, scheduling of the time of interviews and appointments relating to RSD should be as precise as possible, i.e. specify the date and time. Scheduling should be based on a **realistic assessment of the processing capacity** of the UNHCR Office, taking into account potential emergency scheduling requirements, as well as the rate of 'no-shows'[12] (for factors affecting the processing capacity of Eligibility Offices and the time for processing RSD Applicants, see § 4.1.3 – *Determining Case Processing Capacity for Eligibility Officers*).

Each UNHCR Office should establish a **central scheduling system** to coordinate and record the scheduling details of all interviews and appointments; this may be done through UNHCR case management database where possible. The central schedule, and all activities relating to scheduling of interviews and appointments, should be managed by a **designated Scheduling Coordinator** or, in the absence of one, by the Registration Supervisor/Officer. All interviews and appointments should be scheduled in consultation with the designated Scheduling Coordinator and according to established procedures.

At the time that any RSD Interview or appointment is assigned, Applicants should be notified of the details of the interview or appointment through appropriate means. This may be done in a variety of ways, including in person, by appointment slip, via SMS, online platform or self-service kiosk. Applicants should be required to present the appointment slip or other means of confirmation of the scheduled RSD Interview or appointment at reception when they attend the UNHCR Office for the interview or appointment.

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[11] Scheduling of Registration Interviews and other registration activities should be done in accordance with UNHCR's *Guidance on Registration and Identity Management*, as well as established procedures in the UNHCR Office.

[12] For instance, if the average daily 'no-show' rate is 15%, the Office may schedule 10% more cases from same caseloads or profiles.

STANDARDS & GUIDELINES

THE APPOINTMENT SLIP OR OTHER MEANS OF NOTIFICATION OF THE RSD INTERVIEW OR APPOINTMENT SHOULD GENERALLY CONTAIN:

- The name of the Applicant (unless the notification is done via a public platform, in which case the anonymity of the Applicant should be preserved);
- The Applicant's UNHCR registration number;[13]
- The date and time of the interview or appointment;
- The complete address of the UNHCR Office or other appointment site, where applicable;
- Directions on how to contact the UNHCR Office in the event of an emergency, or should the Applicant have valid reasons to request that the interview or appointment is reschedule; and
- Instructions to bring all relevant documents.

As a general rule, UNHCR staff should observe scheduled RSD Interviews and appointments and **avoid rescheduling**, except as provided for in this Unit. When rescheduling is necessary, UNHCR staff should make every effort to minimize uncertainty or inconvenience for the Applicant. Wherever possible, the Eligibility Officer concerned, or a member of the Reception staff, should contact the Applicant before the RSD Interview or appointment to reschedule.

3.5.2 Oversight of RSD Scheduling Systems and Procedures

The **Scheduling Coordinator** should be **supervised by and report to the Protection staff member** who has supervisory responsibilities in reception or registration procedures (e.g. Registration Supervisor/ Officer, RSD Supervisor). Where responsibility for supervision of scheduling systems and procedures is delegated, the responsible Protection staff member should report directly to the RSD Supervisor.

Any problems with scheduling procedures that could affect the fairness or efficiency of RSD procedures must be reported to the RSD Supervisor or the designated Protection staff member, who is responsible to direct and monitor the effectiveness of measures to address the problem.

3.5.3 Scheduling of RSD Interviews

Every Applicant for RSD should be assigned an RSD Interview date in accordance with the general scheduling principles set out above.

Scheduling of RSD Interviews should be based upon an average number of interviews per week per Eligibility Officer, as established by the RSD Supervisor pursuant to the criteria set out in § 4.1.3 – *Determining Case Processing Capacity for Eligibility Officers*. These include, but are not limited to, the number of other scheduled interviews or appointments related to RSD (e.g. document appointments, complementary or family unity interviews, etc.), the case processing methodology, the degree of the difficulty of the cases assigned, the level of experience of the Eligibility Officer, and the processing capacity that can reasonably be sustained by Eligibility Officers over an extended period of time.

[13] The registration number is a unique identifying number assigned to the Applicant at the time of Registration.

With the exception of caseloads and profiles to which a differentiated scheduling approach applies (i.e. are prioritized or de-prioritized) and of cases referred to the Accelerated RSD Processing procedures (see § 4.9.2 – *Appropriate Cases for Accelerated RSD Processing*), Applicants should be scheduled for RSD Interviews in the order that the RSD Application Form has been received by UNHCR.

Scheduling of RSD Interviews should ensure that Applicants are afforded a reasonable period of time to receive and consider information on the RSD process and procedures and to adequately prepare and present their claim. However, scheduling of RSD Interviews should also promote the right to prompt processing of RSD Applications and the timely and efficient determination of refugee status claims by UNHCR Offices. As a general rule, **RSD Interviews should therefore be scheduled as soon as possible after the Applicant has been registered by UNHCR**.

The **length of time between the date of registration and the scheduled RSD Interview** will vary depending on a number of factors, including the number of registered cases and the number of Eligibility Officers in each UNHCR Office, the RSD case processing methodologies implemented, the operational environment, etc., but should generally not exceed **six months**. When the scheduling of RSD Interviews exceeds this period, the UNHCR Office should notify the relevant Bureau at UNHCR Headquarters and DIP.

As a general rule, RSD Interviews should not be conducted on the day of registration unless there are compelling protection reasons for proceeding in this manner, such as urgent protection or legal needs necessitating a expeditious determination of the claim.[14] Where the RSD Interview is conducted on the same day as Registration Interview, the Eligibility Officer should ensure that the Applicant has been adequately informed about the RSD process, and should provide any necessary procedural counselling before beginning the RSD Interview. Insofar as possible, the Eligibility Officer should ensure that the Applicant has had the **opportunity to consider and present all information** that may be relevant to the determination of the claim. All efforts should be made to ensure that the Applicant has an opportunity to provide additional supporting information and documentation following the RSD Interview.

3.5.4 Priority Scheduling of RSD Interviews for the Purpose of Accelerated RSD Processing

Applicants who are referred to Accelerated RSD Processing procedures or whose claims have been prioritized pursuant to § 4.9.2 – *Appropriate Case for Accelerated RSD Processing* should be scheduled for an RSD Interview on the first available date and, insofar as possible, within the time limit recommended by the Protection staff member who approved the referral to Accelerated RSD Processing (see § 4.9.4 – *Procedures for Accelerated RSD Processing*).

As a general rule, scheduled interviews by Applicants who have been approved for Accelerated RSD Processing should not be rescheduled by UNHCR. If it is not possible to schedule the RSD Interview

[14] While uncommon, registration and RSD interviews may occasionally be carried out the same day. This may, for instance, be the case in situations where an Applicant's urgent protection needs can only be addressed once the individual's status is decided, or where the Applicant is in detention and UNHCR has limited access to detained asylum-seekers or to the detention facility (see §4.6 – *Procedures for Applicants in Detention*). This is not to be confused with merged Registration-RSD processing, where registration and RSD-related information is gathered in one interview with the aim to recognised refugee status for individuals belonging to caseloads or profiles benefitting from a presumption of eligibility (see § 4.11.1 – *Merged Registration-RSD Processing*).

within the recommended time limit, the Scheduling Coordinator should consult with the RSD Supervisor, the Protection staff member who approved the referral, or another designated Protection Staff member, to make appropriate arrangements for priority scheduling.

3.5.5 Rescheduling RSD Interviews

Changes to scheduled interview dates, either by UNHCR or at the request of the Applicant should be done in accordance with the principles set below. Any such changes must be noted on the Applicant's file and/or the electronic case management system in place in the UNHCR Office.

(a) Request by Applicant for an Earlier RSD Interview

Requests by an Applicant to reschedule the RSD Interview to an earlier date should be considered in light of the criteria for referral to Accelerated RSD Processing set out in § 4.9.2 – *Appropriate Case for Accelerated RSD Processing*. Where the reasons presented by the Applicant relate to immediate and compelling protection concerns, such as a manifest/urgent need for a protection intervention or factors relating to the Applicant's specific needs, the request should be referred to the Protection staff member who is authorized to approve referrals to Accelerated RSD Processing.

Requests by Applicants, whose claims or personal or contextual circumstances do not warrant referral to Accelerated RSD Processing, should be denied. UNHCR staff should be consistent and clear in the explanation that the RSD Interview has been scheduled on the basis of the UNHCR Office's processing capacity and the need to maintain fair and orderly scheduling procedures for all Applicants.

(b) Request by Applicant to Postpone the RSD Interview

Requests to re-schedule an RSD Interview to a later date should generally be considered by the Eligibility Officer to whom the Applicant's file has been assigned, and who should consult with the RSD Supervisor, as needed. The request for a postponement should be granted when the Applicant presents legitimate personal or procedural reasons (i.e. illness, delay in the arrival of dependants, the need to obtain supporting information or documentation). If postponement is granted, the Applicant's request and reasons for postponement should be recorded on the Applicant's file and/or the electronic case management system in the UNHCR Office, and the RSD Interview should be rescheduled according to established scheduling procedures (see § 3.5.1 – *General RSD Scheduling Procedures*).

(c) Missed RSD Interviews

Requests for rescheduling of a missed RSD Interview should be granted when the Applicant contacts the UNHCR Office to reschedule the Interview within the 6 weeks following the date of the scheduled Interview, or a longer period considered appropriate by the UNHCR Office. If the request for a new RSD Interview occurs after the RSD file has been closed for reason of being deemed abandoned as a result of missing one or several RSD Interviews, the request to reschedule should be made pursuant to re-opening procedures set out in § 9.2 – *Re-opening RSD Files*.

Given the potential protection implications of denying an RSD Interview to an Applicant who has registered with the UNHCR Office but failed to attend a scheduled RSD Interview, decisions not to reschedule the Interview should only be made in exceptional circumstances and only with the authorization of the RSD Supervisor. The reasons for the decision not to reschedule an RSD Interview should be clearly noted on the Applicant's file (see also § 9.2.1(b) – *Refugee Status or Appeal Applications Deemed Abandoned*).

(d) Rescheduling of RSD Interview by UNHCR

- **Advancing the Date of the RSD Interview**

  At any stage in the RSD process, an Applicant who is believed to be manifestly in need of a protection intervention or to have specific needs or vulnerabilities that require an expeditious determination of the refugee status claim, may be scheduled for an RSD Interview on a priority basis pursuant to the procedures for Accelerated RSD Processing set out in § 4.9.

- **Postponing the RSD Interview**

  In light of the potential protection implications for the Applicant of delayed determination of his/her refugee status claim, scheduled RSD Interviews may only be postponed by UNHCR in exceptional cases, and only in consultation with the RSD Supervisor or another designated Protection staff member.

  As a general rule, cases determined to warrant prioritization or referral to Accelerated RSD Processing pursuant to § 4.9 – *Accelerated RSD Processing* should not be rescheduled by UNHCR. Where rescheduling is unavoidable, it should be done only in consultation with the Protection staff member who approved the referral to Accelerated RSD Processing, or another designated Protection Staff member.

  When the number of scheduled interviews exceeds UNHCR processing capacity, decisions regarding which RSD Interviews can appropriately be rescheduled, and any necessary file (re-)assignments should be made by a Protection staff member who has supervisory responsibility over scheduling or other RSD procedures, in consultation with the RSD Supervisor as necessary.

Annexes

Annex 1: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to Reception and Registration for Mandate RSD. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

UNHCR, *Guidance on Registration and identity Management*, available at: https://www.unhcr.org/registration-guidance/

Annex 2: RSD Application form

United Nations High Commissioner for Refugees

RSD Application Form

UNHCR Office: Click to enter text. ☐ **Refugee Status Applicant**

File#: Click to enter text. ☐ **Derivative Status Applicant**

Arrival Date: dd/mm/yyyy.	**Registration Date:** dd/mm/yyyy	**Specific Needs:** Click to enter text.
Reg. Staff: Click to enter text.		**Interpreter:** Click to enter text.
Linked RSD Files: Click to enter text.		

Registration Information Sheet
Parts A to H must be completed for every Refugee Status Applicant and Derivative Status Applicant

Part A – Basic Bio Data	
1. Full Name *(Underline main name)*: Click to enter text.	
2. Other Names used: Click to enter text.	
3. Father's Name: Click to enter text.	4. Mother's Name: Click to enter text.
5. Sex: Choose from drop-down.	6. Nationality: Click to enter text.
7. Date of Birth: *(If not known give estimated year of birth)*: dd/mm/yyyy	
8. Place of Birth: Click to enter text.	
9. Marital Status: Choose from drop-down.	
10. Spouse's Name *(if applicable)*: Click to enter text.	
11. Religion: Click to enter text.	12. Ethnicity: Click to enter text.
13. Full Address of Last Place of Residence in Home Country: Click to enter text.	
14. Present Address & Contact Numbers: Click to enter text.	

Part B - Education (Highest Level)				
Name of Institution	Place/Country	From (mm/yyyy)	To (mm/yyyy)	Qualification Obtained
Click to enter text.	Click to enter text.			Click to enter text.

Part C - Occupation				
Name of Employer	Place / Country	From (mm/yyyy)	To (mm/yyyy)	Job Title
Click to enter text.	Click to enter text.			Click to enter text.

Part D - Identification Documents / Other Documents Provided				
Document Type, Number	Place of Issue	Date of Issue (dd/mm/yyyy)	Date of Expiry (dd/mm/yyyy)	Original Provided?
Click to enter text.	Click to enter text.	dd/mm/yyyy	dd/mm/yyyy	☒Yes ☐ No

Documents Obtained Illegally:
If any of the documents listed above were not issued legally, please explain how they were obtained.
Click to enter text.

Missing Documents:
If you are missing identity documents or other documents that are relevant to your claim, please explain why you do not have these documents.
Click to enter text.

If you are missing documents, will you be able to obtain these documents in the future? If not, please explain why.
Click to enter text.

Part E - Applicant's UNHCR Registration History		
1. Have you already been registered by UNHCR? ☐Yes ☐ No		
If **yes,** where were you registered? Click to enter text.	Registration #: Click to enter text.	Date of registration: dd/mm/yyyy
2. Have you ever applied for refugee protection with UNHCR or a Government? If **Yes**,		
Where?	When?	Decision and/or status obtained:
Click to enter text.	Click to enter text.	Click to enter text.

Family/Household Composition

If the information in Parts F to H is the same for the Applicant as information provided in the RSD application of the Head of Household, it is sufficient to refer to his/her RSD Application (Parts F to H) and to include a reference to the registration number of the Refugee Status Applicant (e.g. 123-00023456)

Part F – Family Members and Dependents Accompanying the Applicant				
Full Name	Individual Registration #	Relationship to Applicant	Sex	Date of Birth
Click to enter text.	Click to enter text.	Click to enter text.	Choose from drop-down.	dd/mm/yyyy
Click to enter text.	Click to enter text.	Click to enter text.	Choose from drop-down.	dd/mm/yyyy

Part G – Close Family Members and Dependents in Home Country				
Full Name	Relationship to Applicant	Date of Birth	Citizenship	Occupation
Click to enter text.	Click to enter text.	dd/mm/yyyy	Click to enter text.	Click to enter text.

Part H – Non-Accompanying Family Members and Dependents Living Outside Home Country					
Full Name	Relationship to Applicant	Date of Birth (dd/mm/yyyy)	Address	Status there	Citizenship
Click to enter text.	Click to enter text.	dd/mm/yyyy	Click to enter text.	Click to enter text.	Click to enter text.

Additional Information for Mandate RSD

Part I to K must be completed for every Refugee Status and Derivative Status Applicant.

Part I – Details of Travel			
1. Date of Departure from Home Country: dd/mm/yyyy			
2. Means of Travel out of Home Country: Click to enter text.			
3. Exit Point from Home Country: Click to enter text.			
4. Countries of Transit:	Period		Travel Document Used
	From	To	
Click to enter text.	dd/mm/yyyy	dd/mm/yyyy	Click to enter text.
Click to enter text.	dd/mm/yyyy	dd/mm/yyyy	Click to enter text.
5. Entry point in Host Country: Click to enter text.			
6. Date of arrival in Host Country: dd/mm/yyyy			
Have you been to Host Country before? ☐Yes ☐ No If yes, please provide date and duration of stay: Click to enter text.			

Part J – Sex of Interviewer / Language(s) of Interview
Do you have a preference to be interviewed by a staff member and interpreter of a particular sex? ☐Yes ☐ No If **yes**, indicate which sex: ☐Female ☐ Male
What language(s) do you prefer for UNHCR interviews? Click to enter text.

Part K – Written Statement
When answering the questions below, you should tell us everything about why you believe that you are in need of refugee protection. You should provide as much detail as possible, including the date the relevant events occurred. It is important that you provide truthful answers to these questions. If you need more space, please attach a page(s) with the details.
1. Why did you leave your home country? Click to enter text.
2. What do you believe may happen to you, or members of your family, if you return to your home country? Please explain why. Click to enter text.

Declaration

To be signed by the Applicant

I declare the information I have supplied on and with this form is correct and current to the best of my knowledge.

I understand that if I have given false or misleading information, my application for refugee status may be refused, or, if I have been recognized as a refugee, the recognition may be cancelled.

I undertake to inform UNHCR of any significant changes to my circumstances while my application is being considered, including any changes to my address and contact numbers, the arrival or departure of members of my family or other changes in the composition of my family.

I have been informed and I understand that basic biographical data may be shared with the authorities of the host country. I Choose from drop-down. for UNHCR to share my personal data with partners for the purposes of facilitating access to protection, assistance and solutions.

Signature of the Applicant _____

Date _____

Place _____

Annex 3: UNHCR Asylum-Seeker Certificate

Government Logo **Asylum Seeker Certificate**

UNHCR
The UN Refugee Agency

Document Reference Number	ABC/20/123456
UNHCR Registration Number	000-00001234
Name	XXXXX, XXXX
Sex	XXXXXX
Nationality	XXXXXXX
Date of Birth	01 Jan 1980
Place of Birth	XXXXXXX

Photo

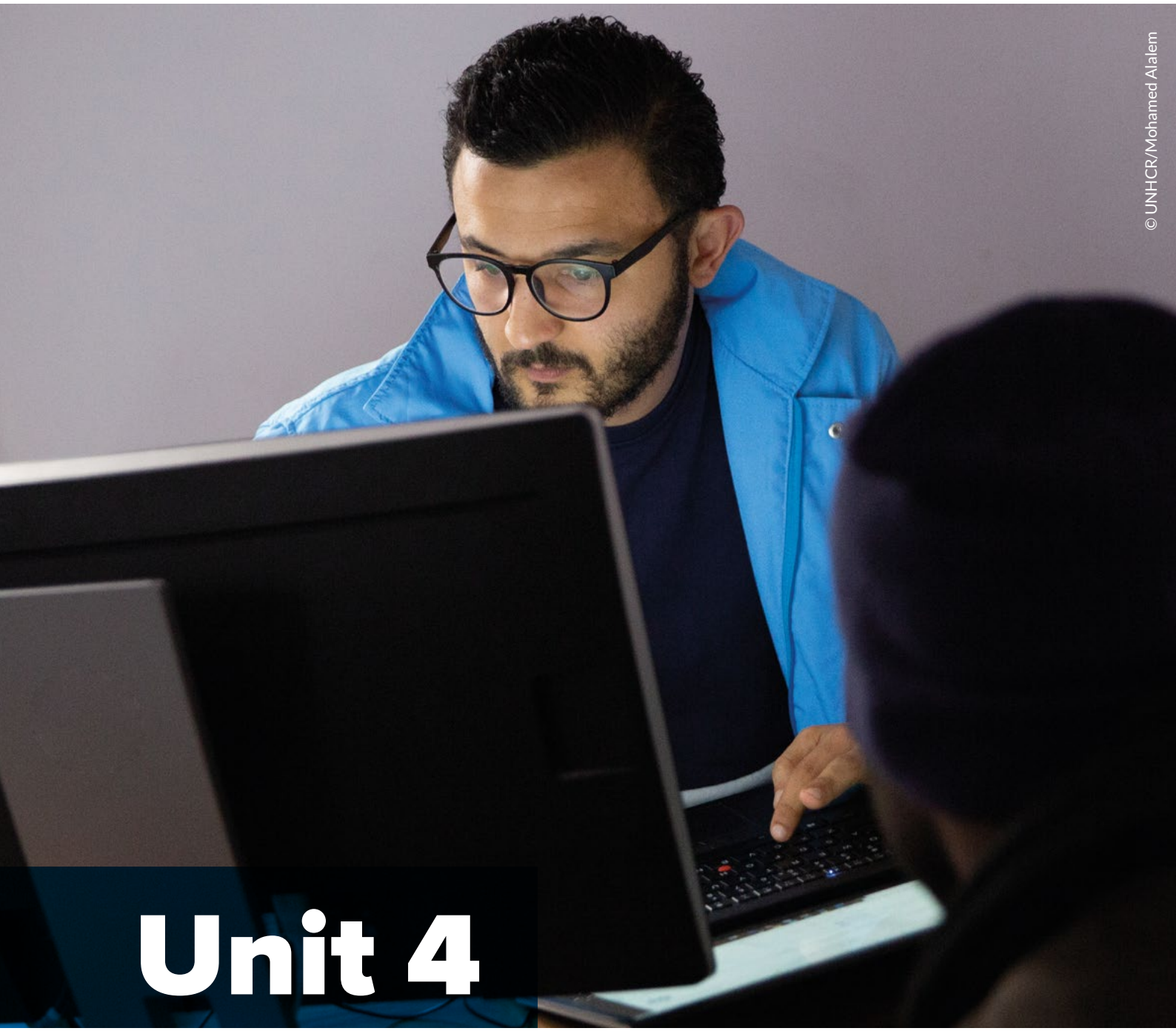
To Whom It May Concern

This is to certify that the above-named individual is an asylum seeker whose claim for refugee status is being examined by the United Nations High Commissioner for Refugees. As an asylum seeker, this individual is a person of concern to the United Nations High Commissioner for Refugees and should be protected from forcible return to a country where they would face persecution, pending a final decision regarding refugee status. Any assistance accorded to this individual would be most appreciated.

Questions regarding the information contained in this document may be directed to the United Nations High Commissioner for Refugees at the address mentioned.

Government Authority	UNHCR
Address	UNHCR Office Address
Signature of authorizing Officer	Signature of authorizing Officer

Date of Issuance	03 Jan 2020
Date of Expiry	02 Jul 2020



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Unit 4

ADJUDICATION OF REFUGEE STATUS CLAIMS

4.1 Assigning Cases for RSD Adjudication

4.1.1 UNHCR Staff Authorized to Conduct RSD

The individual adjudication of refugee status claims must be conducted by Eligibility Officers who have been assigned to this function by the Head of Office and have received necessary training (for further guidance on training see § 4.2 – *Training and Supervision of Eligibility Officers*).

Merged registration-RSD and merged RSD-resettlement processing must be conducted by authorized UNHCR staff according to the principles set out in § 4.11 – *Merged RSD Processing*.

4.1.2 Assigning RSD Cases – Relevant Factors

RSD cases should be assigned to Eligibility Officers by designated Protection staff according to established and transparent procedures and applicable RSD staffing benchmarks.[1] The Protection staff member who is responsible for case assignment should report to and be supervised by the RSD Supervisor.

KEY CONSIDERATIONS

FACTORS GOVERNING THE TYPE OF RSD CASES ASSIGNED TO ELIGIBILITY OFFICERS

- The assignment of RSD cases should be based upon an average processing capacity for Eligibility Officers as determined by the RSD Supervisor in the particular UNHCR Office, taking into account recommended case outputs and the particular operational context, as well as staff welfare considerations (see § 4.1.3 – *Determining Case Processing Capacity for Eligibility Officers*).
- **Complex or sensitive cases**, including cases raising complex exclusion issues, should be assigned to Eligibility Officers who have appropriate training and experience;
- Case assignment should take into account the **specialized knowledge of Eligibility Officers** on particular types of claims or countries/regions of origin of the Applicant;
- Cases for RSD should generally not be assigned to Eligibility Officers of the same nationality as the Applicant;
- Wherever possible, cases should be assigned to an Eligibility Officer of the same sex as the Applicant, or of the sex they prefer. This is of particular importance when the information gathered at registration, including through the RSD Application Form, indicates that **gender issues**, including issues related to sexual orientation or gender identity, may be raised during the RSD Interview, or when the Applicant has **requested to be interviewed by a staff member of a particular sex**;
- As a general rule, the same Eligibility Officer should interview all members of the same family who have filed individual applications for refugee status (i.e. linked cases) or applications for derivative refugee status.

[1] The development of RSD staffing benchmarks requires both a quantitative and qualitative analysis of the operational context. Required staffing levels in mandate RSD operations are closely related to case (or file) assignment and decision-making targets and are context-specific.

Cases for RSD should be assigned as early **as possible ahead of the RSD Interview date to permit adequate review** of the information on file and case preparation by Eligibility Officers. To facilitate the assignment and distribution of cases for RSD in a timely manner, it is recommended that UNHCR Offices put in place measures to reduce the number of Applicants not showing up for RSD Interviews. Such measures will depend on the operational context and may include information and counselling regarding the consequences of not attending RSD Interviews, as well as confirmation of attendance prior to the RSD Interview.

Protection staff who are responsible for the assignment of RSD cases should, in consultation with the designated Scheduling Coordinator and the RSD Supervisor as appropriate, endeavour to ensure that weekly RSD Interview assignments for individual Eligibility Officers match the **actual processing capacity of the Eligibility Officers** (see § 4.1.3 – *Determining Case Processing Capacity for Eligibility Officers*) and are informed by the decision-making targets in the particular operation.

4.1.3 Determining Case Processing Capacity for Eligibility Officers

There are many factors, including those relating to the operational context that will affect the time necessary to process RSD applications.

KEY CONSIDERATIONS

FACTORS AFFECTING THE TIME IT WILL TAKE TO PROCESS RSD APPLICATIONS INCLUDE:

- The number and rate of arrival of individuals registering in the UNHCR operation;
- The country of nationality / of former habitual residence and the profiles of asylum-seekers within the caseload(s) in question, including their specific needs;
- The level of complexity of claims, including potential exclusion considerations;
- The case processing modalities in place for specific caseloads or profiles;
- The recognition / rejection rates and percentage of Applicants who appeal negative first instance RSD decisions, as well as the percentage of closed cases requesting re-opening;
- The availability, quality and efficiency of support procedures (i.e. reception, registration, file management and interpretation);
- The existence of obstacles to accessing UNHCR RSD procedures, including remote location of UNHCR Offices, restrictions on freedom of movement in the host country / country of asylum, and applicants in detention;
- The available RSD staff resources, including number of staff, training and expertise, as well as staffing structures and the rate of staff turnover.

Given the many factors that may affect the processing time for RSD applications, it is not possible to provide a recommendation for an average processing capacity that will be relevant and accurate for all Eligibility Officers in all UNHCR operations. Rather **RSD case assignments should be based upon an established average processing capacity for RSD staff for a particular case processing modality, in the particular UNHCR Office**, taking into account the factors listed above.

The RSD Supervisor is responsible for determining the appropriate average processing capacity of Eligibility Officers for the purpose of RSD case assignments. Where responsibility for assignment of RSD cases is delegated to another Protection staff member, he/she should consult with the RSD Supervisor to ensure that expected processing levels meet actual processing capacity. Where appropriate, it is also recommended that Eligibility Officers be consulted in the process of determining the appropriate average processing capacity.

Averages for processing capacity should **promote the objectives of quality as well as efficiency** in UNHCR RSD procedures, and should help **avoid burnout of Eligibility Officers**. They should serve only as a guideline and may be increased or decreased as appropriate to reflect the actual experience and capacity of individual Eligibility Officers.

KEY CONSIDERATIONS

IN ASSESSING THE PROCESSING CAPACITY FOR ELIGIBILITY OFFICERS THE FOLLOWING FACTORS SHOULD BE TAKEN INTO ACCOUNT:

- The familiarity of the Eligibility Officer with the country of origin information for a given caseload or profile;
- The nature of the interviews, including whether the Applicant is a child or has other specific needs and vulnerabilities, or whether the services of an interpreter are required;
- The degree of complexity of the claim;
- The number of other interviews and appointments scheduled for the Eligibility Officer in a given week (i.e. Family Unity Interviews, complementary interviews, document appointments, etc.);
- Any additional (protection) responsibilities the individual Eligibility Officer may have.

The RSD Supervisor should monitor how Eligibility Officers are managing their individual caseloads and meeting expected processing requirements. Where Eligibility Officers frequently postpone scheduled interviews and appointments, or repeatedly seek extensions of the timelines for finalizing written RSD decisions, the RSD Supervisor should follow up with the Eligibility Officer concerned to determine the reason for the difficulty in managing the assigned caseload, and should take appropriate measures, which may include adjusting the volume and type of cases assigned to the individual Eligibility Officer (see § 4.2.3 – *Supervision of Eligibility Officers)*.

4.1.4 Controls on Case Assignment / Transfer

Unless case assignment and status can be tracked though UNHCR's case management database, all Eligibility Officers should **maintain a complete and current case list** of all RSD cases assigned to them, and the status of each case. Where applicable, the case list should be submitted to the RSD Supervisor at the end of each month.

Under no circumstances should Eligibility Officers select cases for RSD or transfer cases assigned to them to another Eligibility Officer without the consent of the RSD Supervisor.

Eligibility Officers should report to the Protection staff member who assigned the RSD case, or the RSD Supervisor, **any conflict of interest or other factors**, that could affect the Eligibility Officer's ability to fairly adjudicate an assigned case, or give rise to negative perceptions about the Eligibility Officer's impartiality or the fairness and integrity of the RSD process. If appropriate, the case should be reassigned to another Eligibility Officer.

4.2 Qualifications, Training and Supervision of Eligibility Officers

4.2.1 Minimum Qualifications for Eligibility Officers

Persons engaged as Eligibility Officers[2] should hold a degree in a relevant field, preferably in law, international relations or political sciences. It is also recommended that they have had legal training and/or other relevant professional experience. Training and/or experience in the field of human rights, psychology or social work is an advantage.

STANDARDS & GUIDELINES

ALL PERSONS ENGAGED AS ELIGIBILITY OFFICERS SHOULD AT A MINIMUM POSSESS THE FOLLOWING APTITUDES, SKILLS AND QUALIFICATIONS:

- Legal knowledge and the ability to apply legal principles[3]
- Good research and analytical skills
- Good oral and written communication skills
- Strong interpersonal skills, including the ability to work as part of a team
- Age, gender, cultural and diversity awareness and sensitivity
- The ability to work effectively under stress and in crisis situations

RSD staff members conducting appeal, cancellation, revocation or cessation procedures, as well as RSD staff members reviewing RSD decisions, must also possess the minimum qualifications set out in this section.

[2] The term "Eligibility Officer(s)" should be understood as encompassing all UNHCR staff members, including affiliate workforce, involved in the determination of refugee status claims at first instance.

[3] This requirement should not be equated to the possession of a law degree or a professional legal qualification.

4.2.2 Training of Eligibility Officers

Before carrying out RSD responsibilities each Eligibility Officer should receive a comprehensive RSD induction training, which should cover both theoretical and practical aspects of conducting RSD. The RSD induction training should at a minimum include the elements set out below:

TRAINING

RSD INDUCTION TRAINING FOR UNHCR ELIGIBILITY STAFF SHOULD INCLUDE:

- An overview of UNHCR's mandate, refugee status determination as a core protection function within the broader protection and solution strategy, as well as the role and responsibilities of Eligibility Officers;
- An overview of international refugee law, as well as aspects of humanitarian and human rights law relevant to refugee status determination under UNHCR's mandate;
- A detailed overview of international refugee law principles relevant to RSD, including the interpretation and application of the inclusion and exclusion criteria for recognition of refugee status under UNHCR's mandate, as set out in the *UNHCR Handbook on Procedures for Determining Refugee Status* and other UNHCR policies and guidelines relating to RSD;
- An introduction to essential principles and information on preparing for and conducting RSD interviews, as well as training on appropriate and effective interviewing techniques for examining the credibility of the claim, conducting RSD Interviews with children and other vulnerable applicants, and working with interpreters;
- An introduction to country of origin information (COI) that is relevant to the caseloads in the UNHCR Office, as well as training on how to conduct COI research, evaluating the reliability of available sources of COI, and guidelines on using COI effectively in RSD procedures;
- Instruction on the steps required to draft an RSD Assessment and to reach a decision on the applicant's eligibility for refugee status, including how to establish the material facts in respect of which the refugee eligibility criteria are applied;
- An overview of the notification and appeal processes, as well as reasons and procedures for termination of refugee status;
- An outline of the Standard Operating Procedures (SOPs) in the UNHCR Office (and the implementation of these RSD Procedural Standards for UNHCR RSD Operations), including measures designed to ensure the quality (fairness, efficiency, adaptability and integrity) of the RSD process and procedures;
- An overview of some of the challenges that the RSD work may pose to Eligibility Officers, and the importance of developing the soft skills and self-care methods for overcoming them;
- A guided practice period appropriate to the operational context and designed to allow the Eligibility Officer to first observe registration and RSD Interviews, and then conduct RSD interviews and draft RSD Assessments under close supervision and guidance.

In addition, UNHCR Offices should establish a programme for continuing training and professional development for Eligibility Officers and other RSD staff members[4], which should include:

TRAINING

ONGOING PROFESSIONAL DEVELOPMENT FOR ELIGIBILITY OFFICERS AND OTHER RSD STAFF MEMBERS

- Regular updates on COI that is relevant to caseloads or profiles of Applicants registered by the Office;
- Updates on case processing modalities and tools for processing claims registered by the Office;
- Updates on new guidelines and directions from UNHCR functional sections in DIP relevant to RSD;
- Training on specific issues related to RSD, as requested by Eligibility Officers, or as identified by the RSD Supervisor or other Protection staff responsible for reviewing RSD Assessments;
- Updates on broader protection issues and trainings/briefings on protection themes relevant to the operational context;
- Trainings/briefings on issues relating to staff welfare, including resilience and coping mechanisms.

In each UNHCR Office, a minimum of one day per month[5] should be allocated for the **RSD professional development activities** referred to above. The RSD training activities should be provided in addition to general Office briefings on security and administrative issues.

Wherever possible, Eligibility Officers should be afforded additional possibilities to acquire knowledge or skills relevant to their RSD functions or obtain additional training on areas identified as individual development needs (see Annex 4.2-1 – *UNHCR RSD-focussed Learning Programmes for a list of current RSD-focussed training opportunities*). In this respect, inclusion of RSD staff as participants in general protection trainings is also important, both to equip RSD staff to carry out their role in identifying protection issues, as well as from the career development and staff welfare perspectives.

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[4] This means RSD staff members conducting appeal, cancellation, revocation or cessation procedures, as well as RSD staff members reviewing RSD decisions. For guidance on training of interpreters, see § 2.5.2 – *Qualifications and Training of UNHCR Interpreters.*

[5] UNHCR Learning Policy requires Supervisors to ensure that all staff members have access to some form of learning opportunities and that a minimum of 5% of total work time (or just over 2 weeks per year) is allocated to formal and informal learning.

4.2.3 Supervision of Eligibility Officers

The RSD Supervisor should have the overall responsibility for the selection and training of Eligibility Officers and should supervise and support Eligibility Officers in all aspects of their RSD duties.[6]

The RSD Supervisor, or a designated Protection staff with appropriate RSD knowledge and experience, should **randomly monitor RSD Interviews** to ensure that the conduct of Eligibility Officers in the RSD Interview meets relevant standards for fairness and due process.

Unless all first instance decisions are systematically reviewed, the RSD Supervisor, or a designated Protection staff with appropriate RSD knowledge and experience, should also conduct regular and detailed **review of randomly selected RSD Assessments prepared by each Eligibility Officer**, and should provide substantive and procedural comments to Eligibility Officers on their RSD Assessments.[7]

Compliance by Eligibility Officers with established procedures for case management, postponing RSD Interviews (see § 3.5.5 – *Rescheduling RSD Interviews*) and issuing RSD decisions (see § 4.5 – *Timelines for Issuing RSD Decisions*) should be monitored on a regular basis or through random file reviews.

The procedures for supervision of Eligibility Officers set out above should be implemented as a complement to the standard procedures for review and approval of RSD decisions (see § 4.4 – P*rocedures for Review of RSD Decisions*; § 7.4.5 – *Review of Appeal Decisions*), which may be conducted by the RSD Supervisor or other Protection staff members designated by the RSD Supervisor.

Frequent postponements of scheduled interviews and appointments, repeated requests for extensions of the timeline for finalizing written RSD Assessments, the accumulation of individual backlogs of unwritten RSD Assessments, are some of the indicators **that an Eligibility Officer is falling behind expected levels for case processing**, which can have a negative impact on the efficiency and quality of RSD processing (for guidance on determining the appropriate case processing output, see § 4.1.3 – *Determining Case Processing Capacity for Eligibility Officers*). In such cases, **the RSD Supervisor should follow up directly** with the Eligibility Officer to determine the reason for the difficulties in managing the assigned caseload, and should undertake the necessary response, which may include arranging additional training and assistance, or adjusting the weekly file assignments where appropriate both in terms of number and type of cases. In some instances, the persistent failure of an Eligibility Officer to meet **reasonable expectations** for the volume and rate of case processing, as well as quality of RSD Assessments, may be an indication that the Eligibility Officer lacks the required competence and should not continue to perform the role and responsabilities of an Eligibility Officer in mandate RSD procedures. Equally, a persistent failure to meet reasonable expectations regarding the quality of decision-making and volume of case processing may be a sign of burnout or related conditions and should be addressed without delay.

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[6] The supervision and oversight of RSD support staff should be done in accordance with established procedures (see, for example, § 2.5.9 – *Supervision and Oversight of Interpreters*).

[7] It is recommended that the following factors are considered when setting up an internal quality monitoring mechanism: the number of RSD staff members, the experience and qualification of the RSD staff members, the number and type of RSD cases assigned to individual RSD staff members, the nature of the caseload or profiles and the RSD staff member's familiarity with the caseload, the case processing modalities in place, as well as the interview conditions (e.g. detention, remote interviewing, the need for interpretation, etc.).

4.2.4 Duty of Care in Individual Case Processing

All Protection staff should understand and be alert to signs of **compassion fatigue, vicarious trauma and burnout** among Eligibility Officers that may negatively affect the quality of RSD Interviews or Assessments as well as the well-being of the staff concerned. The RSD Supervisor, together with the management in the Office and the Eligibility Officers concerned, should be responsible to take effective measures to prevent and respond to cases of staff burnout.

STANDARDS & GUIDELINES

MEASURES TO ENSURE UNHCR'S DUTY OF CARE

Measures to effectively prevent and respond to RSD staff burnout must be taken at organisational, operational and individual levels and may include, but are not limited to, the following:

- Foster a culture of appreciation, both at individual and team levels;
- Promote work-life balance for staff, including by more actively implementing existing policies regarding flexible working arrangements and compensatory time off for extra time worked;
- Ensure effective information sharing, including by establishing clear lines of communication and reporting, and by understanding what information must be shared and the best communication method to do so;
- Foster a consultative working environment, including through participation in decisions regarding RSD and wider protection strategy in the operation;
- Set up a rotation system for staff within the operation and between various protection functions, as well as RSD case processing modalities, wherever feasible and appropriate;
- Set realistic operational and individual case-processing targets in line with existing resources, and staffing benchmarks and, in consultation with RSD staff wherever possible;
- Ensure adequate working conditions and technical support;
- Conduct cross-functional trainings and facilitate staff participation in multi-functional projects;
- Systematically provide comprehensive induction training and briefings to all staff members new to RSD, and encourage individual staff development, including through learning opportunities and diversification of functions;
- Provide guidance and feedback to RSD staff in a manner that facilitates their professional development and learning;
- Monitor the work routine of RSD staff with a view to identify possible ways of alleviating work-related stress and burnout;
- Provide support to RSD staff as necessary, including by facilitating advice on career progression and providing opportunities for training and access to other professional resources;
- Ensure that RSD staff is familiar with the symptoms for burnout and secondary trauma, and encourage and facilitate access to available staff welfare resources.

4.3 The RSD Interview and Assessment

4.3.1 The Applicant's Right to an Individual RSD Interview

All Applicants undergoing individual RSD procedures must have the opportunity to present their claims in person in an RSD Interview with a qualified Eligibility Officer. As a general rule, a refugee status claim should not be determined in the first instance on the basis of a paper review alone.

As the Applicant's own testimony is often the primary if not the only source of relevant information available, an individual RSD interview is essential to establish the facts of the claim, notably by enabling the Eligibility Officer to:

- Identify what elements are material to the Applicant's claim;
- Gather, as far as possible, from the Applicant all the necessary information related to those material elements; and
- Probe the credibility of the Applicant's statements with regard to material elements.

Exceptionally, where a refugee status claim is processed through simplified RSD procedures, **refugee status may be recognised on the basis of the information gathered at registration and through the RSD Application Form alone**, without conducting an individual RSD Interview, provided that the information available is sufficient to establish that the Applicant meets the inclusion criteria of the applicable refugee definition and that no credibility or exclusion concerns arise. This may be the case for caseloads or profiles to which **a *prima facie* approach applies or which benefit from a presumption of inclusion** (for further guidance, see § 4.10.4 – *Procedures for Simplified RSD Processing*).

4.3.2 Remote Participation of the Applicant in the RSD Interview

In situations where an individual **RSD interview cannot be conducted in person** for reasons of safety and security, availability of resources or significant costs and/or other obstacles relating to travel or access to the Applicant or public health imperatives, the **RSD Interview may be conducted remotely, through telephone or videoconference**.

Remote interviewing arrangements may, for example, be necessary where UNHCR does not have an established presence in the country of asylum/host country, where UNHCR's presence and/or activities in the country of asylum/host country is restricted to certain geographical areas including for reasons such as armed conflict or other events seriously disturbing public order, or in order to enable the participation of qualified UNHCR eligibility staff and interpreters in the RSD Interview (for guidance on remote interpretation arrangements, see § 2.5.5 – *Remote Participation of Interpreters in Interviews*).

While remote interviewing arrangements may, in certain instances, facilitate an efficient and expeditious assessment of refugee status claims, they should only be relied upon as an **exceptional measure**, given the challenges and limitations associated with them.

KEY CONSIDERATIONS

BENEFITS OF CONDUCTING RSD INTERVIEWS VIA TELEPHONE OR VIDEOCONFERENCE INCLUDE:

- Allows RSD Interviews to take place when safety, security, public health or logistical difficulties present otherwise insurmountable obstacles;
- May reduce processing waiting time for Applicants where RSD Interviews cannot be conducted in person as a result of security risks and/or unavailability of resources, including specialised UNHCR eligibility staff;
- May reduce processing waiting time for Applicants when used for the purposes of facilitating interpretation (i.e. where interpretation services in specific languages are not readily available at the location of the RSD Interview);
- Reduces time and costs associated with travel by UNHCR staff to remote locations.

KEY CONSIDERATIONS

CHALLENGES OF CONDUCTING RSD INTERVIEWS VIA TELEPHONE OR VIDEOCONFERENCE INCLUDE:

- Difficulties in ensuring that the RSD Interview is conducted in a confidential setting, in a safe and secure location, and that the necessary technology is available;
- Potential problems with the verification of the identity of the Applicant, particularly where the RSD Interview is conducted by telephone;
- May hinder rapport building and interfere with the ability of the Eligibility Officer to obtain a full and truthful account from the Applicant. Applicants may not feel comfortable disclosing issues of a personal or sensitive nature via telephone or videoconference and may have concerns regarding the confidentiality of communications;
- Difficulties in submitting additional documentary evidence during the RSD Interview and examining the original documents to ensure that copies on the file are identical to the originals;
- Non-verbal cues indicating a lack of understanding of a question or problems with interpretation are more difficult to identify and address in a timely manner;
- Technological difficulties may result in impaired communication between the Eligibility Officer, Interpreter and Applicant, including questions and responses not being heard, and Interviews being interrupted. Dropped calls or interruptions may cause frustration to all participants in the Interview, hinder the ability and willingness of the Applicant to provide a full account of their experiences and may result in processing delays;
- Technological difficulties may result in an incomplete or unintelligible record of the interview and may affect the storage and retrieval of the audio/video recording.

A thorough assessment of the feasibility of conducting the interview remotely, including from a security and integrity of process, as well as a technical point of view and its potential impact on the RSD process should be undertaken prior to the implementation of a remote interviewing arrangement. The RSD Supervisor or the designated Senior Protection staff member has the responsibility for the implementation of remote interviewing arrangements and should ensure that UNHCR staff involved in remote interviewing, including interpreters, have the appropriate skills and experience.

The RSD Supervisor or the designated Senior Protection staff member should make **every effort to ensure the following safeguards**.

STANDARDS & GUIDELINES

RECOMMENDED SAFEGUARDS WHEN CONDUCTING RSD INTERVIEWS VIA TELEPHONE OR VIDEO CONFERENCE:

- The **technology used to support remote participation of an Applicant in an RSD Interview should permit clear, reliable and uninterrupted audio and video transmission**, as appropriate. The technology employed should be adequate to minimize the risks of having gaps in the communication and/or unrecoverable speech in the audio and/or video recording, where applicable. If reliable technical arrangements cannot be achieved, remote interviewing will generally not be appropriate as it may seriously compromise the effectiveness and accuracy of communication in the RSD Interview.
- The technology used should also permit **confidential and secure communication** and due consideration should be given to data protection. The assessment of whether and how appropriate levels of confidentiality can be achieved will have to be informed by existing communications systems and other factors in the specific operational context. Technical advice should be sought as appropriate.
- Wherever possible, the Applicant should participate from a location arranged by UNHCR in order to ensure that the RSD Interview is conducted in a **safe, confidential and suitable environment**. Where UNHCR does not have a physical presence at the location of the interview, it is recommended that the interview is conducted on the premises of a UN agency, an international organization or other UNHCR Partner. The staff of these organizations should be fully briefed on the confidentiality of UNHCR RSD procedures and the appropriate conditions for conducting RSD Interviews. Where such facilities cannot be arranged and it is imperative that the RSD interview is conducted, the Applicant should be required to participate from a space where he/she is free from interruption, noise and the presence of any unauthorised individual. The presence of the Applicant's legal representative or other authorised third party is permitted in accordance with sections § 4.3.3 – *Participation by Legal Representatives* and § 4.3.4 – *Attendance by Third Parties Other than Legal Representatives* below.
- Where the interview is conducted on the premises of a UN Agency, international organization or a UNHCR Partner, **the identity of the Applicant must be verified** at the beginning and end of the RSD interview by a staff member of that organization. The staff member must sign an undertaking to respect the confidentiality of UNHCR procedures[8] and his/her presence in the interview room must be strictly limited to the identification of the Applicant. The Eligibility Officer should ensure that appropriate explanations regarding the role of the staff member verifying the identity are provided to the Applicant at the beginning of the interview.
- The **Applicant should be informed of the conditions under which the RSD Interview is conducted and should receive an explanation of the confidentiality of the arrangement**. This should include conditions related to the role and responsibilities of the Eligibility Officer and Interpreter, as well as the use and storage of electronic records of the RSD Interview, where applicable. The Applicant should be given the opportunity, at the start of the Interview, to ask any questions or express any concerns regarding the remote interviewing arrangements. If an Applicant raises serious concerns

[8] UNHCR staff do not need to sign an undertaking of confidentiality as they are already bound to respect the confidentiality of UNHCR procedures. Staff members of UN Agencies, international organizations or other UNHCR partners, may sign a general undertaking of confidentiality as part of a training on UNHCR's confidentiality requirements.

about the use of a remote interviewing arrangement, which cannot be resolved by the Eligibility Officer and are likely to result in problems with disclosure during the Interview, an assessment should be made in consultation with the RSD Supervisor regarding the concerns raised, their impact on the process, and the appropriateness of proceeding with a remote interviewing arrangement.

- The Eligibility Officer should summarize and confirm their understanding of the Applicant's account, and put on record any statement by the Applicant regarding the impact of the remote interviewing arrangement and their ability to provide all relevant details during the interview. The possible impact of the remote interviewing arrangement on the willingness and ability of the Applicant to provide a full account of their identity, activities and experiences should be considered and taken into account when assessing the credibility of the Applicant's account by the Eligibility Officer.
- The Eligibility Officer must also be vigilant to **ensure that the quality of the audio and/or video transmission is adequate throughout the Interview**, for the Applicant as well as the Interpreter. The Eligibility Officer should ask both to signal any problems with the sound and/or video quality or transmission that may arise during the Interview, and seek immediately to address them. Should technical problems compromising the quality and accuracy of the communication between the participants persist, the RSD Interview must be adjourned until appropriate technical arrangements can be put in place or until an in-person Interview can be conducted.
- Observations regarding the interviewing conditions should always be recorded in the transcript.
- As applicable, RSD Interviews conducted remotely should be audio or video recorded in addition to written transcripts being maintained. Wherever possible, it is recommended that the interview is simultaneously audio/video recorded in both the applicant's location and in the interviewer's location in order to ensure the integrity and quality of the recording. This will help ensure an accurate record of the Applicant's statements, allow for a quick resolution to any challenges to the quality of the interview record or the interpretation, mitigate fraud and ensure Eligibility Officers and Interpreters conduct themselves in a professional manner.
- The Applicant should be given the opportunity to submit to UNHCR the originals of documents not already on file for verification and/or any additional documentary evidence within a reasonable timeframe following the conclusion of the RSD Interview (see § 4.3.9 – *Review of Original Documents in the RSD Interview*).
- Where remote RSD interviews are utilized, measures should be in place to facilitate the participation of legal representatives and other authorized third parties, e.g. support persons, legal or customary caretakers, guardians of child asylum seekers, or support persons for asylum seekers with mental health conditions or intellectual disabilities (see § 2.7 – *Legal representation in UNHCR RSD Procedures*)
- As a general rule, it is preferable to conduct remote interviewing through video conferencing rather than by telephone if both permit the same quality of communication. Video conferencing provides greater ability to ensure confidentiality of procedures and avoid undue interference in the process, and helps with building rapport.

Conducting an RSD Interview via telephone or video conference may not always be appropriate for **Applicants who have specific needs or vulnerabilities**, in particular children, persons with hearing or visual impairment or mental health issues, or who are suffering the effects of trauma or torture. Careful consideration should be given to any negative impact that remote interviewing may have on these Applicants' ability and willingness to provide a full and reliable account, as balanced against the need for an urgent protection intervention.

Similarly careful consideration should be given to whether it is appropriate to conduct RSD Interviews via telephone or videoconference with **Applicants in detention**, particularly where there are concerns

regarding the confidentiality of procedures (for further guidance on conducting RSD Interviews with Applicants in detention see § 4.6 – *RSD Procedures for Applicants in Detention*).

4.3.3 Participation by Legal Representatives

Applicants may be accompanied during the RSD Interview by an authorised legal representative. The role and responsibilities of legal representatives, as well as the conditions for their participation in mandate UNHCR procedures are set out in § 2.7 – *Legal Representation in Mandate UNHCR Procedures.*

4.3.4 Attendance by Third Parties other than Legal Representatives

As a general rule, the participation of third parties in RSD procedures should be limited to the Applicant's legal representative or, in the case of child Applicants or Applicants with mental health conditions or intellectual disabilities, to their **guardian** or **support person** in accordance with the principles set out in § 2.8 – *Children in UNHCR RSD Procedures* and § 2.9 – *Applicants with Mental Health Conditions or Intellectual Disabilities*). The participation of a **third party** may also be appropriate in order to facilitate communication in circumstances where the Applicant suffers from a speech or hearing impairment.

Where the attendance of a third party other than a legal representative or a guardian/support person is specifically requested by an Applicant, Eligibility Officers should consult with the RSD Supervisor to determine **whether or not to grant the request**. Where appropriate, Eligibility Officers may also recommend that an Applicant with specific needs or vulnerabilities is accompanied to the Interview by a person other than his or her legal representative or guardian. These may include a parent, legal or customary caregiver or a person otherwise providing emotional or other form of support. In assessing the appropriateness of the participation of a third party, Eligibility Officers should consider:

STANDARDS & GUIDELINES

FACTORS TO CONSIDER WHEN DETERMINING WHETHER A THIRD PARTY MAY ATTEND AN RSD INTERVIEW

- any specific needs or vulnerabilities of the Applicant;
- the nature of the relationship between the Applicant and the third party; and
- any other factors indicating that the attendance of the third party would be likely to promote or undermine the objectives of the RSD Interview.

The Eligibility Officer should explain the role and responsibilities of the third party and obtain the consent of the Applicant to their participation, which should be duly recorded on the file. Where the Applicant cannot provide free and informed consent, the Eligibility Officer should seek the Applicant's views regarding the participation of the third party in the Interview before determining whether the presence of the third party is appropriate in a particular case. The Eligibility Officer should verify the identity of the third party and keep a copy of the relevant identity documents and contact details on file, as well as explain to the third party the confidentiality of UNHCR RSD procedures (for more guidance see § 2.9 – *Applicants with Mental Health Conditions or Intellectual Disabilities*).

The Eligibility Officer should, after consulting with the RSD Supervisor, **deny participation by any third party, or request that a third party does not attend the RSD Interview**, if the Eligibility Officer has good

reason to believe that participation of the third party is likely to jeopardize the security of the Applicant or UNHCR staff, or otherwise obstruct the objectives of the RSD Interview. Where an Eligibility Officer denies or withdraws permission for a third party to participate in an RSD Interview, the reasons for this decision should be explained to the Applicant in a manner that he or she can understand. In such cases the Eligibility Officer should also consider whether, given the Applicant's personal and contextual circumstances, it would be conducive or appropriate to continue the RSD Interview without the third party present or whether the Interview should be stopped and rescheduled for a later date. The reasons for denial or withdrawal of the permission for a third party to participate in the RSD Interview, as well as any conflicts or incidents involving the third party and how they were addressed by the Eligibility Officer should be duly recorded on the Applicant's file.

In principle, a third party who is not a legal representative may observe the entire RSD Interview but should not intervene during the RSD Interview. Eligibility Officers should have discretion to permit or request a greater degree of involvement by a third party in the RSD Interview, where appropriate. For example, where an Applicant does not have the capacity to fully present the claim because of his/her level of maturity or as a result of trauma or a mental health condition, the Eligibility Officer may call on the third party to provide additional information if he/she has personal knowledge of the events or circumstances relevant to the Applicant's claim.

Eligibility Officers should **note in the RSD Assessment** that a third party attended the RSD Interview, including his/her identity and relationship to the Applicant, and should maintain a full and accurate record of all statements or submissions made by the third party.

4.3.5 Planning and Preparation for the RSD Interview

Prior to the Interview, Eligibility Officers should conduct a thorough review of the Applicant's file, as well as any other relevant information which relates to the claim.

STANDARDS & GUIDELINES

IN PREPARING FOR THE RSD INTERVIEW, THE ELIGIBILITY OFFICER SHOULD:

- Carefully read the RSD Application Form, including the Applicant's written statement, as well as all information gathered at the registration stage or available from other sources. This is to allow the Eligibility Officer to identify, to the extent possible at this stage of the proceedings, elements that are material to the claim, and to draw up a tentative family tree and chronology/sequence of events leading to the Applicant's departure from his/her country of origin. This may be used as a point of reference during the RSD Interview.
- Ensure that relevant documents submitted in support of the Applicant's claim are translated and available for the RSD Interview.
- Identify preliminary issues and thematic areas that will be relevant to the determination of the claim and will need to be further examined during the RSD Interview.
- Review the information provided in travel and other documents, and note information which supports or is inconsistent with the information presented in the RSD Application Form.
- Consult relevant COI, including maps, and any other statements or documents submitted by the Applicant, ensuring that relevant maps are available for the Interview.

- Make a list of any missing information that the Applicant should be asked to provide at the RSD Interview, as well as unclear or inconsistent statements or other information that need to be clarified during the interview.
- In light of all the available information, prepare a flexible interview plan.
- Based on the file and other available information, including information obtained through best interest assessments or determinations, psychosocial evaluations and medical examinations, determine whether any additional measures should be put in place in order to accommodate the Applicant's specific needs and to create an environment of trust for the RSD Interview. In doing so, consider the Applicant's **capacity and fitness** for the Interview, as well as his/her **individual and contextual circumstances**, such as age, sex, sexual orientation or gender identity, cultural, social and educational background, experiences of trauma, his/her physical and mental health, and any physical or intellectual disabilities. Undertake any appropriate follow-up with relevant Protection staff members and/or Implementing Partners, as necessary. Ensure that any necessary arrangements are made prior to the RSD Interview.
- Where the Applicant has already registered with a UNHCR Office in a different host country / country of asylum, obtain all the information on the Applicant's file and undertake any other appropriate follow-up with the relevant UNHCR Office prior to the RSD interview whenever possible.

The RSD Interview Checklist (Annex 4.3-1) may be used to canvass the main elements of the Applicant's claim and identify the principal areas of COI research that the Eligibility Officer should conduct prior to the RSD Interview, as well as topics to be addressed during the RSD Interview, including any potential credibility issues and exclusion concerns.

4.3.6 Opening the RSD Interview

Eligibility Officers should adopt a non-adversarial, information-gathering approach throughout the RSD Interview. Eligibility Officers should take the opportunity at the beginning of the RSD Interview to create an environment of trust and respect in which the Applicant will have the best opportunity to remember and tell his/her story as truthfully and completely as possible.

It is recommended that Eligibility Officers address introductory issues systematically at the beginning of each RSD Interview and that they ensure that Applicants have a clear understanding of the interview process and their rights and obligations.

STANDARDS & GUIDELINES

CHECKLIST FOR OPENING THE RSD INTERVIEW

- **Introductions:**

  The Eligibility Officer should introduce him/herself, and introduce the Interpreter and any other person present in the interview room, by functional title and role in the interview.

- **Gender Issues:**

  Where staff resources do not permit the assignment of an Eligibility Officer and/or Interpreter of the sex requested by the Applicant, the Eligibility Officer must explain this to the Applicant and should consider any factors, including any concerns raised by the Applicant, indicating that the Interview should not proceed under the existing arrangement.

- **Interpretation in the RSD Interview:**

  The Eligibility Officer should confirm whether the Applicant and the Interpreter understand each other and whether the Applicant is comfortable with the interpretation arrangement. The Applicant should be advised how to communicate through an interpreter and that any specific problems with the quality or accuracy of interpretation, or with the conduct of the Interpreter, should be identified during the RSD Interview as they arise. Where interpretation is done remotely, the Eligibility Officer should also ensure that the quality of the audio and/or video transmission is adequate and permits clear, reliable and uninterrupted communication.

- **Explanation of RSD Interview Procedures:**

  The Eligibility Officer should explain, in a manner that the Applicant will understand, the following procedural matters:

  - The purpose of the RSD Interview and how it will proceed, including the respective roles of the interviewer and the interviewee in enabling UNHCR to obtain relevant and sufficiently detailed information through the interview;
  - The eligibility criteria for refugee status under UNHCR's mandate;
  - The purpose and scope of use of notes or interview transcript taken by the Eligibility Officer during the RSD Interview, and/or the purpose and scope of the audio/video recording of the RSD Interview as applicable;
  - The Applicant's right to ask for a break during the RSD Interview, during which he or she will be asked to remain on UNHCR premises;
  - The conditions under which the Interview is conducted when the Applicant's participation in the Interview is through telephone or video conference.

- **Confidentiality:**

  The Applicant must be assured that all information disclosed in the RSD Interview, as in all other stages of the RSD process, will be treated as confidential by UNHCR, and will not be shared with the authorities of the country of origin without the Applicant's express direction and consent. The Eligibility Officer should fully explain the scope and conditions of any disclosure of information regarding the Applicant to third parties, including Implementing Partners and the authorities in the host country, as set out in § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*. The Applicant should be advised that the Interpreter is also under an oath of confidentiality.

- **Obligation to Tell the Truth:**

  The Applicant should be advised of the obligation to be truthful and to make the most complete disclosure possible of the facts relevant to the refugee claim. The Applicant should be told that if he/she does not know the answer to a question or cannot remember a detail, or if clarification is required, he/she should inform the Eligibility Officer. The Eligibility Officer should explain that misrepresentations during the RSD Interview may cast doubt on the truthfulness of other information provided by the Applicant.

- **Duty to Cooperate:**

  The Applicant should be informed of his/her obligation to fully cooperate with UNHCR in all aspects of the procedures to examine the refugee claim and that he/she should make all efforts to substantiate the refugee claim and provide all available supporting evidence. The Applicant should provide as much detail as possible to the best of his/her recollection.

- **Applicant's Fitness to Proceed:**

  The Eligibility Officer should ask whether the Applicant feels physically and psychologically fit for the RSD Interview. If the Applicant indicates that he/she does not feel well, the Eligibility Officer should ask follow-up questions to assess the nature of the problem, and whether it would be appropriate to proceed with the RSD Interview or reschedule. In determining whether or how to proceed with an RSD Interview of an Applicant who appears to be suffering from a mental health condition or an intellectual disability, or emotional problems affecting his/her meaningful participation in the interview, Eligibility Staff should refer to the considerations set out in § 2.9 – *Applicants with Mental Health Conditions and/or Intellectual Disabilities* and § 3.4 – *Applicants with Specific Needs*.

- **Opportunity for Questions or Comments by Applicant:**

  The Eligibility Officer should ensure that the Applicant has understood his/her rights and obligations. The Applicant should be given the opportunity to make preliminary remarks or to ask questions before the RSD Interview.

4.3.7 Interviewing the Applicant[9]

The aim of the RSD Interview is to elicit all relevant information to the claim, and to provide the Applicant with the opportunity to clarify or explain unclear or inconsistent information. Questioning by the Eligibility Officer during the RSD Interview should facilitate the most complete and accurate disclosure of the information relevant to the refugee claim.

In formulating the questions and structuring the Interview, the Eligibility Officer should take into account the Applicant's background and personal characteristics, including his/her age, gender, religion, cultural, social and educational background, physical and mental health. The Eligibility Officer should use language that is easy for the Applicant to understand and repeat or reformulate the question if the Applicant doesn't appear to understand it or provides an unclear answer.

At the beginning of the RSD Interview, Eligibility Officers should elicit a free account of the reasons for and the events leading up to the Applicant's departure from his/her country of nationality or country of habitual residence. Wherever possible, Eligibility Officers should use **open-ended questions** to permit Applicants to use their own words when describing the events they consider most important to their claim. Eligibility Officers should **avoid interrupting the Applicant** unnecessarily and should **actively listen** to identify and examine relevant information, and to establish and maintain rapport.

While Applicants should not be asked to structure the information provided during the interview chronologically, Eligibility Officers should, to the extent possible, assist Applicants to describe the events that are relevant to their claim in a manner that allows them to be placed in **chronological order**. This will permit the Eligibility Officer to fully appreciate the significance of the information presented and identify and follow up on gaps and inconsistencies during the RSD Interview, thereby minimizing the need for Complementary RSD Interviews. However, Eligibility Officers should be aware that Applicants might

[9] The standards and guidance set out in this and following sections are not intended to provide comprehensive guidance on interviewing techniques in UNHCR RSD Procedures. Eligibility Officers should have access to and be familiar with UNHCR tools and resources on effective interviewing techniques, including relevant UNHCR learning programmes. For a list of currently available learning programmes see Annex 4.2-1 – UNHCR RSD-focussed Learning Programmes.

not be able to recollect exact dates or a sequence of events, particularly if the event experienced was traumatic. Perceptions of time and the way that Applicants recount events may also be culturally specific.

When the Applicant has given an uninterrupted account about a particular aspect of his/her claim, the Eligibility Officer should ask probing or closed follow-up questions in order to elicit additional information relevant to the material elements of the claim, clarify statements, address vague testimony and/or confirm information already provided.

As a good practice, when the Eligibility Officer has obtained and clarified information about a particular aspect of the claim, he/she should summarize the Applicant's statements using, the Applicant´s own words to the extent possible. Summarizing allows the Eligibility Officer to check his/her understanding, and affords the Applicant an opportunity to elaborate or clarify any relevant aspect summarized. Eligibility Officers should record any corrections and/or confirmation provided by the Applicant.

Inconsistencies in information provided by the Applicant, or between the information provided by the Applicant and other reliable sources of information, including COI, must be addressed during the RSD Interview. The Eligibility Officer should consider how and when during the interview to address inconsistencies or other credibility concerns. As a general rule, no negative credibility findings regarding an Applicant's statements, whether inconsistencies, lack of detail or lack of plausibility, relating to elements material to the refugee claim may be reached without fully explaining the issue to the applicant and having given the Applicant the opportunity to provide missing information, and/or to explain or clarify the inconsistency. Similarly, an Applicant's failure to explain an aspect of their claim should not as such be considered an indication of their failure to cooperate with UNHCR, if they have not been asked specifically to provide information on that aspect of their claim.

4.3.8 Interviewing Child Applicants[10]

The best interests of the child must be a primary consideration in deciding whether or not to interview a child Applicant. Depending on the personal and contextual circumstances of the child, including his/her level of development and maturity, a best interest assessment (BIA) may need to be conducted in order to inform the appropriateness of interviewing a child for RSD (see § 2.8 – *Children in UNHCR RSD Procedures* and § 5.3.2 – *Derivative Refugee Status Applications Involving Children*).

Wherever possible, RSD Interviews of children should be carried out by **Eligibility Officers who have special training and knowledge** regarding the emotional, mental and intellectual development and behaviour of children. UNHCR Offices should make every effort to develop this staffing capacity.

As a general rule, RSD Interviews of children should be conducted in the presence of a **guardian** or another appropriate adult who is trusted by the child. Decisions to appoint a guardian for unaccompanied and separated children should take into account the views of the child regarding the selection of and need for a guardian (see § 2.8 – *Children in UNHCR RSD Procedures*).

Special emphasis should be placed on **putting the child at ease and developing a relationship of trust**. The environment and tone of the Interview should be as informal as possible and adapted to the child's specific needs.

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[10] Ibid.

Eligibility Officers should use **age-appropriate language** to advise the child about the purpose of the RSD Interview and how it will proceed. The importance of being truthful, and providing as much information as possible, should be explained in a way that the child can understand. In addition, the child should be assured that if he/she does not understand the question or does not know the answer, he/she should say so. Depending on the age and level of emotional, mental and intellectual development of the child, alternative methods of communication may be needed to put him/her at ease and enable him/her to provide an account. Drawings, role-plays, games, storytelling, singing or writing can be useful communication tools with younger children in an interview. It may also be necessary to allow children to raise issues important to them during the interview even if not related to their claim.

Questioning the child on the factual elements of the claim should be guided by the following considerations:

STANDARDS & GUIDELINES

FACTORS TO BE TAKEN INTO CONSIDERATION WHEN INTERVIEWING A CHILD:

- The child's age and level of emotional, mental and intellectual development at the time of the Interview and at the time of the relevant events;
- The psychological impact the events related to the claim may have had on the child;
- The child's possibly limited knowledge of conditions in the country of origin, and their significance for the determination of refugee status.

Children may be unable or unwilling to provide the information that is necessary to determine their claim. **Where the child is reluctant to discuss particular facts or events** it may be appropriate to postpone or cease questioning on the particular aspect of the claim. In many cases involving child Applicants it will be necessary to use **other appropriate sources to obtain relevant information about the child's eligibility for refugee status**, including family members, and country of origin information.

The RSD Interview of child Applicants should include **regular breaks** during which the child should be permitted the appropriate degree of freedom to move around. Furthermore, a child Applicant's personal and contextual circumstances may require several RSD Interviews to facilitate his/her meaningful participation in the RSD process and a correct determination of the claim.

4.3.9 Review of Original Documents in the RSD Interview

Applicants are expected to present documents that are in their possession and relevant for the determination of their claims. Relevant documents may relate to identity, nationality, age, country(ies) and place(s) of previous residence, family composition, level of education, health and specific needs, experiences of torture or trauma, or previous asylum applications or registration with UNHCR. Eligibility Officers should assist Applicants to identify which documents or other materials may be relevant for the determination of the claim.

Original documents or copies provided by the Applicant should be translated and reviewed prior to the Interview, if possible, or during the Interview if presented at that time.

During the Interview, the Eligibility Officer should examine the original documents or best available copy to ensure that copies on the file are identical to the originals, and that **a legible and complete copy of every original is on the file**. Eligibility Officers should record whether they have seen the original of the document. While UNHCR does not have the expertise or capacity to determine the authenticity of a document, a verification of the documents submitted by Applicants should still be conducted.

When examining original documents, Eligibility Officers should take the opportunity to **inspect the following features of the documents** to identify evidence or other signs of tampering:

STANDARDS & GUIDELINES

INSPECTING DOCUMENTS

- Quality and consistency of the paper of the document;
- The numbering and sequence of pages;
- Check the document for spelling errors;
- Check photographs to determine likeness to the Applicant, taking into account factors such as the date when the photograph was taken;
- Comparison of signatures on documents with those of the Applicant and/or comparison with the signatures on other documents submitted;
- Discoloration or smearing around dates, names or serial / reference numbers;
- Smudged or irregular stamps;
- Separation of the photograph from the page, or blistering of lamination.

The Eligibility Officer should also compare the original documents with sample documents from the same source, where these are available. Any **irregularities in the documents** or inconsistencies with sample documents, such as differences in the country flag and emblem of the issuing authority[11] should be raised with the Applicant during the RSD Interview, and the Applicant should be given an opportunity to provide an explanation. The Eligibility Officer should consider how and when during the interview to address an irregularity or inconsistency relating to the documents submitted.

Evidence that a document may have been obtained through bribery or other fraudulent means may, depending on the circumstances, affect its reliability and, thus, its evidentiary weight. Where there are indications that a document relevant to the determination of the refugee claim may have been obtained through bribery or other fraudulent means, the Applicant should be asked to explain the process of obtaining the document during the RSD Interview.

Where an Applicant is in possession of a document that is relevant to the determination of the refugee claim but has not brought it to the RSD Interview, he/she should be asked to return to the Office at a later date with the original document or best available copy. A Document Appointment should be assigned under established scheduling procedures (see § 3.5.1 – *General Scheduling Procedures*.) Where an Applicant is not in the possession of a document that would support his/her claim, but is able to acquire it without

[11] Any such comparison must take into account the time of issue of the document as a potential reason for the discrepancy.

personal risk or risk to others, he/she should take the necessary steps to do so or provide an explanation why he/she cannot acquire it.

4.3.10 Closing the RSD Interview

At the end of the RSD Interview, the Eligibility Officer should:

STANDARDS & GUIDELINES

CLOSING THE RSD INTERVIEW

- Ensure that the Applicant has been given the **opportunity to present all elements of the refugee claim**;
- Ask the Applicant whether he/she would like to add anything to the information already provided and inform the Applicant about the possibility of notifying UNHCR in writing after the interview, but before a decision is issued, of any additional information relevant to his/her refugee claim or any correction/clarification of the information already provided. Such notification must be accompanied by an explanation why the information was not provided or not accurate at the time of the interview and the Applicant should be informed of the possibility of a Complementary Interview where necessary to examine the additional or corrected information;
- Check with the Applicant and the Interpreter whether there have been any interpretation or communication problems during the Interview and, if so, ascertain the nature of the problem. Where appropriate provide information regarding the established complaints procedures;
- Where the facts presented or the known conditions in the host country/country of asylum suggest that the Applicant may have protection concerns in the country, it may be necessary to make inquiries regarding the Applicant's personal circumstances in the host country/country of asylum;
- **Read back elements of the RSD Interview transcript** that are most relevant to the determination of the claim. As a general rule, any part of the information presented in the RSD Interview that is unclear, or regarding which there were apparent difficulties with interpretation, should also be read back. Clarification or elaboration offered by the Applicant at this stage should be noted at the end of the transcript, without revising the original answer in the transcript.
- Where operational constraints do not allow for reading back the entire Interview transcript or when the RSD Interview is audio/video recorded and a verbatim Interview transcript is not maintained, the Eligibility Officer should summarize the main aspects of the Applicant's account, using as much as possible the Applicant's words, and afford him/her the opportunity to clarify any aspect of the claim (for further guidance on audio/video recording see § 4.3.12 – *Recording of the RSD Interview*);
- Confirm and note documents or other information that the Applicant has agreed to provide following the RSD Interview, and the arrangements that have been made to provide it;
- Ensure that the Applicant is satisfied with the way that the Interview was conducted. Take note of any concerns raised by the Applicant and address them to the extent possible and appropriate;
- Explain the **next steps in the RSD process and relevant timeframes**, including:
  - The method and timeframe for receiving the RSD decision;
  - Consequences of a positive or a negative RSD decision;
  - Applicant's right to appeal a negative RSD decision and the appeal procedures;
  - Family Unity procedures, where appropriate.

- Where a **Complementary Interview**[12] must be conducted, the Eligibility Officer should explain:
  - The reason(s) for conducting a Complementary Interview;
  - The date and time when the Complementary Interview will be conducted, or the method and timeframe for notifying the Applicant of the date and time of the Complementary Interview.

4.3.11 Evaluation of the RSD Interview

Following the RSD Interview, the Eligibility Officer must **evaluate the information that the Applicant has provided during the Interview** in light of all other information available, including any written and oral statements and documents provided by the Applicant and other relevant information from reliable sources with a view to determine whether any further action is necessary. If additional information is needed relating to material elements of the claim or if certain aspects of the Applicant's account need to be further examined or clarified, including as a result of the information provided by the Applicant following the RSD Interview or as a result of apparent credibility problems, a **Complementary RSD Interview** may have to be conducted. Similarly, if new information presented by the Applicant during the Interview raises complex issues for which additional research or other preparation is necessary to effectively question the Applicant, a Complementary RSD Interview should be conducted.

As a general rule, the Complementary RSD Interview should be conducted by the Eligibility Officer to whom the file was assigned and who conducted the RSD Interview. In certain instances, it may however be appropriate to reassign the file to a different Eligibility Officer for a Complementary RSD Interview (for further guidance on instances where it is appropriate to reassign a RSD case see also § 4.4.2 – *Procedures for Revising the RSD Assessment or Decision*).

4.3.12 Recording the RSD Interview

Eligibility Officers must maintain a full and accurate record of the RSD Interview.[13] This can be done through maintaining a verbatim transcript and/or an audio or video recording of the RSD Interview. The main considerations and safeguards associated with the various methods of recording the RSD Interview are outlined below.

Applicants and their legal representatives may take notes during the RSD Interview, but may not otherwise record it (see § 2.7.4(a) – *The Role of the Legal Representative*).

[12] The need to conduct a Complementary Interview may only become apparent once the Eligibility Officer has had the chance to consider all the information gathered during the interview and available from other sources. In such cases, an explanation regarding the aim of the Complementary Interview should be provided at the beginning of such interview.

[13] Unless otherwise specified in these RSD Procedural Standards, the same standards relating to the recording of interviews should apply to derivative status, appeal, cancellation, revocation or cessation procedures under UNHCR's mandate.

a. Verbatim Transcript of the RSD Interview

As a general rule, Eligibility Officers should maintain a verbatim transcript of the RSD Interview.

STANDARDS & GUIDELINES

THE RSD INTERVIEW TRANSCRIPT SHOULD RECORD THE FOLLOWING:

- Name of the Applicant and case number;
- Name of the Eligibility Officer conducting the RSD Interview;[14]
- Name of the Interpreter;
- Applicant's date and place of birth, nationality, sex, marital status, ethnicity and religious affiliation, occupation/employment as well as other relevant information about their profile and background;
- The name and role or relationship with the Applicant of any third parties who are present (e.g. legal representative, family member, support person, etc.);
- The date and time that the RSD Interview began and closed and any breaks, interruptions or adjournments;
- The precise questions asked by the Eligibility Officer and the response provided by the Applicant, including all communications between the Eligibility Officer and the Applicant at the start and end of the Interview;
- Relevant observations regarding the behaviour of the Applicant at particular stages of the RSD Interview, as well as non-verbal communication.

In the RSD Interview transcript, the Eligibility Officers should endeavour to record the **precise words** used by an Applicant, and should avoid summarizing or paraphrasing the Applicant's statements.

As a general rule, the RSD Interview transcript should be recorded electronically. A hard copy of the RSD Interview transcript should be printed out and retained in the physical file. Where it is **not possible to record** the transcript electronically,[15] Eligibility Officers should maintain a detailed and legible hand-written transcript, which should be transcribed in an electronic format as soon as practicable.

[14] For security reasons, particularly where Interview transcripts are shared with the Applicant, it is recommended that the names of the Eligibility Officer and Interpreter are not listed in full in the Interview transcript or are redacted or otherwise anonymized prior to sharing the transcript. For further guidance see § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures.*

[15] This may, for instance, be the case in certain emergency or camp operations, or in some detention contexts.

b. Audio or video recording in addition to interview transcripts

Wherever possible, Offices are highly encouraged to maintain an **audio or video recording of the RSD Interview in addition to written (verbatim) transcript**.

Where available resources do not permit the systematic audio/video recording of all RSD Interviews in addition to maintaining written transcripts, it is recommended that audio/video recording be considered and, where possible, prioritized for cases raising complex credibility issues and/or exclusion concerns.

The audio/video recording should be maintained as part of the file in accordance with filing procedures and nomenclature. Appropriate data protection safeguards should be put in place to ensure the security and confidentiality of the information captured through audio and video recordings and minimize the risk of accidental or unauthorized disclosure, destruction, loss or alteration of the information (see § 2.2 – *RSD File Management and Recordkeeping procedures*).

KEY CONSIDERATIONS

BENEFITS ASSOCIATED WITH MAINTAINING AN AUDIO/VIDEO RECORDING OF THE INTERVIEW IN ADDITION TO A WRITTEN TRANSCRIPT:

- Ensures an accurate record of the interview, thus enabling verification by the Eligibility Officer of parts of the RSD Interview which are unclear or incomplete, or which are of particular relevance to the claim before finalizing the interview transcript;
- Facilitates the identification and the evaluation of issues raised on appeal regarding the accuracy of the RSD Interview record, the conduct of the Eligibility Officer and/or Interpreter, as well as interpretation problems during the RSD Interview, which could preclude the need to conduct an Interview on appeal in certain cases;
- May constitute a deterrent for frivolous or baseless appeal applications;
- Encourages professional conduct on the part of Eligibility Officers and Interpreters;
- Facilitates systematic monitoring of interviews to improve integrity and quality of UNHCR procedures;
- Constitutes an anti-fraud measure, and protects Eligibility Officers and Interpreters from allegations of fraud and misconduct.

c. Audio or video recording *in lieu* of interview transcripts

Maintaining a verbatim transcript of RSD interviews is essential to ensuring the quality and integrity of the RSD procedures, particularly where complemented by an audio or video recording. **Exceptionally, audio/video recordings can be used *in lieu* of written interview transcripts** in situations where the number of applications is significant and where a swift determination of the international protection needs of asylum-seekers is necessary to ensure their protection.

The use of audio/video recordings *in lieu* of written transcripts would generally only be considered appropriate for caseloads to which **a *prima facie* approach or a presumption of inclusion applies**, and which, on the whole, are not likely to raise complex credibility problems and/or exclusion concerns. For the latter cases, a verbatim written Interview transcript will be essential to ensure that all the information

provided by the Applicant during the RSD Interview has been adequately examined, and to provide an easily accessible Interview record for review and appeal of the first instance RSD decision.

KEY CONSIDERATIONS

POTENTIAL DRAWBACKS RELATING TO THE EXCLUSIVE USE OF AUDIO/VIDEO RECORDINGS:

- incomplete or poor quality recording due to human error or technical problems;
- limited use of audio/video recordings for the purpose of ensuring that information provided by the Applicant has been adequately examined and assessed;
- increased risk that first instance RSD decision is based on incomplete or inaccurate summary of the Applicant's statements;
- accidental loss, destruction or disclosure of the audio/video recording due to human error or technical problems, as well as inadequate link to the RSD file as a result of failure to observe filing procedures and nomenclature.
- limited access and use of information provided in the audio/video recordings following the RSD process, such as for resettlement purposes etc.

The use of audio/video recording instead of a written transcript may also be appropriate in cases involving particularly vulnerable Applicants, such as young unaccompanied or separated children, victims of trauma or Applicants with mental health conditions or intellectual disabilities. Not having to take down a written record of the interview is likely to assist in building rapport and may create a less stressful or intimidating interviewing environment for the Applicant. In such cases, the audio/video recording would ideally be transcribed following the interview to facilitate the decision-making and review process. While this approach is more resource-intensive, being able to focus on the interview rather than maintaining a verbatim transcript is likely to encourage disclosure and, thus, constitutes a more effective way to gather information during interviews with vulnerable Applicants.

Given the potential problems associated with the use of audio/video recording instead of written transcripts, it should remain an exceptional measure. As such, it will generally not be appropriate to replace written transcripts with audio/video recordings in cases that are processed in regular RSD, appeal, cancellation, revocation, re-opening or cessation procedures.[16]

A decision to implement audio/video recordings *in lieu* of written Interview transcripts, including in the context of simplified RSD or merged RSD processing procedures, should only be taken **after careful consideration of the impact on the quality of the decision-making and integrity of the process, and in consultation with the relevant Regional Bureau and the functional sections in DIP**. UNHCR Offices should also consult relevant UNHCR resources to ensure the facilities and technology available in the particular Offices are appropriate to support the implementation of audio/video recording.

[16] As mentioned above, audio/video recording *in lieu* of interview transcripts may nevertheless be appropriate in cases involving particularly vulnerable Applicants in order to encourage rapport-building and full disclosure.

KEY CONSIDERATIONS

MEASURES TO MITIGATE THE RISKS RELATING TO THE QUALITY OF THE DECISION-MAKING AND OF THE AUDIO/VIDEO RECORDING INCLUDE:

- **Regular and *ad hoc* quality checks of RSD decisions:** Regular and *ad hoc* checks of the quality of the RSD decisions can be undertaken at the review of the RSD decision stage, and would entail a review of the correctness of the RSD assessment by listening to the entire audio/video recording of the RSD interview for the selected case. The frequency of the quality checks and the number of cases selected will depend on the caseload in question, operational capacity and procedures in place, in particular any additional safeguards or measures to mitigate the risk of reaching a decision based on an incorrect or incomplete understanding of the Applicant's oral statements. In instances where interviews are conducted without the use of an interpreter in a language not understood by the Reviewing Officer, the quality checks will require interpretation or translation and transcription by an interpreter.

  Where an audio/video recording is used in addition to written transcripts, regular and *ad hoc* checks of the quality of the written transcript is also recommended.

- **Keeping a time record of the RSD Interview:** Eligibility Officers may note the exact time in the recording when core aspects or complex topics are examined during the interview. This would allow Eligibility and Reviewing Officers to refer back to the relevant portion of the audio/video recording when assessing or reviewing these core aspects of the Applicant's claim without having to go through the entire recording.

- **Keeping notes to make a summary of the interview:** Eligibility Officers may summarize the Applicant's account during the Interview. This has the advantage of providing a more accurate (if not complete) record of the Interview than one reconstructed from memory. The use of the summary should be supplemented by listening to the entirety of the audio/video recording.

- **Partial or full transcription of audio/video recording:** A partial or full transcription of the audio/video recording can be undertaken at the request of the Eligibility Officer for cases that give rise to credibility problems, exclusion concerns or other complex issues. A transcription can also be initiated by the Reviewing Officer.

- **Reverting to a written transcript:** In cases where complex credibility issues or exclusion concerns arise during the Interview, it is recommended that the Eligibility Officer revert to maintaining a verbatim written transcript from the moment such issues or concerns arise and that he/she notes down the exact time this occurs. This approach will facilitate the identification of the relevant part of the audio/video recording to enable a full consideration of the Applicant's statements.

- **Screening / identification of complex cases prior to RSD:** Cases likely to give rise to complex credibility problems or exclusion concerns should be identified prior to RSD processing, to the extent possible in order to ensure that a verbatim interview transcript is maintained.

- **Testing the quality of the audio/video recording:** To avoid human or technical error that may render the audio/video recording unusable, it is recommended that Eligibility Officers test the quality of the recording at the beginning of the RSD interview and at the end of the interview, wherever possible. Problems with the audio/video recording detected at the beginning of the interview should be immediately addressed, including by seeking technical assistance if necessary. If technical issues relating to the quality of the recording cannot be solved in a timely manner, the Eligibility Officer should revert to taking a verbatim interview transcript or reschedule the interview for a later date. Where problems with the audio/video recording occur during the interview and are not immediately detected, it may be necessary to conduct again the part of the interview for which no audio/video recording is available. In such cases, the Applicant must be counselled as to the reasons why part of the interview has to be repeated and any problems with the audio/video recording should be noted on the file.

The Eligibility Officer should notify the Applicant at the beginning of the Interview that the Interview is audio/video recorded and explain the purpose and scope of use of the recording (see § 4.3.5 – *Opening of the RSD Interview*). Although the consent of the Applicant to the Interview being audio/video recorded is not required, the Eligibility Officer should make every effort to immediately address any genuinely-held concerns by the Applicant in relation to the audio/video recording.

If the Applicant raises serious concerns about the Interview being audio/video recorded which cannot be resolved by the Eligibility Officer and which are likely to result in significant problems with disclosure during the Interview, an assessment should be made in consultation with the RSD Supervisor regarding the concerns raised, their impact on the process, and the appropriateness of proceeding with a written transcript instead.

Applicants and their legal representatives may, on request, access the transcript or audio/video recording of the Interview with the Applicant, at the UNHCR Office premises and under supervision or through other secure and appropriate means as established by UNHCR Offices. All disclosure of information to an Applicant or a legal representative must be in accordance with UNHCR's data protection policy and must respect the Applicant's right to confidentiality (see §§ 2.1.3 – *Disclosure to Individual Persons of Concern and Other Rights relating to Personal Data* and 2.7.4.(b) – *Communication and Access to Information*).

4.3.13 Information Provided by Witnesses

Applicants **should be permitted to bring witnesses** to the RSD Interview to support their claim. The witness should not be in the interview room while the Applicant is being interviewed. The identity of the witness, as well as the relationship with the Applicant, if any, should be verified and recorded on file. Contact details and copies of any identity documents should also be recorded on file.

As a general rule, **witnesses should not be interviewed or provide information in the presence of the Applicant**, nor in the presence of other witnesses or third parties.

Before receiving the testimony of a witness, the Eligibility Officer should **establish the identity of the witness**, and his/her relationship with the Applicant, and should examine and copy identity documents of the witness for the file. The Eligibility Officer should also explain the confidentiality of UNHCR RSD procedures and the obligation to tell the truth.

The information provided by the witness and its examination should be **fully and clearly recorded** on the Applicant's file (see § 4.3.12 – *Recording the RSD Interview*).

Should new information or inconsistencies material to the determination of the Applicant's claim arise during an interview with a witness, the Applicant should generally be given the opportunity to clarify these aspects of the evidence in a Complementary RSD Interview (see § 4.3.7 – *Interviewing the Applicant*). The obligation to preserve the confidentiality of the interview with the witness must, however, be respected. The Eligibility Officer should use the utmost discretion and sensitivity in **assessing the reliability of the information** provided by the witness and probing the credibility of the Applicant's statements, since disclosure may give rise to serious protection concerns for the individual concerned.

Where disclosure to the Applicant of **apparently contradictory** information provided by a witness is deemed necessary and/or appropriate, the Eligibility Officer must obtain the free and informed consent of the individual who has provided the information. In this context, the Eligibility Officer must clearly explain the intended purpose and possible consequences of the disclosure to the individual concerned

and fully and accurately record this in the file. In the absence of consent, or in cases where disclosure is not deemed necessary or appropriate, apparently contradictory information provided by an individual may, nevertheless, be used to inform the examination of the particular aspect(s) of the Applicant's claim on which some doubt remains. Utmost care must be taken, however, to ensure that the Applicant is not able to identify or infer the source of such information based on the line of questioning adopted.

4.3.14 Interview of Family Members or other Dependants

The Eligibility Officer should confirm that every accompanying adult family member/dependant of the Principal Applicant has completed an RSD Application Form and **has had an individual Registration Interview**.

Wherever feasible, Eligibility Officers should take the opportunity to meet briefly with each adult family member/dependant of the Refugee Status Applicant,[17] to ensure that they understand the refugee criteria and to give them the opportunity to discuss any individual protection needs they may have. Family members/dependants who may have a refugee claim in their own right should have their claim determined independently (see § 5 – *Processing Claims based on the Right to Family Unity*).

STANDARDS & GUIDELINES

A SEPARATE INTERVIEW WITH A FAMILY MEMBER/DEPENDANT MUST BE CONDUCTED IN THE FOLLOWING CIRCUMSTANCES:

- If an adult family member/dependant did not have an individual Registration Interview; the Interview should be conducted with a view to gather and examine information relating to individual protection needs of the family member/dependant or the relationship of dependency with the Refugee Status Applicant, as appropriate;
- If the information provided in the RSD Application Form or gathered during the Registration Interview of an accompanying family member/dependant, or any other information obtained during the examination of the Refugee Status Applicant's claim, indicates that a person who is seeking derivative refugee status may have an independent refugee claim in their own right, which should be examined through a separate RSD Interview.

The Eligibility Officer may take the opportunity of the RSD Interview of the Refugee Status Applicant to **examine the eligibility of accompanying family members/dependants for derivative status** pursuant to the criteria and procedures set out in § 5 – *Processing Claims based on the Right to Family Unity*.

[17] The term "Refugee Status Applicant" is used in lieu of "Principal Applicant" and should be understood as the individual Applicant on whose claim the outcome of an application for derivative refugee status by a family member or dependant is contingent. This change in terminology is intended to reinforce the point that several or all members of a family or of a household may meet the eligibility criteria for refugee status under UNHCR's mandate and, as such, should be recognized in their own right rather than be granted derivative refugee status.

It would generally be appropriate to **defer the examination of eligibility for derivative refugee status** to a separate Family Unity Interview after the status of the Refugee Status Applicant has been determined, in the following circumstances:

- The determination of eligibility for derivative refugee status of family members/dependants requires review of complex factual or legal issues (e.g. exclusion);
- Not all individuals or information necessary for the determination of derivative refugee status are available at the time of the Refugee Status Applicant's RSD Interview;
- The claim of the Refugee Status Applicant is unlikely to be recognized.

When interviewing family members/dependants of the Refugee Status Applicant, Eligibility Officers should respect the **right of confidentiality** of the Refugee Status Applicant and Applicants for derivative status in UNHCR procedures. **Interviews with the Refugee Status Applicant and the Applicants for derivative status should be conducted separately** unless there are compelling reasons to indicate that this would not be appropriate or constructive (see, for instance, § 5.3.2 – *Derivative Refugee Status Applications Involving Children*).

Should new evidence or inconsistencies that are material to the determination of the Refugee Status Applicant's claim arise during an interview with family members or dependants, the Refugee Status Applicant should be given the opportunity to clarify these aspects of the evidence in a Complementary RSD Interview (see § 4.3.7 – *Interviewing the Applicant*).

The obligation to preserve the confidentiality of the information gathered during the interview with the family member/dependant must, however, be respected. The Eligibility Officer should use the utmost discretion and sensitivity in **assessing the reliability of the information** provided by the family member/dependant and in probing the credibility of the Refugee Status Applicant's statements, since disclosure of this information may give rise to serious protection concerns for the family member/dependant concerned. The Eligibility Officer should consider strategies of questioning that do not require disclosure of information obtained from the family members, or obtain their consent prior to such disclosure where disclosure is appropriate.

Where disclosure of **apparently contradictory information** provided by a family member/dependant is deemed necessary and/or appropriate, the Eligibility Officer must obtain the free and informed consent of the individual who has provided the information. In this context, the Eligibility Officer must clearly explain the intended purpose and possible consequences of the disclosure to the individual concerned and fully and accurately record this on the file. In the absence of consent, or in cases where disclosure is not deemed necessary or appropriate, apparently contradictory information provided by a family member/dependant may, nevertheless, be used to inform the examination of the particular aspect(s) of the Applicant's claim on which some doubt remains. Utmost care must be taken, however, to ensure that the Refugee Status Applicant is not able to identify or infer the source of such information based on the line of questioning adopted.

However, as a general rule, no negative credibility findings may be reached in relation to facts that are material to the claim unless the Refugee Status Applicant has had the opportunity to explain or clarify the new evidence or apparent inconsistencies (see § 4.3.7 – *Interviewing the Applicant*).

Consistency between the account of a Refugee Status Applicant and that of a family member/dependant is only one credibility indicator (alongside specificity and sufficiency of detail, internal consistency, consistency with other sources of information, including COI, and plausibility). Any apparent

inconsistencies between individuals' respective accounts must, therefore, be carefully assessed as part of the overall credibility assessment of the particular statement in doubt. Apparently contradictory information must also be given appropriate weight taking into account that individuals, and family members in particular, may have different perspectives, knowledge and/or understanding of the facts that are relevant to the determination of the Refugee Status Applicant's claim. This is a particularly relevant when weighing information provided by children and, depending on family dynamics and cultural norms in the country of origin, women.

4.3.15 The RSD Assessment

As soon as possible following the RSD Interview, the Eligibility Officer who conducted the RSD Interview should prepare the written decision using the **RSD Assessment Form (Annex 4.3-3)**. If the case raises exclusion considerations under Article 1F of the 1951 Convention, the **Exclusion Assessment Form** should also be completed.

Caseload or profile-specific RSD assessment forms may be used to facilitate and expedite the determination of claims by Applicants with specific profiles or belonging to a caseload to which a *prima facie* approach or a high presumption of inclusion applies (see § 4.10 – *Simplified RSD Processing*). To promote consistency in decision-making, such forms should be developed in consultation with the relevant Regional Bureau(s) and the functional sections in DIP.

STANDARDS & GUIDELINES

KEY ELEMENTS OF THE RSD ASSESSMENT

- **Summary of claim**

  A summary of the information provided by the Applicant with regard to the reasons for leaving the country of nationality or habitual residence and for being unwilling or unable to return, as well as aspects of his/her claim which are material to the determination of eligibility for refugee status, including his/her profile, experiences in the country of nationality or habitual residence, experiences of similarly situated persons and the specific context in which the Applicant lived.

  For Applicants who are unable to provide an account of the events leading up to their departure from the country of nationality or habitual residence, the summary of the statements by family members or other witnesses with direct knowledge of the Applicant's personal and contextual circumstances and experiences should be included here (see, for instance, § 2.8 – *Children in UNHCR RSD Procedures* and § 2.9 – *Applicants with Mental Health Conditions and Intellectual Disabilities*).

- **Material facts (Credibility assessment and findings of fact)**

  A record of (i) the credibility assessment conducted with regard to the credibility of statements provided by the Applicant and, where relevant, other persons (e.g. family members or witnesses) in relation to material elements of the Applicant's claim and of the reasons why these statements have, or have not, been accepted as credible, and of the findings of fact reached, and (ii) the determination of what material facts of the claim can be considered established, based on the credibility findings and any other reliable information.

  The credibility assessment needs to examine the oral and written statements provided by the Applicant relating to the material elements of the claim. Reference should also be made to the relevant

credibility indicators, while also taking into account any explanation provided by the Applicant for apparent credibility problems. The applicable credibility indicators are: (i) sufficiency of detail and specificity; (ii) internal consistency of oral and written information provided by the Applicant, including documents; (iii) external consistency (i.e. consistency of Applicant's statements with information provided by family members/witnesses or COI); and (iv) plausibility. Potential distortion factors affecting the Applicant's ability and/or willingness to recall and recount past experiences, or the Eligibility Officer's ability to interview in an effective manner, should also be taken into account in reaching findings on credibility.

As part of the credibility assessment, Eligibility Officers need to assess the reliability (or otherwise) of any documents and other materials that contain information relevant to the claim in order to determine what weight to give them based on their source, content and other factors. Where the information on file includes statements of family members and/or witnesses, these will also need to be assessed for their credibility.

The credibility assessment should result in findings which clearly indicate which statements are accepted on balance and which are not and the reasons why, including whether the benefit of doubt was applied in reaching a credibility finding.

The material facts are then established on the basis of the credibility findings with regard to the Applicant's statements and/or any other available reliable information.

- **Well-founded fear**

  An analysis of whether, considering relevant COI, the individual profile and experiences of the Applicant, and the experience of similarly situated individuals in the country of origin, there is a reasonable possibility that the Applicant would experience harm if returned to the country of nationality or habitual residence. The assessment must be based on the established material facts relating to the Applicant's profile and experiences with reference to relevant COI and should identify the harms the Applicant is reasonably likely to face on return. Where the risk of harm emanates from non-State agents of persecution, an examination of whether State authorities are willing or able to provide protection will also be required.

- **Persecution**

  A determination of whether the harms identified, individually or cumulatively, are sufficiently serious to constitute persecution. This analysis needs to be conducted in light of relevant human rights standards and principles.

- **Reasons for persecution (grounds)**

  An analysis of whether the persecution which the Applicant is reasonably likely to face is for reason of one or more of the 1951 Convention grounds (i.e. race, religion, nationality, membership of a particular social group and political opinion). The causal link or nexus requirement is also met where State protection is denied for reason of one of the 1951 Convention grounds.

- **Internal flight or relocation alternative**

  An Analysis of whether, if the Applicant has a well-founded fear of persecution in the country of nationality or habitual residence at the hands of non-State agents, the Applicant has the possibility to return to any part of that country where he/she would not be exposed to a risk of persecution or other serious harm, and where he/she could live a relatively normal life without undue hardship. This requires an analysis in light of the requirements that an internal flight or relocation alternative would need to be both "relevant" and "reasonable".

- **UNHCR's broader refugee criteria**

  An Analysis of whether, if the Applicant does not fulfil the inclusion criteria of the 1951 Convention, he/she is outside his/her country of nationality or habitual residence and unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or events seriously disturbing public order.

- **Exclusion**

  An exclusion assessment must be undertaken if there is reliable information indicating that the Applicant may have been associated with acts that could bring him/her within the application of the exclusion clauses in Article 1F(a), (b) or (c) of the 1951 Convention, see § 4.7 – *The Application of the Exclusion Clauses in Article 1F*.

The Eligibility Officer should sign and date the RSD Assessment Form before referring the file to the review and approval procedures established by the Office in accordance with see § 4.4 – *Procedures for Review of RSD Decisions*.

4.4 Procedures for Review of RSD Decisions

4.4.1 General Principles

UNHCR Offices should establish mechanisms and procedures for **review of the quality of first instance RSD decisions before they are issued**.[18] Effective review of first instance decisions is of particular importance in UNHCR Offices where Applicants whose refugee status claims are rejected at first instance are at risk of *refoulement* by the host country / country of asylum authorities before they have the opportunity to exercise their right to appeal.

As a **best practice**, prior to the RSD decision being issued, every RSD Assessment should be reviewed and endorsed, by a UNHCR Protection staff member other than the Eligibility Officer responsible for hearing the claim at first instance ("Reviewing Officer").

Given the **training and supervision objectives** of the review of RSD decisions, UNHCR staff who are designated to review RSD decisions should have appropriate experience and proven competency in RSD.

STANDARDS & GUIDELINES

WHERE, DUE TO THE SIZE AND NATURE OF THE CASELOADS AND/OR PROFILES OF APPLICANTS, OR AVAILABLE STAFF RESOURCES, IT IS NOT FEASIBLE TO SYSTEMATICALLY REVIEW ALL RSD ASSESSMENTS, IT IS **STRONGLY RECOMMENDED** THAT:

- the RSD Assessment for **every negative RSD decision** be reviewed;
- the RSD Assessment for **sensitive cases** or cases raising **complex issues** be reviewed;
- the RSD Assessment for cases of Applicants in detention, unaccompanied and separated children and Applicants with mental health conditions or intellectual disabilities be reviewed;
- the RSD Assessment for cases identified for resettlement submission be reviewed;
- all RSD Assessments prepared by **new Eligibility Officers during the first three months of employment** be reviewed; and
- **routine random reviews** of RSD Assessments prepared by each Eligibility Officer be conducted.

All applications that are rejected on the basis of the application of the Article **1F exclusion clauses must be reviewed** (see § 4.7.4 – *Review and Approval of Decisions to Exclude*).

The review of the RSD decision should be done in light of all the information on the file, including any supporting information submitted by, or on behalf of, the Applicant[19] and the written or audio/visual record of the RSD Interview(s).

[18] An RSD decision is considered to be "issued" once it is notified to the Applicant, in accordance with the principles set out in § 6 – *Notification of RSD Decisions*.

[19] This includes submissions made by Applicants' legal representatives.

UNHCR Offices that do not have the staff resources to undertake review of first instance RSD decisions in line with the above recommendations and the established procedures may put in place **remote review arrangements** to temporarily address the gap in resources. It is recommended that Offices consult with the Regional RSD Officer and/or the RSD Section in DIP regarding the appropriateness and modalities of implementing remote review arrangements.

4.4.2 Procedures for Revising the RSD Decision

When the Protection staff member who is designated to review RSD decisions detects substantive or procedural errors with the RSD Assessment, the file should be **returned to the Eligibility Officer who prepared the RSD Assessment**, with detailed comments regarding issues that are incorrectly or inadequately addressed and directions for a complementary RSD Interview, if necessary. Any comments by the Reviewing Officer should be attached to the RSD Assessment, or should be written on the text and initialled to clearly identify the individual who made the comments. All comments should be retained on the file.

If prior to the finalization of the review of the RSD decision new information material to the Applicant's claim, such as a significant change in the Applicant's personal or contextual circumstances or the situation in the country of origin comes to light, the reviewing process should be suspended pending a revision of the RSD Assessment by the Eligibility Officer. In such cases, a complementary RSD Interview will generally be required to examine the reliability and significance of the new information.[20]

As a general rule, changes to the RSD Assessment or decision during the review period should be made by the Eligibility Officer who heard the claim and prepared the RSD Assessment or by the Reviewing Officer where this is appropriate or more expeditious. Exceptionally referral to the RSD Supervisor will be required.

STANDARDS & GUIDELINES

RSD FILES SHOULD BE REFERRED TO THE RSD SUPERVISOR IN THE FOLLOWING CIRCUMSTANCES:

- The reviewing staff member is of the opinion that the RSD decision is erroneous or unsupported by the RSD Assessment, and the Eligibility Officer is unavailable to revise the RSD Assessment in a timely manner and within the time limits for issuing the RSD decision set out in the UNHCR Office procedures;
- The Eligibility Officer is not willing to revise an RSD decision that is, in the opinion of the reviewing staff member, erroneous or unsupported in the RSD Assessment; or
- The concerns regarding the conduct of the RSD Interview or the quality of the RSD Assessment are sufficiently serious that referral of the file to the Eligibility Officer who decided the claim is unlikely to restore the fairness, or perceived fairness, of the RSD process; this may be the case where concerns about fraud, bias or other unethical behaviour on the part of the Eligibility Officer arise.

[20] RSD decisions that are not subject to review should also be revised prior to issuance and notification of the Applicant.

- The RSD Supervisor may also reassign files to a different Eligibility Officer for other reasons including:
  - There is a need for a more experienced caseworker for the file;
  - There are concerns about the need to better establish rapport or trust by addressing gender issues in the case;
  - The Applicant is found to be vulnerable or suffering from the effects of trauma and requires a caseworker more suitable to addressing these issues;
  - The original caseworker does not feel s/he is able to establish sufficient rapport or trust with the Applicant;
  - Security issues necessitating a different Eligibility Officer.

In the circumstances outlined above, the RSD Supervisor should determine whether the RSD decision should be issued and any appropriate follow-up, including assigning the file to another Eligibility Officer for a Complementary RSD Interview and/or redrafting of the RSD Assessment.

When a file is referred to another Eligibility Officer pursuant to the review procedures set out above, the RSD Assessment and all notes of the Eligibility Officer who originally heard the claim should be retained on the file. A note explaining the reasons for reassigning the file to a different Eligibility Officer should also be kept on file.

When a file has been returned to an Eligibility Officer or reassigned pursuant to RSD review procedures, the RSD decision should not be issued to the Applicant until the issues identified in the review have been adequately addressed, and the RSD Assessment is approved by a Protection staff member who is authorized to review RSD decisions.

Where, as a result of the review procedures, it is not possible to issue the decision on the assigned date, the date for issuing the decision should be postponed pursuant to the procedures set out in § 4.5 – *Timelines for Issuing RSD Decisions*.

4.4.3 Procedures for Consultation with UNHCR Regional Bureau(s) and DIP on RSD Decisions

UNHCR Offices must submit first instance draft RSD decisions for **review and approval by UNHCR the Regional Bureau(s)** and, where applicable, DIP in the following types of cases:

STANDARDS & GUIDELINES

RSD DECISIONS FOR WHICH REVIEW BY THE REGIONAL BUREAU(S), AND WHERE APPLICABLE, DIP IS REQUIRED:

- Decisions to **exclude** an individual from refugee status under Article 1F of the 1951 Convention (see § 4.7.3 – *Review and Approval of Decisions to Exclude* and 10.4 – *Revocation procedures*);
- Decisions to **revoke** an individual's refugee status under Article 1F of the 1951 Convention (see § 10.2.8 – *Review of the Cancellation Decision*);
- Decisions to **cancel** an individual's refugee status that was incorrectly recognized (see § 10.2.8 – *Review of the Cancellation Decision*);

- Decisions to cease an individual's refugee status pursuant to individual **cessation** under Article 1C(1-4) of the 1951 Convention (see § 11.2.5 – *Review of Cessation Decisions*).

RSD Decisions for which Review by the Regional Bureau(s) and, where applicable, DIP may be Required:

- Review is also required for cases or caseloads specifically designated by a Regional Bureau, the Director of DIP or the Assistant High Commissioner (Protection) as well as cases which are otherwise "sensitive".

The **Head of Office** or the **RSD Supervisor** should review the RSD decision before it is finalized and submitted for review by the Regional Bureau and, where applicable, DIP.

The following documents/information should be included in the submission of a decision for review:

STANDARDS & GUIDELINES

DOCUMENTS/INFORMATION TO BE SUBMITTED FOR REVIEW BY REGIONAL BUREAU AND, WHERE APPLICABLE, DIP:

- A copy of the completed Assessment Form(s); for cancellation, revocation and cessation decisions, the **initial** RSD Assessment should also be included alongside the Cancellation, Revocation or Cessation Assessment;
- Copies of all RSD Interview transcript(s) or, in the absence of a verbatim interview transcript, the audio/video recording of the RSD Interview; for cancellation, revocation and cessation decisions, the transcripts of the interview(s) on which the **initial** RSD decision was based should also be included alongside the transcripts for the Cancellation, Revocation or Cessation interview(s);
- Copies of the supporting documentation submitted by, or on behalf of, the Applicant;
- Any other information relevant to the RSD decision, including the RSD Application Form and other registration records where available.

The review should be carried out by **the designated focal point in the relevant Regional Bureau**, unless an individual case or group of cases is delegated by the Bureau Director for review to another qualified and appropriate staff member at the regional level. Any changes to the RSD decision as a result of the review by the Regional Bureau, and if necessary, DIP, should be made in accordance with the procedures set out in § 4.4.2 – *Procedures for Revising the RSD Assessment or Decision*. The individual concerned should be notified of the decision to exclude, cancel or revoke only once this is reviewed or endorsed by the Regional Bureau and, where applicable, DIP.

Where the Regional Bureau, and where applicable, DIP has already reviewed a decision at first instance, it does not normally need to review a decision in the same case at appeal. However, where the decision at first instance is either to be **reversed at appeal** or **upheld at appeal on new material facts**, the UNHCR Office deciding the appeal should notify the designated focal point of the relevant Regional Bureau. The designated focal point will then decide if review of the decision at appeal by Regional Bureau and DIP is required.

If a review is required, it should be carried out following the same procedures as set out above. As a general rule, the decision should be reviewed by a different staff member than the staff member

who reviewed the decision at first instance, especially if the decision at first instance was reversed on appeal.

Alternative review procedures may be adopted in certain RSD operations where the Bureau and DIP determine that only cases of a specific type or exceptional nature need to be reviewed by them.

In addition, UNHCR Offices **may submit certain types of cases to the Regional Bureau(s) and, where applicable, DIP for advice**. The advice should only be sought after the UNHCR Office has used all available resources within the Office to resolve the outstanding issue. Guidance requested by a UNHCR Office should first be directed to the relevant Regional Bureau, which will then liaise with DIP as necessary. **UNHCR Offices must request guidance in borderline cases where it is uncertain whether to make a positive or a negative decision on exclusion, revocation, cancellation or cessation.**

Regional Bureaux may request advice from DIP on complex procedural or doctrinal questions. Where guidance is requested from DIP, questions relating to Article 1F of the 1951 Convention as well as in relation to cases raising complex and/or sensitive questions, requests should be directed to the Protection and National Security Section. All other questions should be directed to the RSD Section, which will either answer the question itself or refer it to another Section/Unit as necessary.

Requests for advice of the Regional Bureau(s) and, where applicable, DIP in determining individual cases should generally be reserved for the following circumstances:

- The UNHCR Office has been unable through its own efforts to obtain country of origin information that is required to assess the well-foundedness of a claim;
- The UNHCR Office requires legal assistance in interpreting the refugee definition, or its application to the particular facts of an individual claim;
- The UNHCR Office is deciding a sensitive case or claim that raises facts or issues with which the Office has not had previous experience, and which are likely to set a precedent for future claims of a similar nature.

The Director or Deputy Director of DIP may intervene in any case, at any stage of the RSD procedures where there are substantial reasons related to procedural concerns and/or the correctness of a particular RSD decision that necessitates DIP intervention.

STANDARDS & GUIDELINES

INFORMATION TO BE INCLUDED IN REQUESTS TO REGIONAL BUREAU(S) AND DIP FOR ADVICE ON INDIVIDUAL CLAIMS

- Where the decision on which advice is sought has been finalized by the UNHCR Office, a copy of the completed RSD Assessment Form, and the Office recommendation for the decision on the claim, as well as the written or audio/visual record of the RSD Interview(s) and all other information on file that is relevant to the determination of the claim;
- Where the advice of the Regional Bureau(s) and, where applicable, DIP is required to finalize the decision, the submission by the UNHCR Office requesting advice should include a thorough credibility assessment and analysis of the relevant issues and the recommendation of the UNHCR Office;
- Copies of any supporting documentation provided by the Applicant, or other information that would be relevant to the issues on which advice is sought.

All requests to the Regional Bureau(s) and DIP from UNHCR Offices for advice on the determination of individual RSD claims **should be submitted by the RSD Supervisor** or another designated Protection staff member who should ensure that the request is submitted with all the required information.

4.4.4 Procedures for Changing the RSD Decision after it is Issued

Review and revision of the RSD decision after it has been notified to the Applicant may only be made pursuant to the following established procedures:

- Appeal procedures (§ 7)
- Re-opening of the RSD case (§ 9.2)
- Cancellation/Revocation of refugee status (§ 10)
- Cessation of refugee status (§ 11)

Where a UNHCR staff member has reason to believe that an RSD decision issued by the UNHCR Office is incorrect, he/she should bring any relevant information to the attention of the RSD Supervisor, who should determine appropriate follow-up.

4.5 Timelines for Issuing RSD Decisions

UNHCR Offices should set procedures for the issuance of RSD decisions. Once the RSD Interviews are completed, Eligibility Officers and Protection staff members who are responsible for reviewing RSD Assessments should work within established timelines to ensure that RSD decisions are issued and notified in a timely manner and in accordance with the UNHCR Office procedures (see § 6 – *Notification of RSD Decisions*).

It is recommended that RSD decisions generally be issued **within three months following the RSD Interview**. The timeframes for issuance of RSD decisions should be specified in the UNHCR Office RSD procedures.

Where an Application raises complex issues, or requires consultation with third parties or additional research on matters that are central to the RSD decision, Eligibility Officers should be permitted to **assign a later date to issue the RSD decision**. The Eligibility Officer must obtain the approval of the RSD Supervisor, or another designated Protection staff member to assign a later date for issuing the RSD decision.

Where it is not possible to issue an RSD decision on the assigned date, the Eligibility Officer should be permitted to postpone issuing the decision after consultation with the RSD Supervisor, or another designated Protection staff member. In assessing whether a postponement should be granted, the RSD Supervisor must take into account the Applicant's circumstances and specific needs, as well as any protection risks, such as detention or *refoulement* that the Applicant may be exposed to if the issuance of the RSD decision is postponed.

Procedures relating to timelines and postponements of RSD decisions for claims determined on a priority basis are set out in § 4.9 – *Procedures for Accelerated RSD Processing*.

In any case where the timeframe for issuing the RSD decision is longer than that envisaged by the established procedures of the UNHCR Office, or where the issuance of an RSD decision must be postponed, UNHCR Offices should take all possible steps to minimize any adverse impact that the postponement may have on the Applicant. At a minimum, all efforts should be made to inform the Applicant, as soon as practicable, of the new timeframe for issuing the decision in his/her case.

The RSD Supervisor should **monitor Eligibility Officers' compliance with established timelines** for preparing RSD Assessments. As lengthy delays between the RSD Interview and the writing of the RSD Assessment may adversely affect the quality of the RSD Assessment and/or the RSD decision or expose Applicants to additional protection risks, the RSD Supervisor should ensure that Eligibility Officers do not accumulate individual backlogs of pending RSD decisions. If Eligibility Officers repeatedly postpone issuing RSD Assessments, the RSD Supervisor should take necessary steps to assist the Eligibility Officers to manage their caseloads more effectively. Where repeated postponement requests reflect an inaccurate assessment of the processing capacity of an Eligibility Officer, the RSD Supervisor should adjust individual file assignments as appropriate in accordance with the guidance in § 4.2.3 – *Supervision of Eligibility Officers*.

4.6 Procedures for Applicants in Detention

Detained individuals who wish to apply for refugee status **have the right to access UNHCR**. As a general rule, claims of detained asylum-seekers should be adjudicated promptly, where detention is based on immigration-related grounds and/or in circumstances where the Applicant is at risk of *refoulement*. Where Applicants are detained for alleged criminality, UNHCR Protection staff should consider the details of the charges and/or conviction and sentence to assess their relevance to the determination of the Applicant's eligibility for refugee status in particular, as well as the protection needs of the Applicant in the host country/country of asylum. Whenever appropriate, a protection assessment should be carried out to decide whether and when to conduct RSD for an Applicant in detention, taking into account potential protection dividends and risks arising in the specific circumstances.

UNHCR Offices should establish **specific registration and RSD procedures** for Applicants who are in detention; this includes Applicants who are in detention at the time of registration as well as those who are detained following registration or rejection of their claim for refugee status at first instance (for more guidance on appeals in detention see § 7.4.2 – *Assessing whether an Appeal Interview is Necessary*).

Each UNHCR Office should take **necessary measures in the host country/country of asylum** to ensure that detained asylum-seekers are able to have access to UNHCR staff and RSD procedures.

STANDARDS & GUIDELINES

MEASURES TO FACILITATE ACCESS TO UNHCR STAFF AND PROCEDURES FOR APPLICANTS IN DETENTION MAY INCLUDE DEMARCHES WITH THE AUTHORITIES IN THE HOST COUNTRY/COUNTRY OF ASYLUM AND OTHER RELEVANT ACTORS TO:

- ensure that detained asylum-seekers can contact UNHCR and that UNHCR staff are afforded access to them, including through the distribution of information regarding UNHCR's protection mandate and the RSD process and procedures;
- ensure the necessary conditions for conducting fair and effective RSD in detention, including access to a confidential interview setting;
- promote the fullest possible access by UNHCR staff and its partners to asylum-seekers in detention;
- promote access by asylum-seekers to legal representation, wherever available.

Wherever possible, UNHCR Offices should seek **alternatives** to conducting Registration or RSD Interviews **in detention facilities**. Where there is no available alternative, UNHCR staff should be accompanied by a UNHCR interpreter or other independent and qualified interpreter, and should take every possible measure to ensure that interview conditions preserve, to the greatest extent possible, the **Applicant's right to confidentiality** in the RSD procedures.

UNHCR staff and interpreters who conduct interviews in detention environments should have **appropriate RSD and protection experience**, including in regard to making necessary and effective interventions with detaining officials. Since working in a detention environment can be very challenging, appropriate measures should be taken to provide the necessary support and guidance, including from

a staff welfare perspective, to Eligibility Officers and RSD support staff working with Applicants in detention (see also § 4.2.3 – *Supervision of Eligibility Officers*).

The appropriateness of **accelerated RSD processing and/or processing on a priority basis** should be examined for Applicants who are detained, taking into account the reasons for and conditions of detention, as well as the Applicant's personal and contextual circumstances, in particular any specific needs he/she might have (see § 4.9 – *Accelerated RSD Processing*). Notably, a refugee status claim may need to be processed on an accelerated and/or priority basis where recognition of refugee status is required to secure the Applicant's release from detention or to prevent his/her *refoulement*.

Every effort should be made to ensure that Applicants in detention are **fully informed** regarding the RSD process and procedures as well as the rights and obligations of refugee status claimants. Applicants in detention should have **sufficient time to prepare their claim** and have access to legal representation or other forms of support wherever appropriate and available.

As a general rule, **the RSD Interview should not be conducted at the same time as registration**. A separate RSD Interview will generally be necessary in sensitive cases or cases raising complex credibility problems or exclusion concerns and which require an in-depth examination of the Applicant's claim. Certain circumstances may, however, require conducting joint registration and RSD interviews. These include instances where UNHCR has limited access to detained asylum-seekers, the detention facilities are remotely located, the UNHCR Office has limited resources, in particular in terms of experienced and trained staff, or the Applicant has urgent protection needs. Joint registration and RSD interviews must only be conducted by experienced Eligibility Officers.[21]

STANDARDS & GUIDELINES

SAFEGUARDS WHEN CONDUCTING JOINT REGISTRATION AND RSD INTERVIEWS IN DETENTION

Where it is necessary to conduct joint registration and RSD interviews in detention, the Eligibility Officer carrying out the interview should ensure that:

- information regarding the RSD process and relevant procedures, as well as information regarding the rights and obligations of refugee status claimants, is made available to Applicants in detention at the earliest opportunity and preferably ahead of the joint interview;
- the Applicant understands the RSD process and has had the opportunity to consider and present all evidence that may be relevant to the determination of the claim;
- the interview is conducted in the presence of the Applicant's appointed legal representative, where one is available, and that he/she cooperates with the legal representative in gathering the information relevant to the Applicant's claim;
- he/she liaises with UNHCR Protection staff, Implementing Partners or other non-governmental organisation(s) with access to the Applicant to gather information regarding protection needs the Applicant may have and/or follow up on protection interventions as necessary.

[21] In exceptional cases, interviews for merged registration-RSD, RSD-resettlement or registration-RSD-resettlement processing may also be conducted in detention. For further guidance on merged RSD processing see § 4.11 – *Merged RSD Processing* and Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*.

The remote participation of an Applicant in the RSD Interview, via telephone or video-conference, will generally not be appropriate in the context of detention, save in exceptional circumstances where conducting the RSD Interview is necessary to address urgent protection needs and the Interview can be conducted in conditions that ensure the confidentiality of RSD procedures (for further guidance on remote interviewing see § 4.3.2 – *Remote Participation of an Applicant in the RSD Interview*).

Necessary arrangements should be made to notify Applicants who are in detention of the RSD decision. Rejected Applicants should be **notified of the reasons for the RSD decision**, as well as of the process and procedures for lodging an appeal, pursuant to the procedures set out in § 6.2 – *Notifying Applicants of Negative RSD Decisions*. Wherever possible, in-person counselling should be provided regarding reasons for rejection and appeal procedures. Detained Applicants who are rejected in first instance should also be given the opportunity to file an appeal application and to present their appeal in accordance with the principles set out in § 7 – *Appeal of Negative RSD Decisions*.

4.7 The Application of the Exclusion Clauses in Article 1F

4.7.1 General Principles

All UNHCR **Protection staff should be aware of the criteria for exclusion from refugee protection** in Article 1F of the 1951 Convention and should be trained to identify facts indicating that the applicability of the exclusion clauses should be examined in the particular case. Whether information suggesting that an individual may be excluded from international refugee protection becomes known during RSD procedures, or after an individual has been formally recognized as a refugee, UNHCR Offices should take appropriate steps to examine whether the exclusion clauses apply, including by commencing cancellation or revocation procedures, as appropriate.

Examination of the applicability of the exclusion clauses in Article 1F of the 1951 Convention must be conducted on an individual basis, under procedures that incorporate **appropriate standards for due process**. The individual concerned should be informed of the considerations that have given rise to the exclusion examination and as such may impact the outcome of the decision, at an appropriate moment during the exclusion examination, so that he/she has the opportunity to consider and respond to them.

Because of the particularly serious implications for the individual concerned, and the complex criteria that are relevant to an exclusion determination, the examination of the application of the exclusion clauses in Article 1F should only be undertaken by UNHCR Protection staff who are **knowledgeable about the relevant criteria and principles**. Wherever possible, UNHCR Offices should designate **specially trained Eligibility Officers** to adjudicate and review cases that raise exclusion issues and to provide substantive and procedural support to other UNHCR staff in processing these cases.

When facts relating to the possible application of the exclusion clauses are known before the RSD Interview, the file should be assigned to an **Eligibility Officer who has experience and knowledge regarding the application of these clauses**. If the exclusion issues do not arise until during or after the RSD Interview, the Eligibility Officer should, if necessary, seek procedural or substantive direction from the RSD Supervisor or another Protection staff member who has appropriate knowledge and experience. In such cases, it may be appropriate to pause the RSD Interview to seek the necessary advice before continuing to explore the material aspects of the Applicant's account, including those that may give rise to exclusion concerns. After the interview, the Eligibility Officer should consider whether, given the available information, a complementary interview may be necessary in order to adequately examine the exclusion issues.

If it comes to light after an individual has been recognized as a refugee that the exclusion criteria applied and the individual may have been incorrectly recognized, examination of the application of the exclusion clauses should be conducted through the **procedures for cancellation of Refugee Status** (see §10 – *Procedures for Cancellation of Refugee Status*).

If there is information indicating that an individual who has been properly recognized as a refugee, may have subsequently engaged in conduct that falls within the exclusion clauses in Article 1F(a) or (c), UNHCR Offices should undertake the necessary examination to establish if the conduct in question would bring the individual within the scope of the criteria of these exclusion clauses. Where this is established, refugee

status should be **revoked**. The procedural standards for due process when re-examining refugee status in cancellation procedures would generally be relevant and applicable in procedures for **examining the appropriateness of revocation of refugee status** (see §10 – *Procedures for Cancellation of Refugee Status*).

The recommendations that follow are intended to provide **procedural guidance** for examining the applicability of the exclusion clauses in Article 1F of the 1951 Convention. For guidance on substantive issues relating to the interpretation and application of the exclusion clauses, Eligibility staff should refer to the detailed directions provided by DIP.

4.7.2 Procedures for Examining the Application of Article 1F

The application of the exclusion clauses in Article 1F of the 1951 Convention (**exclusion of persons who are undeserving of protection**) has the effect of excluding from eligibility for refugee status an individual who is otherwise determined to be in need of refugee protection.

Due process requires that the individual be **informed of considerations that may impact the outcome of the decision**, including any information that is relevant to the exclusion determination, at an appropriate moment **during the exclusion examination**, so that he/she has the opportunity to respond to or clarify the information. However, in exceptional circumstances, generally relating to the security of UNHCR staff or a witness or other source of information, it **may be necessary to limit full disclosure** of relevant information for cases falling within the scope of the exclusion clauses in Article 1F. The criteria and principles regarding limiting disclosure set out in § 6.2 – *Notifying Applicants of Negative RSD Decisions* are relevant to decisions to limit disclosure during exclusion examinations. Eligibility Officers should seek the guidance of the RSD Supervisor, or another Protection staff member who has knowledge and experience in exclusion cases, to determine the appropriate disclosure. UNHCR security staff should also be consulted whenever disclosure may give rise to risks for the security of staff, persons of concern or other third parties. **Alternatives to withholding relevant information** should be considered, including making partial disclosure, or disclosing the evidence without revealing the source, so that the individual concerned is not unduly denied the opportunity to challenge or explain information upon which the exclusion decision is based.

Given the particular circumstances and vulnerabilities of children, great caution should be exercised in the examination of **the application of the exclusion clauses in Article 1F to child Applicants**. Due to their young age, dependency and relative immaturity, children benefit from specific procedural and evidentiary safeguards to ensure that fair refugee status determination decisions are reached with respect to their claims (for further guidance see § 2.8 – *Children in UNHCR RSD Procedures*). The **application of Article 1F exclusion clauses to children** requires an assessment of the emotional, mental and intellectual maturity of the child to determine whether he/she had the mental capacity to be held individually responsible for a crime within the scope of Article 1F. The RSD Interview to examine these issues should be conducted by an Eligibility Officer who is also knowledgeable and experienced in interviewing children.

As a general rule, exclusion decisions should be dealt with in the context of the regular RSD procedures and not be subject to accelerated, simplified or merged processing, so that a full factual and legal assessment of the case can be made.

In cases raising exclusion considerations under Article 1F of the 1951 Convention, the Exclusion analysis needs to be presented in Part V of the RSD Assessment Form **(Annex 4.3-3)**.

4.7.3 Review and Approval of Decisions to Exclude

The principles and procedures set out in § 4.4 – *Procedures for Review of RSD Decisions* are relevant to the review of exclusion determinations made in RSD procedures or Cancellation or Revocation procedures.

Decisions to exclude an individual from international refugee protection under Article 1F of the 1951 Convention, as well as decisions to cancel an individual's refugee status that was incorrectly recognized, including because an individual should have been excluded, and to revoke an individual's refugee status under Article 1F should also be reviewed by the **RSD Supervisor** or the **Head of Office**. Once a decision to exclude from refugee protection, or to cancel or revoke the refugee status of an individual, has been finalized by the UNHCR Office it must be **submitted to the Regional Bureau, and where applicable, DIP for review**, along with the completed Assessment Form, copies of all the RSD Interview Transcripts, and copies of any supporting documentation provided by the Applicant and of any other information relevant to the RSD decision. The review should be carried out by **the designated focal point in the relevant Regional Bureau**, unless an individual case or group of cases is delegated by the Bureau Director for review to another qualified and appropriate staff member at the regional level. Any changes to the RSD decision as a result of the Regional Bureau, and where applicable, DIP's review should be made in accordance with the procedures set out in § 4.4.2 – *Procedures for Revising the RSD Assessment or Decision*. The individual concerned should be notified of the decision to exclude, cancel or revoke only once this is reviewed or endorsed by the Regional Bureau, and where applicable, DIP.

UNHCR Regional Bureau, and where applicable, DIP should review and approve appeal decisions by UNHCR Offices in cases where the decision at first instance did not require review by them and the decision at appeal is to exclude an individual from refugee protection under Article 1F of the 1951 Convention. The review should be carried out following the same procedures as set out above.

Where the Regional Bureau, and if applicable, DIP has already reviewed a decision at first instance, it does not normally need to review a decision in the same case at appeal. However, where the decision at first instance is either reversed on appeal or upheld on appeal on new material facts, the UNHCR Office should notify the designated focal point in the relevant Regional Bureau. The designated focal point will then decide whether review of the decision at appeal is required. Where required, review by the Regional Bureau, and where applicable, DIP should be carried out following the same procedures as set out above. As a general rule, the decision should be reviewed by a different staff member than the staff member who reviewed the decision at first instance, especially if the decision at first instance was reversed on appeal.

Cases which raise complex procedural, doctrinal or interpretative issues relating to Article 1F of the 1951 Convention, may be referred by the relevant Regional Bureau to DIP for guidance if necessary (see § 4.4.3 – *Procedures for Consultation with UNHCR Regional Bureau and DIP on RSD Decisions*).

Alternative review procedures may be adopted in certain RSD operations where the Bureau and/or DIP determine that only cases of a specific type or exceptional nature need to be reviewed by them.

4.7.4 Notification of RSD Decision to Exclude from International Refugee Protection

Individuals who are determined to be excluded from international refugee protection should be **informed in writing of the reasons for the decision to exclude them**, in accordance with the principles and procedures set out in § 6.2 – *Notifying Applicants of Negative RSD Decisions*. As a general rule, notification of the exclusion decision should permit the individual concerned to know the considerations, including any evidence upon which the decision was based, so as to allow them to determine whether or not to appeal the first instance RSD decision, and to inform their submissions in the appeal application.

In some cases, notably where the profile of the Applicant may give rise to security concerns for UNHCR staff or others, including witnesses, it may be **necessary and appropriate to limit disclosure** of the information that was relied upon, or other findings upon which the decision to exclude was made. The considerations and principles regarding limiting disclosure during the examination of exclusion cases set out above in § 4.7.2 – *Procedures for Examining the Application of Article 1F* are relevant to the disclosure of information in notification of decisions to exclude. As limiting disclosure of information that was material to an exclusion determination may affect the ability of the individual concerned to provide effective response or clarification in appeal procedures, the decision to limit disclosure should be made in consultation with the RSD Supervisor, or another designated Protection staff member and, where appropriate, the relevant Regional Bureau and PNSS in DIP.

4.7.5 Appeal of RSD Decisions to Exclude from International Refugee Protection

Applicants whose refugee claims are rejected because of the application of the exclusion criteria in Article 1F of the 1951 Convention should have the opportunity to appeal the negative RSD decision. The principles and procedures set out in § 7 – *Appeal of Negative RSD Decisions* are applicable to appeals against decisions to exclude an individual from international refugee protection.

If, after an individual is determined to be excluded from international refugee protection in final instance,[22] reliable information comes to light to indicate that the **exclusion criteria were improperly applied or the decision to exclude may otherwise have been incorrect**, a closed file may be re-opened pursuant to the procedures set out in § 9.2 – *Re-Opening RSD Cases*.

4.7.6 Confidentiality in Exclusion Cases

Examination of the possible application of the exclusion clauses should not undermine the **right of the individual concerned to confidentiality in UNHCR RSD procedures**. Disclosure of any information about the individual, including the fact that the individual has registered with UNHCR for RSD, should only be made in accordance with UNHCR policies and standards relating to confidentiality and data protection (see § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*).

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[22] That means either on appeal or at first instance where the negative RSD decision has not been appealed within the prescribed timeframe for appeals. For further guidance, see § 7.2.4 – *Time Limit for Submitting the Appeal Application*.

In line with UNHCR's data protection policy, UNHCR staff should not approach the **authorities in the country of origin** to obtain information to assist the exclusion determination.

The authorities in the host country/country of asylum have the primary responsibility for providing protection and assistance to asylum-seekers and refugees on their territory, and a corresponding legitimate interest in obtaining information about persons on their territory relevant to national security, public safety and the prevention and suppression of criminal offences. In certain circumstances, it may be appropriate for the UNHCR Office to disclose information, including the fact that UNHCR has found an individual to be excluded from refugee protection, to the relevant host country/country of asylum authorities where this is necessary and justified for reasons related, for example, to staff security, public safety or the prevention and suppression of criminal offences. In all such cases, these interests must be balanced against the right of the excluded individual to privacy, including the principle of confidentiality of UNHCR procedures. Any decision to disclose such information will need to be made in accordance with UNHCR's Data Protection Policy (see § 2.1.4 – *Disclosure to Host Country/Country of Asylum Authorities*).

Furthermore, in some circumstances it may be appropriate for UNHCR Offices to share personal data or other information regarding persons of concern with a national and international law enforcement agency or a national or international court at the request of that agency or court, or on its own initiative. This may be the case if the person of concern is subject to investigation for a crime or is considered to be a victim or a witness to a crime.

Given the potential serious implications of disclosure to third parties of information relating to UNHCR exclusion determinations in individual cases for the security of UNHCR staff and the individual concerned, any such disclosure should be done in accordance with UNHCR policies and standards relating to confidentiality and data protection.[23] Requests by national and international law enforcement agencies, criminal courts or tribunals for disclosure of personal data or other information regarding individuals excluded from international refugee protection should be referred by the focal point in the Regional Bureau to relevant functional sections in DIP as well as the Legal Affairs Services (LAS) since compliance with such requests may compromise UNHCR's immunity from any interference by host States in the implementation of its mandate (see § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*).

[23] For instance, transfers of personal data to a national law enforcement agency or national court must meet several conditions, including: (i) the transfer must be necessary for the purposes of the detection, prevention, investigation, or prosecution of a serious criminal offence, in particular in order to avoid an immediate and substantial risk to the safety and security of an individual or the public; (ii) the requesting law enforcement agency or court is competent in relation to the detection, prevention, investigation or prosecution of the offence in question; (iii) the transfer will substantially assist the law enforcement agency or court in the pursuit of these purposes and that the personal data cannot otherwise be obtained from other sources; (iv) the transfer does not disproportionately interfere with a data subject's or another person of concern's right to privacy or other human rights; and (v) in the case of data in relation to victims and witnesses, their consent to the transfer has been obtained (Section 6.3.2 of UNHCR's Data Protection Policy)

4.7.7 Implications of Exclusion Decisions for Family Members/ Dependants

The right to family unity generally operates in favour of family members/dependants and not against them. Therefore, where the Refugee Status Applicant[24] is excluded, family members/dependants are **not automatically excluded** from international refugee protection as well[25]. Independent claims for refugee status by family members/dependants should be determined separately. Such claims are valid even where the fear of persecution is a result of the relationship to the excluded individual. Family members/ dependants are only excluded from international refugee protection if they themselves fall within the exclusion criteria in Article 1F of the 1951 Convention (see § 5.2.5 – *Persons Excluded from Derivative Refugee Status*).

An individual who has been excluded from obtaining refugee status pursuant to the exclusion clauses in Article 1F of the 1951 Convention cannot then rely on the right to family unity with a family member/ dependant who is a recognized refugee to secure protection or assistance as a refugee (see § 5.2.5 – *Persons Excluded from Derivative Refugee Status*).

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[24] The term "Refugee Status Applicant" is used in lieu of "Principal Applicant" and should be understood as the individual Applicant on whose claim the outcome of an application for derivative refugee status by a family member or dependant is contingent.

[25] Cancellation on the basis of the exclusion clauses in Article 1F and revocation of the refugee status of a recognized refugee will, however, result in the termination of the derivative refugee status of family members / dependants of the individual concerned (see § 5.3.5 – *Termination of Derivative Refugee Status*).

4.8 The Application of the Exclusion Clauses in Article 1D and Article 1E

All UNHCR **Protection staff should be aware of the criteria for exclusion from refugee protection** in Article 1D[26] and Article 1E of the 1951 Convention and should be trained to identify facts indicating that the applicability of the exclusion clauses should be examined in the particular case.

Examination of the applicability of the exclusion clauses in Article 1D and Article 1E of the 1951 Convention must be conducted on an individual basis, under procedures that incorporate **appropriate standards for due process**, in accordance with the guidance set out in Unit 4 – *Adjudication of Refugee Status Claims*. Written decisions in cases raising exclusion considerations under Article 1D and Article 1E should be prepared using assessment forms developed for this specific purpose (see, for example, Annex 4.8-1 – *Article 1D Assessment Form*).

[26] Article 1D of the 1951 Convention contains both exclusionary and inclusionary aspects. Paragraph 1 of Article 1D generally operates to exclude from the protection of the 1951 Convention those Palestinian refugees who are receiving protection or assistance from UNRWA, while paragraph 2 of Article 1D operates to include those very same Palestinian refugees when that protection or assistance has ceased. Once it is determined that the protection or assistance has ceased, they are entitled *ipso facto* to the benefits of the 1951 Convention, i.e. no separate or additional assessment under Article 1A(2) is required for them to qualify for protection under the 1951 Convention.

4.9 Accelerated RSD Processing

4.9.1 General

UNHCR Offices should develop, in consultation with the Regional RSD Officers and DIP, Accelerated RSD Processing procedures to which Applicants can be referred when there are **compelling protection reasons** to process the claim on a priority basis and/or within shorter timeframes. UNHCR Offices may also develop Accelerated RSD Processing procedures for Applicants whose **claims are likely to be manifestly well-founded**[27] or **manifestly unfounded.**[28]

Accelerated RSD Processing procedures involve an **acceleration or shortening of all or some timelines in the RSD process**. They can incorporate processing on a priority basis, **reducing waiting periods** at one or all stages of the RSD procedures and / or **shortening timelines** for the issuance of RSD decisions. It should be noted that cases may be prioritized for processing without otherwise being subject to Accelerated RSD Processing timelines.

Accelerated RSD Processing does not involve a simplification of any aspect of the substantive determination of the refugee status claim, nor a merging of case processing steps, such as registration or resettlement. Accelerated RSD Processing can be applied in the context of Simplified RSD Procedures, where appropriate (see § 4.10 – *Simplified RSD Processing*).

All Applicants whose cases are processed through Accelerated RSD Processing procedures must have an **RSD Interview**, at which a UNHCR Eligibility Officer will examine all facts or statements relevant to the refugee claim and prepare an individual **RSD Assessment**.

As a general rule, the timeframes for processing under accelerated RSD procedures should not be shortened beyond what is reasonable to allow the Applicant to adequately prepare and present information in support of his/her claim, and, to the extent possible, to obtain legal representation.

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[27] Manifestly well-founded claims are refugee status claims which, on their face, clearly indicate that the Applicant meets the refugee definition under the 1951 Convention or under UNHCR's broader refugee criteria. This may be because the Applicant falls into the category of individuals for whom a presumption of inclusion or a prima facie approach applies, or because of particular facts arising in the individual's RSD application (see Annex 4.9-1 – *Aide-Memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination under UNHCR's Mandate*).

[28] 'Manifestly unfounded' claims are claims for refugee status (i) clearly not related to the criteria for refugee status, or which are (ii) clearly fraudulent or abusive. A claim can be considered "clearly fraudulent" only if the Applicant makes what appear to be false allegations of a material or substantive nature relevant for the determination of his/her status and the claim clearly does not contain other elements which warrant further examination. False statements do not in themselves make the claim "clearly fraudulent", nor does it mean that the criteria for refugee status may not be met.
A manifestly unfounded claim should be distinguished from asylum claims that are likely to be unsuccessful but that are genuinely made. Claims submitted by applicants from a particular country or profile may have, in the past or at present, very low recognition rates. This does not, however necessarily imply that such claims are 'clearly' not related to the criteria for refugee status or that applicants from that country or profile are not acting in good faith. The terms "manifestly unfounded" and "manifestly well-founded" do not refer to a procedure but rather to concepts which inform the channelling of claims based on certain well defined criteria, into accelerated or simplified RSD procedures (see Annex 4.9-1 – *Aide-Memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination under UNHCR's Mandate*).

Measures for **early identification** of Applicants who should be considered for Accelerated RSD Processing should be incorporated into UNHCR procedures for reception and registration (see § 3.4 – *Applicants with Special Needs*). Referral to Accelerated RSD Processing may, however, be undertaken at any stage in the RSD process, including at the appeal stage (see § 7 – *Appeal of Negative RSD Decisions*).

4.9.2 Appropriate Cases for Accelerated RSD Processing

Accelerated RSD Processing may be considered for the following categories of cases/caseloads:

STANDARDS & GUIDELINES

CATEGORIES OF CASES/CASELOADS WHICH MAY BE SUITABLE FOR ACCELERATED RSD PROCESSING:

- Claims likely to be Manifestly well-founded;
- Claims likely to be Manifestly unfounded; and
- Claims by Applicants with specific needs or manifestly in need of a protection intervention, including but not limited to:
  - Individuals who may be subject to immediate refoulement, arbitrary arrest or detention in the host country/country of asylum, or who may have other serious legal or protection needs;
  - Survivors of torture or trauma (including survivors of gender-based violence), who are suffering from ongoing mental or physical health problems;
  - Women who are at risk in the host country;
  - Elderly asylum-seekers without support in the host country;
  - Asylum-seekers with physical or intellectual disabilities or suffering from mental health conditions without necessary support in the host country;
  - Asylum-seekers who require urgent medical assistance;
  - Certain child Applicants, in particular children who are unaccompanied or otherwise separated from their parents or other primary legal or customary caregivers (see § 2.8 – *Child Applicants in RSD Procedures*). Young adults of 18 years of age or slightly older may also have needs and vulnerabilities akin to those of child Applicants and their claims may, thus, warrant a similar approach.

UNHCR staff should exercise discretion in identifying **other Applicants** who are manifestly in need of a protection intervention and whose claims should be determined on an accelerated and/or priority basis, bearing in mind that accelerated processing may in some cases be detrimental to the ability and/or willingness of Applicants to provide their account.

Claims considered to likely be manifestly unfounded, but which upon further examination present indications of being well-founded, can continue to be processed under accelerated RSD procedures, if they otherwise meet the set criteria for processing on an accelerated basis.

4.9.3 Oversight of Accelerated RSD Processing Procedures

Procedures for Accelerated RSD Processing should include **effective identification and referral mechanisms** and **appropriate controls**, including the requirement that all individual referrals to Accelerated RSD Processing be submitted for review and approval by the RSD Supervisor, or a designated Protection staff member who has supervisory responsibility in RSD procedures.

UNHCR Offices may develop and implement procedures for Accelerated RSD Processing for particular caseloads and/or profiles **in consultation with** the Regional RSD Officers and relevant functional sections and Regional Bureaux in Headquarters (for further guidance on conditions for implementation of Accelerated RSD procedures see Annex 4.xx – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

The RSD Supervisor should be responsible for oversight of procedures for Accelerated RSD Processing and should ensure the effectiveness and integrity of the referral system.

4.9.4 Procedures for Accelerated RSD Processing

Applicants manifestly in need of a protection intervention and Applicants with specific needs should be referred to Accelerated RSD Processing on **a case-by-case basis**. For claims that are likely to be manifestly well-founded or manifestly unfounded, where Accelerated RSD Processing procedures apply to a specific caseload or profile in accordance with established procedures, **no individual referral is necessary**.

UNHCR staff who identify Applicants manifestly in need of a protection intervention and Applicants with specific needs whose claims should be determined on a priority basis should promptly refer the case to a Protection staff member authorized to approve cases for Accelerated RSD Processing. The staff member who refers the case should complete a **Referral Memo for Accelerated RSD Processing (Annex 4-3)**, which should outline the details of the Applicant's vulnerability in the host country and, wherever possible flag the referral in the UNCHR electronic case management system. Copies of any counselling notes or available medical reports or other relevant documents should be attached to the Referral Memo for Accelerated RSD Processing.

The Protection staff member who is responsible for reviewing referrals to Accelerated RSD Processing should **assess the protection needs of the referred Applicant**, based on all available information, and should determine whether referral to Accelerated RSD Processing is appropriate.

If the designated Protection staff member approves the referral, he or she should add any additional relevant information, sign the Referral Memo for Accelerated RSD Processing, and make a **recommendation for the time limit within which the RSD Interview should be scheduled**. In setting a time limit for the RSD Interview, the Protection staff member should take into account whether the Applicant needs specific support or assistance to enable his/her meaningful participation in the Interview and adjust the timeframe accordingly.[29] The cover of the file should be marked to indicate that the file is being processed under the Accelerated RSD Processing procedures.

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[29] For instance, unaccompanied or separated child Applicants of young age, victims of trauma and Applicants with intellectual disabilities or mental health conditions may require longer processing timeframes to allow for other protection interventions or several RSD Interviews may be necessary to facilitate a meaningful participation of the Applicant in the RSD process and a correct determination of the claim.

The RSD Interview for Applicants manifestly in need of a protection intervention and Applicants with specific needs referred to Accelerated RSD Processing should be scheduled for the first available date within the time limit recommended in the Referral Memo for Accelerated RSD Processing.

As a general rule, scheduled interviews by Applicants who have been approved for Accelerated RSD Processing **should not be rescheduled by UNHCR**. Where rescheduling is unavoidable, it should be done in consultation with the RSD Supervisor, or another designated Protection staff member. Changes to scheduled interview dates, either by UNHCR or at the request of the Applicant concerned should be noted on the Applicant's file and/or the electronic case management system in place in the UNHCR Office.

Office procedures for Accelerated RSD Processing should include **timelines for issuing the RSD decision for claims determined under these procedures**. It is recommended that decisions **for claims heard under Accelerated RSD Processing** procedures generally be **issued as soon as possible, and in any case no longer than one month**, following the completion of the RSD Interview unless the Protection staff member who approves the referral indicates on the Referral Memo for Accelerated RSD Processing that a shorter or longer period would be appropriate.

Where it is not possible to issue the RSD decision on the date specified in the Referral Memo for Accelerated RSD Processing, the Eligibility Officer who conducted the RSD Interview must consult with the RSD Supervisor, or another designated Protection staff member, to obtain authorization to defer the issuance of the RSD decision and to determine an appropriate alternative date.

Where it becomes apparent during the Accelerated RSD process that a claim presents complex factual or legal issues, including exclusion concerns, which cannot be dealt within a shortened timeframe, the case may be processed according to the timeframes for regular RSD procedures or, if the processing is not only accelerated but also simplified, the case may be referred to regular RSD procedures for a full examination and assessment of the claim (see § 4.10 – *Simplified RSD Processing)*.

4.9.5 Appeals by Applicants Rejected under Accelerated RSD Processing

Applicants whose claims were determined under Accelerated RSD Processing but were rejected may appeal the negative RSD decision in accordance with the appeal procedures set out in § 7 – Appeal of Negative RSD Decisions. Whether to process the appeal application on a priority or accelerated basis should be decided on a case-by-case basis.

4.10 Simplified RSD Processing

4.10.1 General Considerations

UNHCR Offices may develop procedures for simplified RSD Processing for particular caseloads and/or profiles with a view to increase the efficiency of RSD case processing. UNHCR Offices should consult with the designated focal points in the relevant Regional Bureau(s) and the functional sections in DIP, regarding the development and implementation of simplified RSD procedures (for further guidance see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

Simplified RSD is a process whereby one or more aspects of Regular RSD is simplified with a view to permit greater case-processing efficiency.

STANDARDS & GUIDELINES

SIMPLIFICATION OF THE RSD INTERVIEWING OR ASSESSMENT WRITING MAY BE ACHIEVED THROUGH VARIOUS MEANS, INCLUDING:

- pre-populating the RSD Assessment Form with legal analysis and/or country of origin information (COI) for a particular caseload or profile;
- developing RSD Assessment Forms tailored to the examination and/or assessment of the core elements of the claim for a particular caseload or profile. It is recommended that caseload- or profile-specific RSD Assessment Forms follow a similar structure of analysis as the regular RSD Assessment Form;
- conducting RSD interviews focusing only on core elements of the claim, such as area of origin, ethnicity or religion, as relevant for the application of the presumption of inclusion; or
- a combination of the above.

The adoption of Simplified RSD procedures requires a significant investment in the development of caseload-specific tools for the examination and assessment of the claim, as well as RSD staff with knowledge of the specific caseload and with skills and experience to make accurate decisions in an abbreviated examination.

The methodology and tools introduced to improve efficiency in processing cases in simplified RSD procedures should be designed in a manner that ensures that reliable and sufficiently detailed information is available to UNHCR to assess the core elements of the refugee claim and to identify possible credibility or exclusion concerns (see § 4.3 – *The RSD Interview and Assessment*).

4.10.2 Appropriate Cases for Simplified RSD Processing

The adoption of Simplified RSD procedures can increase the efficiency of RSD processing and may be appropriate for certain caseloads or Applicants with specific profiles.

STANDARDS & GUIDELINES

CATEGORIES OF CASELOADS / PROFILES THAT MAY BE CONSIDERED FOR SIMPLIFIED RSD PROCESSING:

- Caseloads / profiles to whom a *prima facie* approach applies;
- Caseloads / profiles with high recognition rates (such as caseloads/profiles where a Presumption of Inclusion can be applied) and a high prevalence of similar claims, which allows for focused interviewing and/or the use of templates with pre-populated legal analysis and/or COI;
- Caseloads / profiles with very low recognition rates and a high degree of similarity in claims, which allows for focused interviewing and/or the use of templates with pre-populated legal analysis and/or COI. For caseloads where there is a high rate of rejection, special attention must always be given to the specific facts of the case in order to identify any reasons why an individual may, nevertheless, be eligible for recognition as a refugee despite the normally high rejection rates.

STANDARDS & GUIDELINES

SIMPLIFIED RSD PROCEDURES SHOULD NOT BE USED FOR:

- caseloads which do not have a high degree of homogeneity;
- claims that raise credibility and/or exclusion concerns, or are otherwise considered to be complex or sensitive; or
- claims that clearly raise elements other than those in the caseload / profiles to whom the simplified RSD procedures are designed to apply.

When identified, such cases should be referred to regular RSD procedures (for further guidance see in § 4.10.4 – *Procedures for Simplified RSD Processing*).

Wherever possible, screening mechanisms should be put in place to ensure appropriate channelling of cases into Simplified RSD Procedures.

4.10.3 Oversight of Simplified RSD Processing Procedures

Procedures for Simplified RSD Processing should include **an effective referral mechanism to Regular RSD procedures** and **appropriate controls**, including a requirement that the procedures are regularly reviewed to ensure that the quality and fairness of decision-making is not affected by the adoption of Simplified RSD Processing.

The RSD Supervisor should be responsible for the oversight of the procedures for Simplified RSD Processing and should ensure their effectiveness and integrity. To this aim, the RSD Supervisor should develop **tools for the implementation of Simplified RSD procedures**, such as focused interview guidance for the caseload or profiles concerned, and caseloads and/or profile-specific templates for the assessment of claims, and should regularly review and update such tools as necessary.

4.10.4 Procedures for Simplified RSD Processing

Simplified RSD processing requires an individual examination of the merits of the refugee status claim and, as such, needs to afford Applicants all the procedural safeguards set out in the RSD Procedural Standards.

I**n cases where a *prima facie* approach or a presumption of inclusion applies**, and which are, as such, appropriate for processing under simplified RSD procedures, **refugee status may exceptionally be recognised on the basis of the information gathered at registration and through the RSD Application Form alone** without conducting an individual RSD Interview, provided that the information available is sufficient to establish the material facts of the claim and that no credibility or exclusion concerns arise (see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).[30]

The interviewing strategy adopted in these procedures should allow Applicants to present sufficiently detailed information on their profiles, activities and experiences, and should enable UNHCR to identify credibility, exclusion or security concerns (see § 4.3 – *The RSD Interview and Assessment*).

Where **credibility and/or exclusion concerns** arise in relation to a claim, which would otherwise have benefitted from a *prima facie* approach or a presumption of inclusion and which would otherwise have been appropriate for processing under simplified RSD procedures, or where the claim is otherwise **sensitive or complex**, the case should be **referred to regular RSD procedures**. This will enable an in-depth and full examination and determination of the claim. If credibility and/or exclusion concerns in relation to a claim arise in the course of an interview under simplified RSD procedures, or if it becomes apparent that the case is complex or sensitive during the course of such an interview, the Eligibility Officer may, if feasible and appropriate, continue the interview if he/she has the knowledge and experience to examine the refugee status claim in full or may refer the case to regular RSD processing in accordance with set procedures. Where credibility and/or exclusion concerns or the fact that the case is complex or sensitive become apparent at the RSD assessment stage, the case should be referred to regular RSD procedures. In such cases, a Complementary Interview will generally need to be conducted to examine all relevant aspects of the claim. The Complementary Interview and the RSD assessment may be carried out by the same Eligibility Officer, if he/she has the appropriate knowledge and experience, or may be assigned to a different Eligibility Officer.

All RSD decisions reached through simplified RSD processing should be subject to review in accordance with the procedures set out in § 4.4 – *Procedures for Review of RSD Decisions*.

Refugee status claims processed under simplified RSD procedures may be subject to accelerated processing in accordance with the principles set out in § 4.9 – *Accelerated RSD Processing*.

To ensure the integrity of procedures and quality of UNHCR decision-making, it is recommended that staff members with substantial knowledge and experience of RSD are assigned to simplified RSD processing, including at the reviewing stage (see § 4.2 – *Qualifications, Training and Supervision of Eligibility Officers*). This would facilitate the identification of potential credibility issues and/or exclusion concerns, as well as allow for an expeditious examination in full of the claim without the need for referral to a different Eligibility Officer.

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[30] In such cases, the written RSD Application may be considered as having afforded the procedural standard of the Applicant's 'right to be heard' and the interview may be foregone.

4.10.5 Appeals of Claims Rejected under Simplified RSD Processing

Applicants whose claims were determined under Simplified RSD Processing and were rejected may appeal the negative RSD decision through the normal appeal procedures (see § 7 – *Appeal of Negative RSD Decisions*). As a general rule, refugee status claims rejected under Simplified RSD Processing should not be subject to accelerated procedures on appeal, unless the claims were rejected in accelerated procedures for manifestly unfounded claims (see § 7.2.4 – *Time Limit for Submitting the Appeal Application*).

4.11 Merged RSD Processing

Where individual RSD provides the best means to achieve protection for persons of concern to UNHCR, but where regular or simplified RSD does not provide the best protection impact for the largest number of asylum-seekers, UNHCR Offices may implement merged RSD case processing modalities aimed at increasing the efficiency of individual case processing by merging procedural steps, notably registration and RSD or RSD and resettlement, while still maintaining high quality decision-making (see § 4.11.1 – *Merged Registration-RSD Processing* and § 4.11.2 – *Merged RSD-Resettlement Processing*). In assessing the appropriateness of implementing merged RSD procedures for particular cases or caseloads, UNHCR Offices should take into account the impact the proposed case processing modality is likely to have on the protection environment and protection delivery in the host country / country of asylum.

Since a **determination of eligibility for refugee status is a significant component of merged RSD case processing modalities**, their implementation must ensure the integrity and fairness of the process, as well as the quality of RSD decisions, in accordance with the **procedural safeguards** set out in these RSD Procedural Standards. In this respect, particular consideration should be given to the necessary safeguards for processing claims by unaccompanied and separated children, as well as other Applicants with specific needs or vulnerabilities (see § 2.8 – *Children in UNHCR RSD Procedures*, and § 3.4 – *Applicants with Special Needs*). The methodology and tools introduced to improve efficiency in processing cases through merged RSD procedures should be designed in a manner that ensures that reliable and sufficiently detailed information is available to UNHCR to assess the core elements of the refugee claim and to identify possible credibility, exclusion or security concerns.

Furthermore, merged RSD case processing modalities must be implemented with sufficient flexibility to adapt to changes in the nature of the caseload and/or type of case profiles or the operational context, and must contain mechanisms to identify individual cases not suitable for processing under a merged RSD case processing modality and refer them to regular RSD or another appropriate case processing modality. Where merged RSD case processing modalities are in place, UNHCR Offices should also consider whether changes in the situation in the country of origin affect the appropriateness of the use of merged RSD case processing.

4.11.1 Merged Registration-RSD Processing[31]

a. General Considerations

Merged Registration-RSD is a process whereby the registration and RSD stages are effectively merged and where **the information collected during the expanded registration interview serves as the basis for recognition of refugee status**. The aim of the Merged Registration-RSD process is to capture in one interview, at what would normally be the registration stage, the **Applicant's biographical data and other information generally gathered during registration**, as well as **information relating to the eligibility**

[31] Merged Registration-RSD was formerly referred to as "Enhanced Registration". This term is no longer in use and should be distinguished from what is known as "Individual Enhanced Registration" which is a "collection of data in addition to individual registration data elements for the purposes of facilitating specific protection case management and/or programming interventions that does not result in an individualized recognition of refugee status."

of the Applicant for international refugee protection. The additional information gathered during the merged registration-RSD Interview will generally encompass information regarding the core elements of the Applicant's claim, such as nationality and place of origin, the Applicant's profile and reasons for flight, as well as information relating to possible exclusion considerations.[32] Information regarding the **Applicant's vulnerabilities or specific needs** may also be gathered at this stage.

The information gathered through merged Registration-RSD processing is generally used to recognize Applicants as refugees in an individual process. The information is also used to identify cases that give rise to credibility problems regarding the core elements of the claim or exclusion concerns and refer them for processing under regular RSD procedures for a full examination of the claim.[33]

The information gathered during the merged Registration-RSD process can also be used to facilitate referral to other forms of protection interventions as necessary.

The effectiveness of Merged Registration-RSD processing is contingent on a number of factors, including the nature of the caseload and the possibility to identify objectively verifiable exclusion triggers; the experience and training of the Protection staff involved; the degree to which the interview and assessment tools used are detailed and adapted to the caseload; and the rate of processing.

UNHCR Offices may develop and implement merged Registration-RSD procedures for particular caseloads and/or profiles requires. Introduction of such procedures requires consultation with the designated RSD and registration focal point(s) in the Bureau(s), and relevant entities in DIP (RSD and/or PNSS) and IMRS (for further guidance on conditions for implementation of Merged Registration-RSD procedures see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

b. Appropriate Cases for Merged Registration-RSD Processing

Merged Registration-RSD processing can significantly increase the rate of individual case processing by reducing the number of personal interviews conducted with an Applicant. However, it also reduces the ability of UNHCR to identify and examine credibility or exclusion concerns, as well as other issues that may affect the integrity of the process, such as fraud. UNHCR Offices should take measures to mitigate the resulting risks. As such, merged Registration-RSD processing should be **nationality, caseload or profile-specific** and only be used in the following circumstances:

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[32] It should be noted that refugee status claims processed under simplified RSD procedures to which a prima facie approach or a presumption of inclusion applies may also exceptionally be recognized on the basis of the information gathered at registration and through the RSD Application Form alone without conducting an individual RSD Interview, provided that the information available is sufficient to establish the material elements of the claim and that no credibility or exclusion concerns arise (see § 4.10 – *Simplified RSD Processing*).

[33] If appropriate, cases giving rise to credibility and/or exclusion concerns may be deprioritized in accordance with pre-defined criteria. See Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate.*

STANDARDS & GUIDELINES

CATEGORIES OF CASELOADS THAT MAY BE CONSIDERED FOR MERGED REGISTRATION-RSD PROCESSING:

- Caseloads for which **a *prima facie* approach** applies; and
- Caseloads for which **a high presumption of inclusion** applies,

where it is feasible and/or advisable to conduct a form of verification of the information provided, in particular in respect to the Applicant's nationality, place of origin, ethnicity, religion and/or other aspects of the Applicant's profile relevant to the application of the *prima facie* approach or of the presumption of inclusion, as well as elements that may amount to exclusion triggers.

c. Procedures for Merged Registration-RSD Processing

Procedures for Merged Registration-RSD processing must include **effective referral mechanisms to regular or simplified RSD procedures**, as appropriate, and other protection interventions. They should also incorporate **appropriate procedural safeguards and controls**, including a requirement that the procedures are regularly reviewed to ensure that they are still appropriate given the nature of the caseload and operational context and that the quality and fairness of decision-making is not affected by the adoption of Merged Registration-RSD Processing.

Applicants whose claims are processed through merged Registration-RSD procedures should be **provided information regarding the process and procedures**, at the earliest opportunity in the process. Their rights and obligations, as well as possible outcomes of the process, should also be explained to them at the beginning of the merged Registration-RSD Interview. Applicants should have access to **adequate interpretation**, where needed, and their preference regarding the sex of the interpreter should be accommodated to the extent possible.

To ensure the integrity and fairness of the process and in order to facilitate the review of decisions taken through merged Registration-RSD processing, merged Registration-RSD Interviews should be recorded in full. This can be done through a variety of means, including maintaining a verbatim transcript, audio recording of the entire interview or a combination thereof.

Applicants whose claims are processed through merged Registration-RSD procedures do not have a right to be legally represented since the process does not result in a rejection of applications for refugee status. Wherever possible and in the interest of the integrity and fairness of procedures, UNHCR Offices may accommodate the participation of appointed legal representatives in the merged Registration-RSD process. Applicants whose claims are referred to regular or simplified RSD procedures have the right to be legally represented in accordance with the principles set out in § 2.7 – *Legal Representation in UNHCR RSD Procedures*.

Given that merged Registration-RSD processing can lead to recognition of refugee status, the **staff conducting interviews and making recommendations in individual cases should have appropriate training and experience in RSD**.[34] In particular, they should have knowledge and experience with the

[34] Merged registration-RSD procedures may be conducted by Registration staff with the appropriate knowledge and experience.

relevant caseload, and receive at least basic training on interviewing and RSD. The procedures should also put in place adequate quality control safeguards, such as random checks and interview shadowing.

In order to ensure consistency and quality of decision-making, decisions to recognise refugee status should be periodically **reviewed by experienced RSD staff**, or at a minimum by senior Registration staff who have been trained in RSD. Furthermore, it is recommended that RSD staff provide routine oversight of the merged registration-RSD procedures.

Applications for refugee status cannot be rejected through merged Registration-RSD procedures. Where a recommendation to recognise refugee status cannot be made on the basis of the available information, because the case gives rise to credibility and/or exclusion concerns, the case should be **referred to regular or simplified RSD procedures**, as appropriate, for a full examination of the claim in accordance with the RSD Procedural Standards.

4.11.2 Merged RSD-Resettlement Processing

a. General Considerations

Merged RSD-Resettlement is a case processing modality in which the RSD and resettlement processes are merged, most commonly by conducting one, combined, RSD and resettlement interview resulting only in a completed Resettlement Registration Form (RRF) instead of both an RSD Assessment Form and an RRF. Although no separate RSD decision is issued, **merged RSD-Resettlement procedures involve a formal recognition of refugee status for cases referred for resettlement** by UNHCR.

UNHCR Offices may develop and implement merged Resettlement-RSD procedures for particular caseloads and/or profiles requires. Introduction of such procedures requires consultation with the designated RSD and resettlement focal point(s) in the Bureau(s), and relevant entities in DIP (RSD and/or PNSS) and the Resettlement and Complementary Pathways Service. (for further guidance on conditions for implementation of Merged Registration-RSD procedures see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

b. Appropriate Cases for Merged RSD-Resettlement Processing

Merged RSD-Resettlement processing is primarily aimed at resettlement and can significantly increase the rate of individual case processing by reducing the number of personal interviews conducted with an Applicant. However, it also reduces the ability of UNHCR to identify and examine credibility or exclusion concerns, as well as other issues that may affect the integrity of the process, such as fraud. As such, merged RSD-Resettlement should not be used in the absence of a **high presumption of inclusion** or the **availability of resettlement places dedicated to that particular caseload**. It should also be **nationality or caseload specific**.

The implementation of Merged RSD-Resettlement processing is premised on the following conditions being met.

STANDARDS & GUIDELINES

CONDITIONS FOR IMPLEMENTATION OF MERGED RSD-RESETTLEMENT PROCESSING:

- The existence of a large caseload of individuals in need of international protection whose claims benefit from a high presumption of inclusion;
- The existence of resettlement quota agreed with Resettlement States specifically for that caseload;
- The Resettlement States' endorsement of the decision to submit cases for resettlement on the basis of RRFs prepared through Merged RSD-Resettlement procedures;
- A shortfall in regular individualized case processing capacity to meet current and future resettlement targets; and
- The existence of identification and/or screening mechanisms to identify within the larger caseload the cases which are (i) most in need of and meeting all criteria for resettlement, and (ii) suitable for processing in Merged RSD-Resettlement processing.

Even when the conditions for introducing Merged RSD-Resettlement procedures are met and when the use of such procedures has been approved for a specific nationality/caseload, **Merged RSD-Resettlement procedures should not be used for determining complex claims for international protection, sensitive cases, or claims raising credibility issues or exclusion concerns**.

Exceptionally, for reasons relating to UNHCR's lack of geographical proximity to persons of concern or other reasons severely limiting UNHCR's access to individuals for whom resettlement is deemed the most appropriate durable solution, Merged RSD-Resettlement can be used for smaller caseloads or individual cases. The latter may include, for example, Applicants in detention to whom UNHCR has limited access and who are at risk of *refoulement*.[35]

c. Procedures for Merged RSD-Resettlement Processing

Procedures for Merged RSD-Resettlement processing must include **effective referral mechanisms to regular RSD procedures**, as appropriate, for cases identified for processing through merged procedures but subsequently found not to be suitable for such processing for reasons identified below.[36] They should also incorporate **appropriate procedural safeguards**, including procedures for review and endorsement of recommendations to refer for resettlement and **effective mechanisms for supervision and oversight of procedures**. Procedures for merged RSD-Resettlement processing must be reviewed on a regular basis to determine whether they are still appropriate given the nature of the caseload and operational context. UNHCR Offices should establish standard operating procedures specifically designed and adjusted for the operational context.

Applicants whose claims are processed through merged RSD-Resettlement procedures should be **provided information regarding the process and procedures**, at the earliest opportunity in the process, preferably at the identification or screening for resettlement stage. Their rights and obligations, as well as

[35] Similarly, merged registration-RSD-resettlement processing may be appropriate in such circumstances (see also § 4.6 – *Procedures for Applicants in Detention*).

[36] Cases giving rise to credibility and/or exclusion concerns may also be deprioritized in accordance with pre-defined criteria. See Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate.*

possible outcomes of the process, should also be explained to them at the beginning of the merged RSD-Resettlement Interview. Applicants should have access to **adequate interpretation**, where needed, and their preference regarding the sex of the interpreter should be accommodated to the extent possible.

As a general rule, the same principles apply to merged RSD-Resettlement procedures as the regular RSD interview. The interviewing strategy adopted in these procedures should allow the applicants to present sufficiently detailed information on their profiles, activities and experiences in their free account, and should enable UNHCR to identify credibility, exclusion or security concerns (see § 4.3 – *The RSD Interview and Assessment*).

To ensure the integrity and fairness of the process and in order to facilitate the review of decisions taken through merged RSD-Resettlement processing, merged RSD-Resettlement Interviews should be recorded in full. This can be done through a variety of means, including maintaining a verbatim transcript, audio recording of the entire interview or both.

Given that a referral for resettlement under merged RSD-Resettlement processing entails a formal recognition of refugee status, the **staff conducting merged RSD-Resettlement procedures, including reviewing staff, should have appropriate RSD and resettlement training and experience** (see § 4.2 – *Qualifications, Training and Supervision of Eligibility Officers*).

Applicants whose claims are processed through merged RSD-Resettlement procedures do not have a right to be legally represented since the process does not result in a rejection of applications for refugee status. Wherever possible and in the interest of the integrity and fairness of procedures, UNHCR Offices may accommodate the participation of appointed legal representatives in the merged RSD-Resettlement process, in accordance with its established procedures. Applicants whose claims are referred to regular RSD procedures have the right to be legally represented in accordance with the principles set out in § 2.7 – *Legal Representation in UNHCR RSD Procedures*.

Applications for refugee status should not be rejected through merged RSD-Resettlement procedures. Cases in merged RSD-Resettlement procedures that are **found not to be suitable for merged processing for reasons relating to credibility or exclusion concerns, complexity, unresolved family unity issues, or other reasons** should be **referred to regular RSD** for a full examination of the claim in accordance with the RSD Procedural Standards.[37] Exceptionally, where referral to RSD procedures is not possible and UNHCR must reach a decision on a refugee status claim through merged RSD-resettlement or merged registration-RSD-resettlement procedures, as it may be the case for Applicants in detention, a negative RSD decision may be appealed in accordance with the principles set out in § 7 – *Appeal of Negative RSD Decisions*.

[37] In specific contexts, a case may be deprioritized from processing in merged RSD-Resettlement procedures based on set criteria. Deprioritization means that a case will not be processed until such time as the protection situation changes or the deprioritization criteria change. Deprioritization does not as such affect other protection interventions nor does it pre-empt the outcome of any decision-making process (for further guidance, see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

Annexes

Annex 1: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to RSD adjudication in UNHCR RSD procedures. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

Guidelines on International Protection:

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 1: Gender Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, available at: https://www.refworld.org/docid/3d36f1c64.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 2: "Membership of a particular social group" within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, available at: https://www.refworld.org/docid/3d36f23f4.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the "Ceased Circumstances" Clauses)*, available at: https://www.refworld.org/docid/3e50de6b4.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 4: "Internal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, available at: https://www.refworld.org/docid/3f2791a44.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, available at: https://www.refworld.org/docid/3f5857684.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 6: Religion Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, available at: https://www.refworld.org/docid/4090f9794.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 7: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, available at: https://www.refworld.org/docid/443679fa4.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, available at: https://www.refworld.org/docid/4b2f4f6d2.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, available at: https://www.refworld.org/docid/50348afc2.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 10: Claims to Refugee Status related to Military Service within the context of Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, available at: https://www.refworld.org/docid/529ee33b4.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 11: Prima Facie Recognition of Refugee Status*, available at: https://www.refworld.org/docid/555c335a4.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions*, available at: https://www.refworld.org/docid/583595ff4.html

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION No. 13: Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees*, available at https://www.refworld.org/docid/5a1836804.html

Other material:

UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, April 2019, HCR/1P/4/ENG/REV. 4, available at: https://www.refworld.org/docid/5cb474b27.html

UNHCR, *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, available at: https://www.refworld.org/docid/3f5857d24.html

UNHCR *Guidelines on the Application in Mass Influx Situations of the Exclusion Clauses of Art. 1F of the 1951 Convention relating to the Status of Refugees*, available at: https://www.refworld.org/docid/43f48c0b4.html

International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law (external)*, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/home

International Criminal Court (ICC), *Elements of Crimes*, 2011, ISBN No. 92-9227-232-2, available at: https://www.refworld.org/docid/4ff5dd7d2.html *(external)*, available at: https://www.refworld.org/docid/4ff5dd7d2.html

UNHCR, *Note on the Interpretation of Article 1E of the 1951 Convention relating to the Status of refugees (external)*, available at: https://www.refworld.org/docid/49c3a3d12.html

UNHCR, *Guidance Note on Extradition and International Refugee Protection (external)*, available at: https://www.refworld.org/docid/481ec7d92.html

UNHCR, *Note on Diplomatic Assurances and International Refugee Protection (external)*, available at: https://www.refworld.org/docid/44dc81164.html

UNHCR, *Note on Burden and Standard of Proof in Refugee Claims*, 16 December 1998, available at: https://www.refworld.org/docid/3ae6b3338.html

UNHCR, *Beyond Proof, Credibility Assessment in EU Asylum Systems: Full Report*, May 2013, available at: https://www.refworld.org/docid/519b1fb54.html

UNHCR, *The Heart of the Matter – Assessing Credibility when Children Apply for Asylum in the European Union*, December 2014, available at: https://www.refworld.org/docid/55014f434.html

UN Office of the High Commissioner for Human Rights (OHCHR), *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")*, 2004, HR/P/PT/8/Rev.1, available at: https://www.refworld.org/docid/4638aca62.html

UN High Commissioner for Refugees (UNHCR), *Key Procedural Considerations on the Remote Participation of Asylum-Seekers in the Refugee Status Determination Interview*, 15 May 2020, available at: https://www.refworld.org/docid/5ebe73794.html

Annex 2: UNHCR RSD-focussed Learning Programmes

Current training opportunities with an RSD focus or significant RSD component include:

TRAINING

RSD INDUCTION PROGRAMME

The Refugee Status Determination (RSD) Induction Programme is aimed at providing a harmonised and efficient induction process for new Eligibility Officers and other RSD decision-makers. It is designed to provide staff who are new to RSD with an understanding of the contextual, procedural and legal framework for RSD, as well as an introduction and exposure to the skills required for conducting RSD. The programme is an essential functional training programme for UNHCR personnel who are responsible for conducting RSD. The eLearning component of the programme is accessible to any UNHCR staff member, as well as external learners, and can be completed independently.

TRAINING

RSD LEARNING PROGRAMME

The RSD Learning Programme is one of several initiatives to ensure that UNHCR staff responsible for examining and deciding refugee claims have the necessary knowledge, skills and resources to do so, and to support supervisors in fulfilling their responsibility for the training of staff who carry out RSD. The RSD Learning Programme has been developed as a mandatory functional training for UNHCR staff who are responsible for carrying out or supervising RSD. It is also appropriate and recommended for staff whose responsibilities require them to play an active role in building capacity in new or developing national asylum systems. Resettlement (RST) staff who are required to elaborate individual eligibility analysis or to process particularly complex cases may also benefit from the RSD Learning Programme.

TRAINING

INTERVIEWING LEARNING PROGRAMME (ILP)

The ILP is designed for UNHCR staff involved in individual case processing in order to deepen their knowledge in the area of interviewing by applying an interviewing methodology based on the PEACE interview model and adapted to UNHCR's context. The programme provides support, guidance, tools and techniques related to interviewing to improve the quality and efficiency of information-gathering in UNHCR interviews, and thereby contributes to enhancing the quality and correctness of decisions.

TRAINING

COUNTRY OF ORIGIN INFORMATION (COI) ELEARNING

This course focuses on the role of COI in refugee status determination and the application of quality standards for COI in RSD procedures. Learners will be guided through a case study that will illustrate and discuss the challenges faced when researching and using COI in RSD procedures. The COI eLearning is an integral part of the RSD Induction Programme, but also accessible independently, including by external learners.

TRAINING

WORKING WITH LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PERSONS IN FORCED DISPLACEMENT

Developed by UNHCR and IOM, the training focuses on the protection of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons of concern for staff members as well as the broader humanitarian community. The training contains learning modules on terminology, international law, operational protection, resettlement and refugee status determination (RSD), all with a focus on practical guidance for UNHCR offices and, possibly, partner organizations.

Information on all training programmes listed above is available through UNHCR Learn & Connect. For up-to-date RSD and other protection learning opportunities, please consult the UNHCR Global Learning Centre.

Annex 3: RSD Interview Preparation Checklist

KEY CONSIDERATIONS

APPLICANT'S CAPACITY/FITNESS FOR INTERVIEW:

- Identify factors that may affect the Applicant's capacity to understand the procedures and/or participate in the RSD Interview (e.g. mental or physical health issues, age, experiences of trauma, etc.) and consider appropriate approaches to facilitate their understanding of and participation in the RSD procedures and process;
- Identify any other factors relating to the Applicant's individual and contextual circumstances that may affect the Applicant's ability to recall and recount, and consider appropriate lines of questioning and interviewing techniques;
- Identify any specific needs the Applicant may have (e.g. physical disabilities, hearing or speech impairments, young age, etc.) and make the necessary arrangements to accommodate them.

KEY CONSIDERATIONS

APPLICANT'S CLAIM:

- Identify information relating to the Applicant's identity;
- Identify information relating to aspects of the Applicant's claim that are likely to be relevant for the determination of refugee status, including travel routes, family composition, as well as any elements that may trigger exclusion considerations;
- Draw up a tentative chronology of relevant events and a family tree, where relevant;
- Review all information already submitted by the Applicant (e.g. identity/travel documents, marriage certificate, arrest warrants, military or medical records, etc.) or otherwise available, including information from family members or information gathered in the course of previous asylum application(s), if any;
- Obtain files from other UNHCR Offices, where relevant;
- **Credibility:** Based on the information available,
  - Consider whether the Applicant's statements and documentary evidence are internally consistent;
  - Consider whether the Applicant's statements are consistent with statements of family members/ witnesses or COI;
  - If inconsistencies arise, consider possible scenarios, including distortion factors that might explain discrepancies or inconsistencies, and plan how to address them during the Interview.

In order to facilitate the examination of the Applicant's claim and help establish an interview plan, consider how the available information may be relevant to the criteria of the refugee definition and what other areas of the Applicant's account may need to be further explored during the interview. In doing so, you may want to refer to the questions below:

- **Outside the country of nationality or habitual residence**
  - Is the Applicant outside his/her country of nationality or habitual residence?
- **Well-founded fear of persecution**
  - What and who does the Applicant fear?

- According to COI, does the Applicant face other risks if he/she were to return to the country of nationality or habitual residence?

▶ **State willingness and ability to protect:**

- If the Applicant claims past persecution did he/she seek and obtain State protection, and if not, why not?
- Does COI indicate that State authorities are not willing or able to protect the Applicant or similarly situated individuals?

▶ **Reasons for persecution:**

- Are the reasons for persecution or refusal to protect for reasons of the Applicant's race, nationality, religion, membership in a particular social group and/or political opinion?

▶ **UNHCR's broader refugee criteria:**

- Is there a situation of generalised violence or events seriously disturbing public order in the Applicant's country of nationality or habitual residence?

▶ **Internal flight or relocation alternative:**

- If persecution is feared at the hands of the State authorities, do the State authorities have *de facto* control over the entire territory of the Applicant's country of nationality or habitual residence?
- If persecution is feared at the hands of non-State agents, is there an area of prospective relocation that is practically, legally and safely accessible?
- Could the Applicant live a relatively normal life without undue hardship in the area of prospective relocation?

▶ **Exclusion under Article 1F:**

- Is there any information which raises the possibility that the Applicant may have been involved in activities that may bring him/her within the scope of the exclusion clauses in Article 1F?
- If so, are there aspects related to the Applicant's profile, his or her circumstances and/or the context of any potentially excludable acts that require examination with a view to enabling UNHCR to fully assess all relevant factual and legal questions?

▶ **Inclusion and exclusion under Article 1D:**[38]

- Is the Applicant a "Palestine refugee", "displaced person", or a "descendant" within the meaning of Article 1D?
- Is/was the Applicant receiving, or eligible to receive, UNRWA's protection or assistance?
- Has UNRWA's protection or assistance ceased and, if so, why? What are the reasons why the Applicant has left his or her place of residence, and what keeps him or her from returning there?

[38] Since the assessment of the Applicant's circumstances may result in a finding that he/she does not fall within the scope of Article 1D, and that his/her claim for refugee status will, therefore, need to be examined in light of the refugee criteria in Article 1A(2), it is advisable to cover all aspects of the Applicant's life which are material to the possible existence of a well-founded fear of persecution linked to a 1951 Convention ground.

▶ **Exclusion under Article 1E:**[39]

- Does the Applicant qualify for a status in the host country/country of asylum which carries rights akin to those of citizenship?
- Does the Applicant has a regular or permanent status in the country of former residence and enjoys rights akin to those of citizenship?
- Are these rights currently effective and available? Do these rights provide protection against *refoulement* as well as the right to return, reenter, and remain in the country of current or former residence?

[39] During the RSD Interview, it will be necessary to examine any aspects of the Applicant's claim which are relevant to the existence of a well-founded fear of persecution related to a 1951 Convention, as the question of exclusion under Article 1E would arise only if the person meets the inclusion criteria in Article 1A(2) of the 1951 Convention.

Annex 4: RSD Assessment Form

RSD ASSESSMENT FORM

UNHCR office:	RSD Case NO.:
Interviewer(s):	Date of Interview(s):
Eligibility Officer:	
Interpreter(s):	Language of Interview:

Applicant's Basic Bio-Data

Full Name:	
Nationality:	If stateless, country (countries) of former habitual residence:
Date of Birth:	Ethnicity:
Sex:	Religion:

PART 1 – SUMMARY OF THE CLAIM

I-1 Please summarize briefly the reasons provided by the Applicant for leaving the country of nationality or former habitual residence and for being unwilling or unable to return there.

PART II – MATERIAL FACTS

II-1 Please identify the material elements relevant to the Applicant's claim and, for each of them, set out the Credibility Assessment with regard to the Applicant's statements as well as your determination as to the established material facts.

Please present your analysis using the following structure:

> ***(i) Material Element (1):*** *Applicant's identity, nationality, ethnicity*
> *A. Credibility Findings*
> *B. Established Facts*
>
> ***(ii) Material Element (2):*** *[next relevant material element]*
> *A. Credibility Findings*
> *B. Established Facts*
> *[…]*
>
> ***Conclusions on the Material Facts***
> *In this final section, please spell out the conclusions you have reached in establishing the material facts of the case.*

Once the material facts of the Applicant's claim have been established, please proceed to Part III.

If, as a result of your analysis, you assess that the material facts necessary to determine eligibility cannot be established, please explain and proceed to Part VI.

PART III – INCLUSION ASSESSMENT – 1951 CONVENTION / 1967 PROTOCOL

Well-Founded Fear

III-1 Considering the established material facts, relevant COI, and the experience of similarly situated individuals in the country of nationality or, if stateless, former habitual residence is there a reasonable possibility that the Applicant would experience harm if returned to that country?

Yes: ☐ No: ☐

*If **YES**, please explain and specify the kind(s) of harm identified.*

*If **NO**, please explain and proceed to Question III-5.*

Persecution

III-2 Does the harm, which has been determined to be reasonably possible in the event of the Applicant's return to the country of nationality or, if stateless, former habitual residence, constitute persecution?

Yes: ☐ No: ☐

*If **YES**, please explain why the harm(s) identified amount to persecution.*

*If **NO**, please explain and proceed to Question III-5.*

Reasons for Persecution

III-3 Is the persecution identified in III-2 for reasons of one or more of the grounds in the 1951 Convention/1967 Protocol?

Yes: ☐ No: ☐

*If **YES**, please select the relevant ground(s), specifying whether real or imputed. Please provide an explanation why the persecution is for reasons of **(each of) the ground(s)** selected.*

*If **NO**, please explain and proceed to Question III-5.*

☐ Race
☐ Religion
☐ Nationality
☐ Membership of a particular social group
☐ Political opinion

Availability of Internal Flight or Relocation Alternative

III-4 Can the Applicant (determined to have a well-founded fear of persecution for reasons of one or more of the Convention grounds in the country of nationality or, if stateless, former habitual residence) return and/or relocate to any part of that country where he or she could reasonably live without fear of persecution or undue hardship?

Yes: ☐ No: ☐

Please explain with reference to relevant COI and proceed to Question III-5.

Conclusion on Inclusion under 1951 Convention / 1967 Protocol

III-5 Does the Applicant fall within the inclusion criteria in Article 1(A)2 of the *1951 Convention/1967 Protocol*?

Yes: ☐ No: ☐

*If **YES**, please proceed to Part V.*

*If **NO**, please proceed to Part IV.*

PART IV – INCLUSION ASSESSMENT – UNHCR'S BROADER REFUGEE CRITERIA

To be completed only if the Applicant does not fall within the criteria for inclusion under the 1951 Convention/1967 Protocol in Part III

IV-1 If the Applicant does not fall within the inclusion criteria in the 1951 Convention/1967 Protocol, is he/she outside his/her country of nationality or, if stateless, former habitual residence, and unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or other events seriously disturbing public order?

Yes: ☐ No: ☐

*If **YES**, please explain and proceed to Part V.*

*If **NO**, please explain and then proceed to Part VI.*

PART V – APPLICATION OF THE EXCLUSION CLAUSES

V-1 Is there any information in the Applicant's case which requires consideration of the possibility of exclusion based on Article 1F (a), (b) or (c) of the 1951 Convention?

Yes: ☐ No: ☐

*If **NO** (i.e., if there is nothing in the Applicant's case to indicate that exclusion may be an issue), please confirm and proceed to Part VI.*

*If **YES** (i.e. there are indications that exclusion may arise in the Applicant's case), please explain and continue the analysis under Question V-2.*

V-2 Is there information indicating that the Applicant was/is associated with acts which may fall within the scope of the exclusion clauses in Article 1F(a), (b) or (c) of the 1951 Convention?

Yes: ☐ No: ☐

Please provide a factual outline for each situation/scenario/event involving acts which may fall within the scope of Article 1F, clearly identifying, for each trigger situation/scenario/event, the act (or acts) which may fall within the scope of Article 1F. Assess whether the available information reliably establishes a link between the Applicant and these acts.

*If **YES**, please proceed to Question V-3.*

*If **NO**, please proceed to Question V-7.*

Legal Qualification of the Acts Identified

V-3 Do the acts identified under Question V-2 fall within the scope of Article 1F (a), 1F(b) or 1F(c)?

Yes: ☐ No: ☐

For each act identified under Question V-2, please set out your analysis in light of the legal criteria as per the relevant sub-clause of Article 1F.

*If **YES**, please proceed to Question V-4.*

*If **NO**, please proceed to Question V-7.*

Individual Responsibility

V-4 Has the Applicant incurred individual responsibility for the acts in question?

Yes: ☐ No: ☐

Please identify, in relation to each of the acts identified as falling within the scope of Article 1F, the relevant mode of individual responsibility and set out your analysis in light

of the applicable requirements with regard to the Applicant's conduct (actus reus) and state of mind (mens rea).

*If **YES**, please proceed to Question V-5.*

*If **NO**, please proceed to Question V-7.*

V-5 Are there circumstances negating individual responsibility of the Applicant?

Yes: ☐ No: ☐

Please examine whether the circumstances give rise to a defence, or whether there are reasons why the Applicant should no longer be considered excludable.

*If **YES**, please proceed to Question V-7.*

*If **NO**, please proceed to Question V-6.*

Proportionality

V-6 Does the seriousness of the Applicant's criminal conduct outweigh the consequences for the Applicant if excluded from refugee protection?

Yes: ☐ No: ☐

Please explain.

Conclusion on the Exclusion Assessment

V-7 Does the Applicant fall within the scope of Article 1F of the 1951 Convention?

Yes: ☐ No: ☐

If YES, Please check the relevant ground:

☐ 1F (a) Crime against peace, a war crime, or a crime against humanity

☐ 1F (b) Serious non-political crime committed outside the country of refuge prior to entering that country

☐ 1F (c) Acts contrary to the purposes and principles of the United Nations

PART VI – RECOMMENDATION

In light of the foregoing assessment, it is recommended that:

Select the applicable paragraph and delete all others.

☐ The Applicant meets the criteria set out in Art. 1 A of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and should be recognized as a refugee.

☐ The Applicant is outside of his/her country of nationality or, if stateless, former habitual residence and is unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or other events seriously disturbing public order. The Applicant should be recognized as a refugee pursuant to UNHCR's broader refugee criteria.

☐ The Applicant does not meet the criteria for international refugee protection under UNHCR's mandate, and the claim should be rejected.

☐ The Applicant is excluded from international refugee protection pursuant to Art. 1 F of the 1951 Convention and the claim should be rejected.

Name and Signature of Eligibility Officer:	Name and co-signature of Reviewing Officer(s):
Date:	Date:

Annex 5: Applicability of Article 1D of the 1951 Convention Assessment Form

APPLICABILITY OF ARTICLE 1D OF THE 1951 CONVENTION ASSESSMENT FORM

UNHCR office:	RSD Case NO.:
Interviewer(s):	Date of Interview(s):
Eligibility Officer:	
Interpreter(s):	Language of Interview(s):

Applicant's Basic Bio-Data

Full Name:	
Country (countries) of Nationality:	Country (countries) of former habitual residence:
Date of Birth:	Place of Birth:
Ethnicity:	Religion:
Sex:	

PART 1 – SUMMARY OF THE CLAIM

I-1 Please summarize briefly the information regarding the place of birth and history of displacement of the Applicant and his/her parents and grandparents, as well as the reasons provided by the Applicant for leaving the country of nationality or former habitual residence and for being unwilling or unable to return there. Please also summarize the information provided by the Applicant relating to his/her connection to an UNRWA area of operations, as well as any form of protection and assistance received by him/her or his/her family members from UNRWA, including any issued documentation.

PART II – MATERIAL FACTS

II-1 Please identify the material elements relevant to the Applicant's claim and, for each of them, set out the Credibility Assessment with regard to the Applicant's statements as well as your determination as to the established material facts.

Please present your analysis using the following structure:

> ***(i) Material Element (1):*** *Applicant's identity, nationality, ethnicity*
> *A. Credibility Findings*
> *B. Established Facts*
>
> ***(ii) Material Element (2):*** *[next relevant material element]*
> *A. Credibility Findings*
> *B. Established Facts*
> *[…]*
>
> ***Conclusions on the Material Facts***
> *In this final section, please spell out the conclusions you have reached in establishing the material facts of the case.*

Once the material facts of the Applicant's claim have been established, please proceed to Part III.

If, as a result of your analysis, you assess that the material facts necessary to determine eligibility cannot be established, please explain and proceed to Part VI.

If, at this stage, your conclusion is that the Applicant has not credibly established that he or she is Palestinian, then the case should be assessed using the regular RSD Assessment Form. For this purpose, please copy Part I and II into the regular RSD Assessment Form.

PART III – APPLICABILITY OF ARTICLE 1D OF THE 1951 CONVENTION

Is the Applicant a Palestinian within the personal scope of Article 1D?

III-1 Was the Applicant, as a result of the 1948 Arab-Israeli conflict, displaced from that part of Mandate Palestine which became Israel and has been unable to return there?

Yes: ☐ No: ☐

*If **YES**, please explain and proceed to Question III-4.*

*If **NO**, please explain and proceed to Question III-2.*

III-2 Was the Applicant, as a result of the June 1967 and subsequent hostilities, displaced from the Palestinian territory occupied by Israel since 1967 and has been unable to return there?

Yes: ☐ No: ☐

*If **YES**, please explain and proceed to Question III-4.*

*If **NO**, please explain and proceed to Question III-3.*

III-3 Is the Applicant a descendant of persons described in Questions III-1 and III-2 above?

Yes: ☐ No: ☐

*If **YES**, please explain with reference to the answers to Questions III-1 and III-2 above and proceed to Question III-4.*

*If **NO**, please explain and proceed to Question III-4.*

III-4 Based on the answers above, does the Applicant fall within the personal scope of Article 1D?

Yes: ☐ No: ☐

*If **YES**, please proceed to Question III-5 below.*

*If **NO**, please proceed to Part VI.*

Has UNRWA's protection or assistance ceased for any reason?

III-5 Are there any objective reasons outside the control of the Applicant that prevent him or her from (re-)availing him/herself of the protection or assistance of UNRWA in the UNRWA's area of operation where the Applicant used to receive (or is eligible to receive) UNRWA protection or assistance? These include threats to life, physical security or freedom or other serious protection-related issues and/or practical, legal or safety barriers to return.

Yes: ☐ No: ☐

*If **YES**, please explain and proceed to Question III-6.*

*If **NO**, please explain and proceed to Question III-6.*

III-6 In light of the above, does the Applicant fall within the scope of the second paragraph of Article 1D ("inclusion clause")?

Yes: ☐ No: ☐

There is no need to provide further explanation under this question.

*If **YES**, please proceed to Question IV-1.*

*If **NO**, please proceed to Part VI.*

PART IV – APPLICATION OF THE EXCLUSION CLAUSE IN ARTICLE 1E

IV-1 Has the Applicant been recognized by the competent authorities of the country in which he/she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country?

Yes: ☐ No: ☐

*If **YES**, please explain and proceed to Part V.*

*If **NO**, please explain and proceed to Part VI.*

PART V – APPLICATION OF THE EXCLUSION CLAUSES IN ARTICLE 1F

V-1 Is there any information in the Applicant's case which requires consideration of the possibility of exclusion based on Article 1F (a), (b) or (c) of the 1951 Convention?

Yes: ☐ No: ☐

*If **NO** (i.e., if there is nothing in the Applicant's case to indicate that exclusion may be an issue), please confirm and proceed to Part VI.*

*If **YES** (i.e. there are indications that exclusion may arise in the Applicant's case), please explain and continue the analysis under Question V-2.*

V-2 Is there information indicating that the Applicant was/is associated with acts which may fall within the scope of the exclusion clauses in Article 1F(a), (b) or (c) of the 1951 Convention?

Yes: ☐ No: ☐

Please provide a factual outline for each situation/scenario/event involving acts which may fall within the scope of Article 1F, clearly identifying, for each trigger situation/scenario/event, the act (or acts) which may fall within the scope of Article 1F.

Assess whether the available information reliably establishes a link between the Applicant with these acts.

*If **YES**, please proceed to Question V-3.*

*If **NO**, please proceed to Question V-7.*

Legal Qualification of the Acts Identified

V-3 Do the acts identified under Question V-2 fall within the scope of Article 1F (a), 1F(b) or 1F(c)?

Yes: ☐ No: ☐

For each act identified under Question V-2, please set out your analysis in light of the legal criteria as per the relevant sub-clause of Article 1F.

*If **YES**, please proceed to Question V-4.*

*If **NO**, please proceed to Question V-7.*

Individual Responsibility

V-4 Has the Applicant incurred individual responsibility for the acts in question?

Yes: ☐ No: ☐

Please identify, in relation to each of the acts identified as falling within the scope of Article 1F, the relevant mode of individual responsibility and set out your analysis in light of the applicable requirements with regard to the Applicant's conduct (actus reus) and state of mind (mens rea).

*If **YES**, please proceed to Question V-5.*

*If **NO**, please proceed to Question V-7.*

V-5 Are there circumstances negating individual responsibility of the Applicant?

Yes: ☐ No: ☐

Please examine whether the circumstances give rise to a defence, or whether there are reasons why the Applicant should no longer be considered excludable.

*If **YES**, please proceed to Question V-7.*

*If **NO**, please proceed to Question V-6.*

Proportionality

V-6 Does the seriousness of the Applicant's criminal conduct outweigh the consequences for the Applicant if excluded from refugee protection?

Yes: ☐ No: ☐

Please explain.

Conclusion on the Exclusion Assessment

V-7 Does the Applicant fall within the scope of Article 1F of the 1951 Convention?

Yes: ☐ No: ☐

*If **YES**, Please check the relevant ground:*

☐ 1F (a) Crime against peace, a war crime, or a crime against humanity

☐ 1F (b) Serious non-political crime committed outside the country of refuge prior to entering that country

☐ 1F (c) Acts contrary to the purposes and principles of the United Nations

PART VI – RECOMMENDATION

In light of the foregoing assessment, it is recommended that:

Select the applicable paragraph and delete all others.

☐ the Applicant falls within the personal scope of Article 1D of the 1951 Convention. However, since the protection or assistance afforded by UNRWA (or that he/she was eligible to receive) is not considered to have ceased within the meaning of paragraph 2 of Article 1D, he/she is not entitled to the benefits of the 1951 Convention.

☐ the Applicant falls within the personal scope of Article 1D of the 1951 Convention. Since UNRWA's protection or assistance has ceased, the Applicant is *ipso facto* entitled to the benefits of the 1951 Convention.

☐ the Applicant is not a "Palestine Refugee", a "displaced person", or a "descendant" of either of these two categories. As such, he/she does not fall within the personal scope of Article 1D of the 1951 Convention. The Applicant's claim should be examined under the eligibility criteria in Article 1A(2) of the 1951 Convention using the regular RSD Assessment Form.

☐ the Applicant does not meet the criteria for international refugee protection under UNHCR's mandate, and the claim should be rejected.

☐ the Applicant is excluded from international refugee protection pursuant to Art 1E of the 1951 Convention and the claim should be rejected.

☐ the Applicant is excluded from international refugee protection pursuant to Art. 1 F of the 1951 Convention and the claim should be rejected.

Name and Signature of Eligibility Officer:	Name and co-signature of Reviewing Officer(s):
Date:	Date:

Annex 6: Aide memoire & Glossary of Case Processing Modalities

Aide memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD under UNHCR's Mandate), available at: https://www.refworld.org/docid/5a2657e44.html

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Unit 5

PROCESSING CLAIMS BASED ON THE RIGHT TO FAMILY UNITY

5.1 The Right to Family Unity

Refugees have a right to family unity. Maintaining and facilitating family unity helps ensure the physical care, protection, emotional well-being and economic support of individual refugees. This may be achieved through various means. Granting derivative refugee status to the family members/dependants of a recognized refugee is one way of doing so in certain cases where the family members/dependants do not qualify for refugee status in their own right.

5.2 Derivative Refugee Status

5.2.1 General Principles

As a general rule, **family members/dependants of a recognized refugee who meet the eligibility criteria for refugee status under UNHCR's mandate should be recognized as refugees in their own right**, even if they have applied for refugee status as part of a family rather than on an individual basis. In this regard, it is important to note that **accompanying family members/dependants will often have the same international protection needs** as the recognized refugee due to similarities in profile, personal circumstances and the conditions in the country of origin. Furthermore, family members/dependants, regardless of age, may also have a well-founded fear of persecution in their own right as a result of their family link or association with the recognized refugee. For further guidance on assessing the individual refugee claims of children, see § 2.8 – *Children in UNHCR RSD Procedures* and § 3.4.6 – *Child Applicants (under 18) / Unaccompanied and Separated Children*.

Recognition of refugee status in their own right affords family members/dependants better protection as their status will not automatically be affected by a subsequent cancellation, revocation or cessation of the refugee status of the individual from whom they derive refugee status (hereinafter "Refugee Status Applicant").[1] Such recognition may also facilitate the identification and implementation of a durable solution, including resettlement.

Family members and dependants of a recognized refugee, who are not eligible for refugee status under UNHCR's mandate in their own right, may be granted derivative refugee status if they meet the relevant criteria.

Family members/dependants seeking reunification with a resettled refugee may also be considered for derivative status to ensure their right to family unity, particularly where the granting of derivative refugee status would facilitate family reunification in the country of resettlement and provided that the Refugee Status Applicant's status has not ceased (for example as a result of acquiring the nationality of

[1] The term "Refugee Status Applicant" is used *in lieu* of "Principal Applicant" and should be understood as the individual Applicant on whose claim the outcome of an application for derivative refugee status by a family member or dependant is contingent. This change in terminology is intended to reinforce the point that several or all members of a family or of a household may meet the eligibility criteria for refugee status under UNHCR's mandate and, as such, should be recognized in their own right rather than be granted derivative refugee status. References to "Principal Applicant" in other parts of the RSD Procedural Standards will be progressively replaced with "Refugee Status Applicant". Until such time the terms are interchangeable.

the country of resettlement). For further guidance on derivative status in the context of resettlement, please refer to the UNHCR Resettlement Handbook.

RSD procedures in every UNHCR Office must ensure that the family members/dependants of Refugee Status Applicants are **fully informed** about the refugee criteria under UNHCR's mandate, in particular that they may, independently (of other family members), be eligible for refugee status in their own right. Family members/dependants who, on the basis of the information provided at registration and following counselling, do not appear to have a claim in their own right or who have been found not to be eligible for refugee status in their own right, must also be advised of the criteria and procedures for obtaining derivative refugee status (see § 3.2.6 – *Registration Interview of Family Members and Dependants*).

If, at any point before or during the determination of derivative refugee status, it becomes apparent that the family member/dependant may have international protection needs in his or her own right, a full consideration of the merits of the claim must be undertaken so that the claim can be assessed on its own merits.

Individuals who are granted derivative refugee status enjoy the **same rights and entitlements as other recognized refugees**, and should retain this status notwithstanding the subsequent dissolution of the family through separation, divorce or death, or the fact that a child reaches the age of majority (for further guidance see § 5.3.5 – *Termination of Derivative Refugee Status*).

5.2.2 Criteria for Granting Derivative Refugee Status

The criteria for granting derivative refugee status require that a **relationship of social, emotional or economic dependency** exists between the Refugee Status Applicant and the Applicant for derivative refugee status (hereinafter "Derivative Refugee Status Applicant"). Dependency does not require complete dependence, but can be mutual or partial dependence. The direction of the dependency is also irrelevant. This means that the Derivative Refugee Status Applicant may be dependent on the Refugee Status Applicant or *vice versa*.

A relationship of social, emotional or economic dependency is generally presumed for close members of the Refugee Status Applicant's family (see § 5.2.3 – *Persons Eligible for Derivative Refugee Status*), provided that the close family relationship is established. The presumption can be rebutted if there are serious indications that a relationship of dependency does not, in fact, exist (see § 5.3.1 – *The Family Unity Interview*). For other family members or dependants, such a relationship must be established (see § 5.2.3 – *Persons Eligible for Derivative Refugee Status*).

The existence of a close family or other dependency relationship is a question of fact (i.e. whether the close family relationship or other dependency relationship can, **on balance**, be established) and must be determined on a case-by-case basis, in light of the applicable credibility indicators and taking into account social, emotional or economic factors. The determination requires a detailed examination of all available evidence, including documentary evidence and other relevant information regarding the personal circumstances of the Derivative Refugee Status Applicant and those of the Refugee Status Applicant, including information provided during the Family Unity Interview(s), as well as relevant and reliable information available to UNHCR or gathered at various stages of the RSD process (see § 5.3.1 – *The Family Unity Interview*).

UNHCR Offices must adopt a **flexible approach** when applying the criteria for granting derivative refugee status, and should take into account social and cultural norms or other specific circumstances

that may have affected the composition of the Refugee Status Applicant's family unit or that may have created or contributed to the dependency relationship between the Refugee Status Applicant and the Derivative Refugee Status Applicant.

Determination of eligibility for derivative refugee status by UNHCR Offices should not be based upon the criteria used by resettlement countries.

5.2.3 Persons Eligible for Derivative Refugee Status

The **categories of persons** who should generally be considered to be **eligible for derivative refugee status** under the right to family unity are listed below.

STANDARDS & GUIDELINES

CLOSE FAMILY MEMBERS[2] (FOR WHOM A RELATIONSHIP OF SOCIAL, EMOTIONAL OR ECONOMIC DEPENDENCY IS PRESUMED)

- Spouse of the Refugee Status Applicant, including all legally married spouses in cases of polygamy, a person engaged to marry the Refugee Status Applicant, common law spouses or couples involved in an enduring relationship, whether physically living together or not, including same sex couples, and spouses who have entered into a customary marriage. In the case of an underage spouse, a best interest assessment (BIA) would generally be required to determine whether derivative refugee status is in his or her best interests;
- All unmarried children of the Refugee Status Applicant and all unmarried children of his or her spouse as defined above, who are under 18 years, including children of the Refugee Status Applicant born in the host country/country of asylum provided that derivative refugee status is not incompatible with their personal legal status (see § 5.2.4 – *Persons not Eligible for Derivative Refugee Status*);
- The parents or primary legal or customary caregivers of a Refugee Status Applicant who is under 18 years, as well as the dependants of the adult parent or caregiver;
- The minor siblings of a Refugee Status Applicant who is under 18 years.

For the purpose of assessing eligibility for derivative refugee status, the age of the Derivative Refugee Status Applicant should be considered as at the date when the Refugee Status Applicant was recognized as a refugee.

In this context, **children** include the biological or adopted children of the Refugee Status Applicant, as well as children otherwise under the legal or customary care of the Refugee Status Applicant. Unless otherwise specified, reference to children in this Unit should be understood as persons under the age of 18.

Estranged spouses who do not live together as a family unit will normally not be eligible for derivative refugee status in relation to each other, but may be eligible for refugee status in their own right or for derivative refugee status in relation to their children and/or other family members/dependants.

Other **family members** and **certain other individuals may also be eligible** for derivative refugee status under the right to family unity if it is established, on balance, that a **relationship of social, emotional or economic dependency** exists between them and the Refugee Status Applicant (see § 5.2.2 – *Criteria*

for Granting Derivative Refugee Status). Individuals who may fall within this category include, but are not limited to:

STANDARDS & GUIDELINES

PERSONS OTHER THAN CLOSE FAMILY MEMBERS WHO MAY BE ELIGIBLE FOR DERIVATIVE REFUGEE STATUS

- Parents or former caregivers of an adult Refugee Status Applicant, or of his or her spouse, where the parents/caregivers are dependent on the Refugee Status Applicant;
- Married children (under the age of 18) of the Refugee Status Applicant, or of his or her spouse, who remain dependent on the Refugee Status Applicant, and the spouse of married children where he/she is dependent on the Refugee Status Applicant. In the case of a married child (under the age of 18) or his or her underage spouse, a BIA will generally be required to determine whether or not the granting of derivative refugee status is in their respective best interest;
- Dependent children of the Refugee Status Applicant who are over 18 and their spouses where the couple is dependent on the Refugee Status Applicant. In the case of an underage spouse, a BIA will generally be required to determine whether or not the granting of derivative refugee status is in his or her best interest;
- Other dependent relatives, including brothers, sisters, aunts, cousins, who were part of the household of the Refugee Status Applicant in the country of origin, or whose situation has subsequently changed in such a way as to make them dependent upon the Refugee Status Applicant in the host country/country of asylum. Whether such individuals are part of the household of the Refugee Status Applicant in the host country/country of asylum is a relevant factor to consider in determining whether a relationship of dependency exists, but it is not determinative;
- Other relatives on whom the Refugee Status Applicant was dependent in the country of origin or on whom he/she has, subsequently, become dependent in the host country/country of asylum. Whether such individuals are part of the household of the Refugee Status Applicant in the host country/country of asylum is a relevant factor to consider in determining whether a relationship of dependency exists, but it is not determinative;
- Any other individuals who, though not related to the Refugee Status Applicant, have a dependency relationship that is similar to the categories of family members described above.

For the purpose of this Unit, the term "household" should be understood as persons living as a family unit under the same roof.

Family members/dependants who are **nationals of (or, if stateless, who have habitually resided in) a third country**[3] and who are not eligible for refugee status under UNHCR's mandate in their own right **may be granted derivative refugee status** under the right to family unity if they meet the eligibility criteria for derivative refugee status. Even if the family member/dependant does not have any protection needs vis-à-vis his or her country of nationality or habitual residence, it cannot be assumed that the Refugee Status Applicant and their family members and dependants will be able to enjoy their right to family unity in the country of nationality or habitual residence of the family member/dependant. In such cases, often there is no automatic right of entry or residence for the non-national family members. Sensitivities regarding mixed marriage and/

[3] A "third country" is a country other than the host country/country of asylum or the country of nationality or of habitual residence of the Derivative Refugee Status Applicant.

or the nationality of the non-national family members may also, depending on the circumstances of the case, make it unreasonable to expect the family to establish residence in the third country.

5.2.4 Persons not Eligible for Derivative Refugee Status

Family members or other dependants of a Refugee Status Applicant whose claim was **rejected** cannot be granted derivative refugee status. If the Refugee Status Applicant appeals the first instance RSD decision, the Derivative Refugee Status Applicants should be granted the same rights and protection as the Refugee Status Applicant until the Appeal Application has been decided. Family members/dependants of Refugee Status Applicants whose claims have been rejected may, however, apply for refugee status in their own right, including in instances where the fear of persecution is a result of the relationship with a Refugee Status Applicant excluded from refugee status.

Family members or other dependants of the Refugee Status Applicant who are **nationals of the host country/country of asylum** cannot be granted derivative refugee status even where a family/dependency relationship is determined to exist. Refugee status would, in such cases, be incompatible with the personal legal status of the family member or dependant. For instance, a national of the host country/country of asylum who marries a recognized refugee cannot be granted derivative refugee status as he/she is not outside his or her country of origin.

However, for the purposes of the determination of derivative refugee status, the **children of the Refugee Status Applicant who are born in the host country/country of asylum** will be presumed to have the same nationality or country of former habitual residence as the Refugee Status Applicant unless they **automatically obtain the citizenship of the host country/country of asylum**, either by virtue of being born on its territory or as a result of their relationship with one of their parents who is a national of the host country/country of asylum, in which case they would not be eligible for derivative refugee status. Whether a child born in the host country/country of asylum possesses the nationality of that country should be assessed on a case-by-case basis in light of the existing legal framework and practices, as well as any other relevant factors. Where an administrative discretion and/or practical obstacles to recognition as a national of the host country/country of asylum exist, the citizenship should not be considered as automatically afforded. The statelessness focal point in the UNHCR Office should be consulted on questions relating to the determination of nationality of children born in the host country/country of asylum.

Resettlement submissions may, nevertheless, preserve family unity even in cases where the eligibility for derivative refugee status would be limited as described above. The Resettlement Unit in the UNHCR Office will determine whether resettlement or other immigration channels should be pursued in such cases.

As a general rule, **a person cannot acquire derivative refugee status solely on the basis of a family/dependency relationship with a person who has derivative refugee status**. For instance, the spouse of a person who has derivative refugee status will not be able to be granted derivative refugee status as a result of the marriage unless he or she forms a direct dependency relationship with the Refugee Status Applicant. It must be noted, however, that a derivative refugee status holder may himself or herself become eligible for refugee status in his or her own right as a result of his or her own actions or changes in the country of origin since departure (*sur place* claims). In such cases, it may be appropriate to review and revise the basis for eligibility to reflect recognition of refugee status in his or her own right, and then examine the application of derivative refugee status of the family member/dependant.

5.2.5 Persons Excluded from Derivative Refugee Status

Refugee Status Applicants who have been excluded from obtaining refugee status pursuant to Article 1F of the 1951 Convention are also excluded from obtaining derivative refugee status. Derivative Refugee Status Applicants who fall under the scope of the exclusion clauses in Article 1F of the 1951 Convention must also be excluded from obtaining derivative refugee status.

Concerns regarding the involvement of a close family member or dependant in an excludable act should be fully examined and assessed as and when exclusion concerns arise during the derivative refugee status determination. The principles and procedures to assess the application of the exclusion clauses set out in § 4.7 – *The Application of the Exclusion Clauses in Article 1F* should guide the determination of whether the exclusion clauses apply to Derivative Refugee Status Applicants (see also § 4.7.7 – *Implications of Exclusion Decisions for Family Members/Dependants*).

5.2.6 Derivative Refugee Status Applications Involving Separated or Newly Formed Families

The criteria and procedures set out in this sub-Unit also apply to assess whether derivative refugee status may be granted to Applicants **who arrived, or were registered by UNHCR, in the host country/country of asylum after the Refugee Status Applicant was recognized as a refugee**. This includes Applicants whose family/dependency relationship with the Refugee Status Applicant was formed after the Refugee Status Applicant's departure from his or her country of origin as a result of:

- marriage (e.g. marriages in the host country/country of asylum);
- birth or adoption of children;
- caring for sick, disabled or elderly relatives;
- the formation of a new household following the death of parents or siblings, etc.

The criteria for granting derivative refugee status set out above apply equally in the examination of **applications by family members or other dependants of a Refugee Status Applicant who is in another country of asylum**. Where the Refugee Status Applicant has an RSD file with another UNHCR Office, the UNHCR Offices involved should coordinate to gather and share the information required to determine the composition of the family unit and the nature of the dependency relationship between the Refugee Status Applicant and the Derivative Refugee Status Applicants. In exceptional cases, where an individual who resides in a third country has been recognized under the asylum procedures of that country, UNHCR Offices may make the necessary inquiries with the asylum authorities of that country to assess whether it would be appropriate to determine the application for derivative refugee status of a family member or dependant with a view to facilitating family reunification.

5.3 Family Unity Procedures

5.3.1 The Family Unity Interview

Eligibility for derivative refugee status must be determined through **Family Unity Interviews** with the Refugee Status Applicant and the Derivative Refugee Status Applicant(s). The examination of the eligibility of family members/dependants for derivative refugee status may be conducted with the Refugee Status Applicant during his or her RSD interview(s), or in a separate Family Unity Interview with the Refugee Status Applicant following recognition of his or her refugee status (see § 4.3.14 – *Interview of Family Members or other Dependants*). All persons identified by the Refugee Status Applicant as accompanying family members/dependants, including those who arrived in the host country/country of asylum after the registration or recognition of the Refugee Status Applicant's refugee claim, should, unless otherwise provided in this Unit also have a Family Unity Interview.

Family Unity Interviews with the Refugee Status Applicant and the Derivative Refugee Status Applicants should be conducted separately unless there are compelling reasons to indicate that this would not be appropriate or constructive (see, for instance, § 2.8.2 – *Best Interests Procedures and the RSD process* and § 5.3.2 – *Derivative Refugee Status Applications Involving Children*).

Wherever possible, the Family Unity Interviews should be conducted **by the Eligibility Officer who is or was responsible for determining the refugee claim of the Refugee Status Applicant**. At a minimum, the Eligibility Officer who conducts the Family Unity Interviews with the family members/dependants should be familiar with the information provided by the Refugee Status Applicant in the RSD Application Form and other relevant information gathered in the context of the Refugee Status Applicant's UNHCR procedures.

Scheduling of Family Unity Interviews must be conducted in accordance with the provisions in § 3.5 – *Scheduling of RSD Interviews and Appointments*.

The **purpose** of the Family Unity Interview is to obtain sufficient information t**o assess the existence and nature of a family or other dependency relationship** between the Refugee Status Applicant and the Derivative Refugee Status Applicants.

When conducting the Family Unity Interviews, the Eligibility Officer must respect the **right to confidentiality** of the Refugee Status Applicant and Derivative Refugee Status Applicants in accordance with UNHCR's policies (see also § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures* and § 2.8.4 (f) *Confidentiality and data protection*). Should new evidence or inconsistencies that are material to the determination of whether a family/dependency relationship exists arise during the Family Unity Interviews with the Refugee Status Applicant or other family members/dependants, the Derivative Refugee Status Applicant should be given the opportunity to clarify these aspects of evidence, if necessary, in a complementary Family Unity Interview. In assessing the reliability of the evidence, the Eligibility Officer should be mindful of potential protection concerns and respect the obligation to preserve the confidentiality of the interview with the Refugee Status Applicant or other family members/dependants (see also § 4.3 – *The RSD Interview*).

Derivative Refugee Status Applicants must be advised to bring originals or, if unavailable, best available copies of all **documents** in their possession to support the existence of the family relationship or other dependency relationship between the Refugee Status Applicant and Derivative Refugee Status Applicants (e.g. marriage or birth certificates, financial or medical records, etc.).

Where the Derivative Refugee Status Applicants are **claiming to be close family members**, the Eligibility Officer should examine documents and other reliable evidence supporting the existence of the family relationship, including birth certificates and marriage certificates. If the documents are accepted as valid, and are consistent with the information already provided by the Applicants, including at registration, it would generally not be necessary to conduct a Family Unity Interview, unless the **family relationship was formed after the Refugee Status Applicant's departure from the country of origin** or if there are **credibility issues** regarding the existence of the relationship or the composition of the family unit. In such cases, the Eligibility Officer should examine the genuineness of the family relationship during Family Unity Interviews with the Refugee Status Applicant and the Derivative Refugee Status Applicant.

The fact that a Derivative Refugee Status Applicant had his or her claim for refugee status rejected is a relevant consideration in the determination of the genuineness of the family or dependency relationship with the Refugee Status Applicant, but it is not determinative; as such, the motivations for entering into a marriage or marriage-like relationship with a recognized refugee would not preclude the granting of derivative refugee status as long as the couple lives as a family unit or the family/dependency relationship can otherwise be established.

Where close family members are not able to provide reliable supporting documentation, the Eligibility Officer should question the family members regarding the family composition, the living circumstances in the country of origin and in the host country, as applicable, and other relevant aspects, to assess whether the existence of the family relationship can be accepted.

When assessing applications for derivative refugee status by **persons other than close family members**, Eligibility Officers must request details to determine whether there exists between the Derivative Refugee Status Applicant and the Refugee Status Applicant a relationship of significant **social, emotional or economic dependency**.

KEY CONSIDERATIONS

ASPECTS RELEVANT TO ESTABLISHING A RELATIONSHIP OF SIGNIFICANT SOCIAL, EMOTIONAL OR ECONOMIC DEPENDENCY MAY INCLUDE BUT ARE NOT LIMITED TO:

- The nature and duration of the relationship;
- Living arrangements in the country of origin and/or in the host country/country of asylum;
- Any financial, legal or social responsibilities assumed in a durable manner by the Refugee Status Applicant or the Derivative Refugee Status Applicant for one another;
- Any specific needs or vulnerabilities of the Derivative Refugee Status Applicant or the Refugee Status Applicant, and the existence of a care arrangement between them;
- Any changes in the personal situation of the Refugee Status Applicant or that of the Derivative Refugee Status Applicant since departure from the country of origin that may make them dependent on the other.

Other reliable information pertaining to the family composition or family/dependency relationship, including information gathered through, for example, "home visits", medical or psycho-social assessments, if relevant, and similar means, should be considered in its entirety, in light of all available evidence, including the Applicants' statements, taking into account the reasonableness of the explanations provided by the Derivative Refugee Status Applicants for any apparent credibility problems (for guidance on how to examine credibility problems that arise in the Refugee Status Applicant's account, see § 4.3 – *The RSD Interview*).

As in the determination of refugee claims generally, Eligibility Officers must adopt a **flexible approach regarding the requirement to provide documentary evidence** in applications for derivative refugee status and take into account the situation of the Applicants, the circumstances of flight and the conditions in the country of origin and the host country/country of asylum.

Concerns regarding the involvement of a close family member or dependant in an **excludable act** should be fully examined and assessed.

5.3.2 Derivative Refugee Status Applications Involving Children

As a general rule, **young children** who are applying for derivative refugee status **should not have a separate Family Unity Interview**, unless the Derivative Refugee Status Applicant is an unaccompanied or separated child. In determining whether a child Applicant should undergo a Family Unity Interview, the age of the child, as well as his or her level of psychological and mental development and maturity must be taken into account. **In certain exceptional cases** (see also § 2.8.2 – *Best Interests Procedures and the RSD process*), it may also **be necessary and appropriate to interview a Derivative Refugee Status Applicant** who is a young child.

STANDARDS & GUIDELINES

CONDUCTING FAMILY UNITY INTERVIEWS WITH YOUNG CHILDREN MAY BE APPROPRIATE AND NECESSARY IN CASES WHERE:

- Serious credibility issues arise in the Family Unity Interviews with the Refugee Status Applicant or another family member/dependant regarding the composition of the family unit, or the legitimacy of the application for derivative refugee status for the child;
- There are reasons to believe that the child Derivative Refugee Status Applicant may be in danger of exploitation or abuse;
- The child Derivative Refugee Status Applicant is joining the Refugee Status Applicant in the host country, but one or both of the parents of the child have not been interviewed by UNHCR and are reportedly outside of the host country.

As a general rule, a BIA should be conducted prior to interviewing young children in order to determine whether, in light of the circumstances of the case and the personal and contextual circumstances of the child, pursuing the interview and the derivative status application is in the child's best interest.

When interviewing child Derivative Refugee Status Applicants, Eligibility Officers should assess and take into account the level of maturity and development of the child, as well as his or her ability to understand, remember and recount events that have occurred in the country of origin and/or host country/country of asylum, and the precise composition of the household unit.

When it is necessary to interview child Applicants in Family Unity Procedures, UNHCR staff should use **child appropriate interview techniques** (see § 2.8.3 – *Child-friendly and Age-appropriate RSD Procedures* and § 4.3.7 – *Interviewing Child Applicants*) and ensure that the interview is conducted in a non-threatening environment, and in a child and age-sensitive manner.

Applications for Family Unity that involve unaccompanied and separated children should be processed under the procedures for **Accelerated RSD Processing** set out in § 4.9. The procedures and principles set out in § 5.2.6 – *Derivative Refugee Status Applications Involving Separated or Newly Formed Families* apply to applications for derivative refugee status by separated children.

5.3.3 Recording the Family Unity Interview

The Eligibility Officer must maintain a complete verbatim transcript and/or audio recording, where available, for all Family Unity Interviews.

STANDARDS & GUIDELINES

THE FAMILY UNITY INTERVIEW TRANSCRIPT AND/OR AUDIO RECORDING SHOULD INCLUDE:

- Name of the Eligibility Officer conducting the Family Unity Interview;
- Name of the Interpreter;
- Any third parties who are present;
- The date and time that the Family Unity Interview began and closed and any adjournments;
- The precise questions asked by the Eligibility Officer and the responses provided by the Applicant;
- Reference to all supporting documents and other relevant evidence presented or referred to during the Family Unity Interview;
- In the case of interview transcripts, relevant observations regarding the behaviour and demeanour of the Applicant during the Family Unity Interview, as well as non-verbal communication.

In cases where a Family Unity Interview is not conducted (see § 5.3.1 – T*he Family Unity Interview*), a note briefly outlining the reasons for which a Family Unity Interview was believed not to be necessary or appropriate must be kept on the file of the Derivative Refugee Status Applicant.

5.3.4 The Derivative Refugee Status Assessment

As soon as possible following the Family Unity Interview or following a decision that conducting a Family Unity Interview is not necessary, the Eligibility Officer responsible for the case should prepare the written derivative refugee status assessment using the **Derivative Refugee Status Assessment Form** (Long or Short version) **(Annex 5-1 and 5-2)**. The Eligibility Officer must sign and date the Derivative Refugee Status Assessment Form before referring the decision for review and endorsement according to the set procedures in the Office.

The **review of derivative refugee status decisions** must be conducted in accordance with the procedures set out in § 4.4 – *Procedures for Review of RSD Decisions*.

Procedures and timelines for **notification of derivative refugee status decisions** in each UNHCR Office should promote the need for decisions to be issued to the Derivative Refugee Status Applicant as soon as possible and without delay.

The form and procedures for notification of negative decisions in applications for derivative refugee status must be consistent with the procedures set out in § 6 – *Notification of RSD Decisions*.

Applicants whose claims for derivative refugee status are rejected have the **right to appeal** the negative decision. Appeals of rejected claims for derivative refugee status must be conducted in accordance with the procedures set out in § 7 – *Appeal of Negative RSD Decisions*.

5.3.5 Termination of Derivative Refugee Status

Derivative refugee status may be terminated for reasons related to the ending of the refugee status of the Refugee Status Applicant, or if the derivative refugee status itself ends through cancellation, revocation or cessation.

(a) Termination of Derivative Refugee Status as a result of the Cancellation, Revocation or Cessation of the refugee status of the Refugee Status Applicant

Cancellation, revocation or cessation of the refugee status of the Refugee Status Applicant results in the termination of the derivative refugee status of family members/dependants of the individual concerned (see § 10.5 – *Cancellation of Derivative Refugee Status*; § 11.4 – *Cessation of Derivative Refugee Status*).

Whenever possible, UNHCR Offices should take steps to notify persons whose derivative refugee status is terminated as a result of the cancellation, revocation or cessation of the refugee status of the Refugee Status Applicant, and to inform them that the termination of derivative refugee status does not affect their right to submit an independent refugee claim should they have grounds to claim refugee protection.

(b) Cancellation, Revocation and Cessation of Derivative Refugee Status

The derivative refugee status of a family member/dependant should be **cancelled** if it is subsequently determined that, at the time of the granting of status, the family member/dependant did not meet the relevant eligibility criteria for derivative status (i.e. a family or dependency relationship did not exist) or if the family member/dependant should have been excluded pursuant to Article 1F. A decision to invalidate the derivative refugee status of a family member/dependant on these grounds does not affect the refugee status of the Refugee Status Applicant.

The derivative refugee status of a family member/dependant should be **revoked** if, following the grant of status, the family member/dependant engaged in conduct that would bring him/her within the exclusion clauses of Article 1F(a) or (c) thereby making him/her underserving of international refugee protection.

The derivative refugee status of a family member/dependant may be terminated if the circumstances in connection with which the status was granted have **ceased** to exist; while not directly applicable to derivative refugee status, the cessation clauses in Article 1C are applied by analogy in this context. This includes situations where UNHCR has received reliable information indicating that the relationship of social, emotional or economic dependency with the Refugee Status Applicant no longer exists due to the actions of the family member/dependant, or that a change in the personal circumstances of the family member/dependant or those of the Refugee Status Applicant, such as the formation of a different family

or dependency relationship or access to other support mechanisms, has occurred which means that derivative status is no longer required to preserve family unity.

While, as a general rule, family members should retain their derivative refugee status notwithstanding the dissolution of the family through divorce, separation or death or the fact that a child reaches the age of majority, careful consideration should be given to the personal circumstances of the family members to determine whether retention of status is appropriate in a particular case or whether retention of status would be merely for reasons of personal convenience. Relevant factors that should be considered for this purpose include the existence of financial, legal or social responsibilities between spouses or in relation to their children; the time the family member has spent in the country of asylum and his or her level of integration, including the existence of strong family, social and economic links; and other compelling reasons, including the family member's specific needs and vulnerabilities.

Family members/dependants whose derivative refugee status is cancelled, or whose status is ceased based on their actions or changed circumstances, should be given the opportunity to present an independent refugee claim if they have grounds to claim refugee protection at the time of the cancellation or cessation procedures. Procedures relating to **cancellation, revocation** and **cessation** of refugee status will also apply to persons who have been granted derivative refugee status (see § 10.2 – **Procedures for Cancellation of Refugee Status**; § 11.2 – *Procedures for Cessation of Refugee Status*).

Annex: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to Processing claims based on the Right to Family Unity. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

Annex 5-1: Derivative Refugee Status Assessment Form (Long)

Derivative Refugee Status Assessment Form (Long)

This form is designed to facilitate the assessment of derivative refugee status for a Derivative Refugee Status Applicant (DRS Applicant), who claims to be in a relationship of dependency with a Refugee Status Applicant (RS Applicant)[1], and should be used in the following situations:

1) In case of doubts about the existence of a close family relationship[2], which raises concerns that a relationship of dependency does not exist (for example in the case of estranged spouses, marriages concluded recently in the country of asylum, doubts regarding paternity or adoption or any other complexities that may arise) or if there are indications that a relationship of dependency may not exist despite the close family relationship;
2) for **other (non-close) family members or dependants**, where a relationship of dependency must be established in order for the DRS Applicant to be recognised as a refugee on derivative refugee status basis;
3) in case of any information in the DRS Applicant's case which requires consideration of the possibility of exclusion based on Article 1F of the 1951 Convention.

Please note that while more than one person can derive status from one recognized refugee, this form should be filled out for **each** Derivative Refugee Status Applicant falling within one or more of the above-listed categories.

In cases where establishing **close family relationships** is straightforward and is supported by sufficient information and/or documentation, please use the Short Derivative Refugee Status Assessment Form, which can be used for recognizing derivative refugee status of multiple individuals deriving refugee status from one particular Refugee Status Applicant.

All colleagues that are engaged with the process of derivative refugee status assessment in line with UNHCR's refugee status determination procedures, are required to familiarize themselves with the relevant Chapter 5 (Processing Claims Based on the Right to Family Unity) in the RSD Procedural Standards, before proceeding with the derivative refugee status assessment process.

[1] RS Applicant, who has been recognized as a refugee in his/her own right
[2] For the purposes of UNHCR's derivative status assessment, a close family member is a spouse, an unmarried child under 18 years of age, a parent/legal or customary primary caregiver of the child[2] Refugee Status Applicant (and their dependants), or child sibling of a child Refugee Status Applicant.

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UNHCR Office:	
Interview/Eligibility Officer:	**Interpreter:**
Date(s) of Family Unity Interview(s), if applicable:	**Language of Interview:**

Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Date of Birth:	Nationality:
Sex:	If Stateless, Country/Countries of Former Habitual Residence:

PART I – PRELIMINARY CONSIDERATIONS

I-1 Are there any indications that he/she/they may have an independent refugee claim?

Yes ☐ No☐

If 'yes', please refer the case to the appropriate individualized RSD procedure in accordance with standard operating procedures of your operation, and do not use the present DRS Assessment Form at this point. If no, please proceed to question I-2.

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I-2 Would recognition of derivative refugee status be compatible with the DRS Applicant's personal legal status?

Yes ☐ No☐

If 'yes', please proceed to Part II – Summary for the Claim for Derivative Refugee Status.

If 'no', please briefly explain why and then go directly to Part VI – Recommendation.

PART II – SUMMARY OF THE CLAIM FOR DERIVATIVE REFUGEE STATUS

II-1 Please indicate the nature of the claimed family or dependency relationship between the Refugee Status Applicant (RS Applicant) and the Derivative Status Applicant (DRS Applicant).

(a) Close Family Member **Yes ☐ No☐**

If 'yes', please check the appropriate box below:

Spouse of RS Applicant **Yes ☐ No☐**

Unmarried child (under 18) of RS Applicant **Yes ☐ No☐**

Parent/legal or customary primary caregiver of RS Applicant under 18, or the dependant of the adult parent or caregiver **Yes ☐ No☐**

Child sibling of child RS Applicant **Yes ☐ No☐**

(b) Person other than close family member **Yes ☐ No☐**

If 'yes', please briefly indicate the nature of the claimed relationship between the DRS Applicant and the RS Applicant.

II-2 Please summarize below the information provided by the DRS Applicant and RS Applicant concerning the existence of the family/dependency relationship:

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PART III - MATERIAL FACTS

III-1 Please identify the material elements relevant to the derivative refugee status claim and, for each of them, set out the Credibility Assessment with regard to the DRS Applicant's statements as well as your determination as to the established material facts.

Please present your analysis using the following structure:

> ***(i) Material Element (1):***
> *A. Credibility Findings*
> *B. Established Facts*
>
> ***(ii) Material Element (2):*** *[next relevant material element]*
> *A. Credibility Findings*
> *B. Established Facts*
>
> *[…]*
>
> ***Conclusions on the Material Facts***
> *In this final section, please spell out the conclusions you have reached in establishing the material facts of the case*

Once the material facts of the DRS Applicant's claim have been established, please proceed to Part IV – Assessment of the Derivative Refugee Status Claim.

If, as a result of your analysis, you assess that the material facts necessary to determine eligibility for derivative status cannot be established, please explain and proceed to Part VI.

PART IV – ASSESSMENT OF THE DERIVATIVE REFUGEE STATUS CLAIM

Close Family Relationship

IV-1 Considering the established material facts, is the DRS Applicant a close family member of the RS Applicant?

If 'yes', please proceed to question IV-2.
If 'no', please proceed to question IV-3.

Yes ☐ No☐

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On the basis of the facts established in Part III, the DRS Applicant is (is not) the [insert category of close family member] of the RS Applicant.

IV-2 Considering the established material facts, is there evidence that would rebut the presumption of dependency between the DRS Applicant and the RS Applicant?

Yes ☐ No☐

If 'yes', please explain.
If 'no', please proceed to question IV-4.

There is (no) evidence that will rebut the presumption of dependency between the DRS Applicant and the RS Applicant.

Other Dependency Relationship

IV-3 Considering the established material facts, does the relationship between the DRS Applicant and the RS Applicant give rise to significant social, emotional and/or economic dependency?

Yes ☐ No☐

Considering the established material facts, outlined in Part III, it has/has not been established that the DRS Applicant is (is not) in a relationship of dependency with the RS Applicant.

Please provide an explanation for your conclusion.

Conclusion on Eligibility for Derivative Status

IV-4 Does the DRS Applicant meet the criteria for Derivative Refugee Status?

Yes ☐ No☐

PART V – APPLICATION OF THE EXCLUSION CLAUSES

V-1 Is there any information in the DRS Applicant's case which requires consideration of the possibility of exclusion based on Article 1F(a), (b) or (c) of the *1951 Convention?*

Yes ☐ No☐

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If 'no' (i.e., if there is nothing in the Applicant's case to indicate that exclusion may be an issue), please confirm and proceed to Part VI.

If 'yes' (i.e. there are indications that exclusion may arise in the Applicant's case), please briefly explain and proceed with the analysis in relevant parts of the regular RSD Assessment Form and attach them to this form.

The assessment of those aspects of the DRS Applicant's case which are relevant to exclusion considerations needs to be set out in Part I (Summary of Claim), Part II (Material Facts) and Part V (Application of the Exclusion Clauses) of the RSD Assessment Form, which should be attached to the Derivative Refugee Status Assessment Form once completed.

PART VI – RECOMMENDATION

[Select the applicable paragraph and delete all others.]

In light of the foregoing assessment, it is recommended that:

☐ The Applicant meets the criteria for Derivative Refugee Status and should be recognized as a refugee.
☐ The Applicant's personal legal status is incompatible with recognition as a refugee.
☐ The Applicant does not meet the criteria for Derivative Refugee Status and the claim should be rejected
☐ The Applicant is excluded from Derivative Refugee Status pursuant to Art. 1 F of the *1951 Convention* and the claim should be rejected (please see attached Parts I, II and V of the Regular RSD Assessment Form).

Name and Signature of Eligibility Officer:	Name and Co-Signature of Reviewing Officer(s):
Date:	Date:

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Annex 5-2: Derivative Refugee Status Assessment Form (Short)

Derivative Refugee Status Assessment Form (Short)

This form is designed to facilitate the assessment of derivative refugee status for one or more Derivative Refugee Status Applicants (DRS Applicants), who are **close family members** of a Refugee Status Applicant (RS Applicant)[1], as in such cases the **existence of dependency is presumed**[2]. The form should only be used for **recognition** of derivative refugee status.

For the purposes of UNHCR's derivative status assessment, a close family member is a spouse, an unmarried child under 18 years of age, a parent/legal or customary primary caregiver of the child[3] Refugee Status Applicant (and their dependants), or child sibling of a child Refugee Status Applicant[4].

This form should only be used if the existence of close family relationship between DRS Applicant(s) and the RS Applicant is not in doubt. This form is designed for situations where establishing **close family relationships** can be done without any complexity and is supported by sufficient available information, including documentation, where relevant. It can be used for multiple DRS Applicants, provided they are all close family members of the RS Applicant

The Long DRS Assessment Form should be used instead in the following cases:

- In case of doubts about the existence of a close family relationship, which raises concerns that a relationship of dependency does not exist (for example in the case of estranged spouses, marriages concluded recently in the country of asylum, doubts regarding paternity or adoption or any other complexities that may arise) or if there are indications that a relationship of dependency may not exist despite the close family relationship;
- for **other (non-close) family members or dependants**, where a relationship of dependency must be established in order for the DRS Applicant to be recognized as a refugee on derivative refugee status basis;
- in case of any information in the DRS Applicant's case which requires consideration of the possibility of exclusion based on Article 1F of the 1951 Convention.

All colleagues that are engaged with the process of derivative refugee status assessment in line with UNHCR's refugee status determination procedures, are required to familiarize themselves with the relevant Chapter 5 (Processing Claims Based on the Right to Family Unity) in the RSD Procedural Standards, before proceeding with the derivative refugee status assessment process.

[1] RS Applicant, who has been recognized as a refugee in his/her own right
[2] Please refer to Unit 5.2.2 of the RSD PS
[3] According to the RSD PS, "child is a person under 18 years of age".
[4] Refugee Status Applicant is an individual recognized as a refugee in his or her own right, from whom the refugee status may be derived.

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UNHCR Office:	**Interpreter:**
Interview/Eligibility Officer:	**Language of Interview:**
Date(s) of Family Unity Interview(s), if applicable:	

1. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

2. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

3. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

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4. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

5. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

[*add more dependants if necessary*]

Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	

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PART I – PRELIMINARY CONSIDERATIONS

This form should only be used for DRS Applicants, where there are no indications that any of the DRS Applicants may have an independent refugee claim.

DRS Applicant(s)' personal legal status must be compatible with recognition of derivative refugee status.

I-1 Are there any indications that he/she/they may have an independent refugee claim?

Yes ☐ No☐

If 'yes', please refer those Applicant(s) to the appropriate individualized RSD procedure in accordance with standard operating procedures of your operation, and do not use the present DRS Assessment Form for him/her/them.

Please proceed to question I-2 for the Applicant(s), in relation to whom the answer is 'no'.

I-2 Would recognition of derivative refugee status be compatible with the DRS Applicant(s)' personal legal status?

Yes ☐ No☐

Please proceed to Part II – Material Facts – Close Family Relationship(s) for those DRS Applicants, in relation to which the answer is 'yes'.

If for any of the DRS Applicants the answer is 'no', please briefly explain why and do not use the present form for him/her/them.

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PART II – MATERIAL FACTS - CLOSE FAMILY RELATIONSHIP(S)

II-1 Please briefly describe and set out the findings of fact on the nature of the claimed family relationship between the Refugee Status Applicant (RS Applicant) and each of the Derivative Status Applicant(s) (DRS Applicant(s)). Please include reference to the information provided by the DRS Applicant(s) and RS Applicant, as well as other relevant information and documentation.

PART III – RECOMMENDATION

In light of the foregoing assessment, it is recommended that:

☐ The Applicant(s) meet(s) the criteria for Derivative Refugee Status and should be recognized as a refugee.

Name and Signature of Eligibility Officer:	Name and Co-Signature of Reviewing Officer(s):
Date:	Date:

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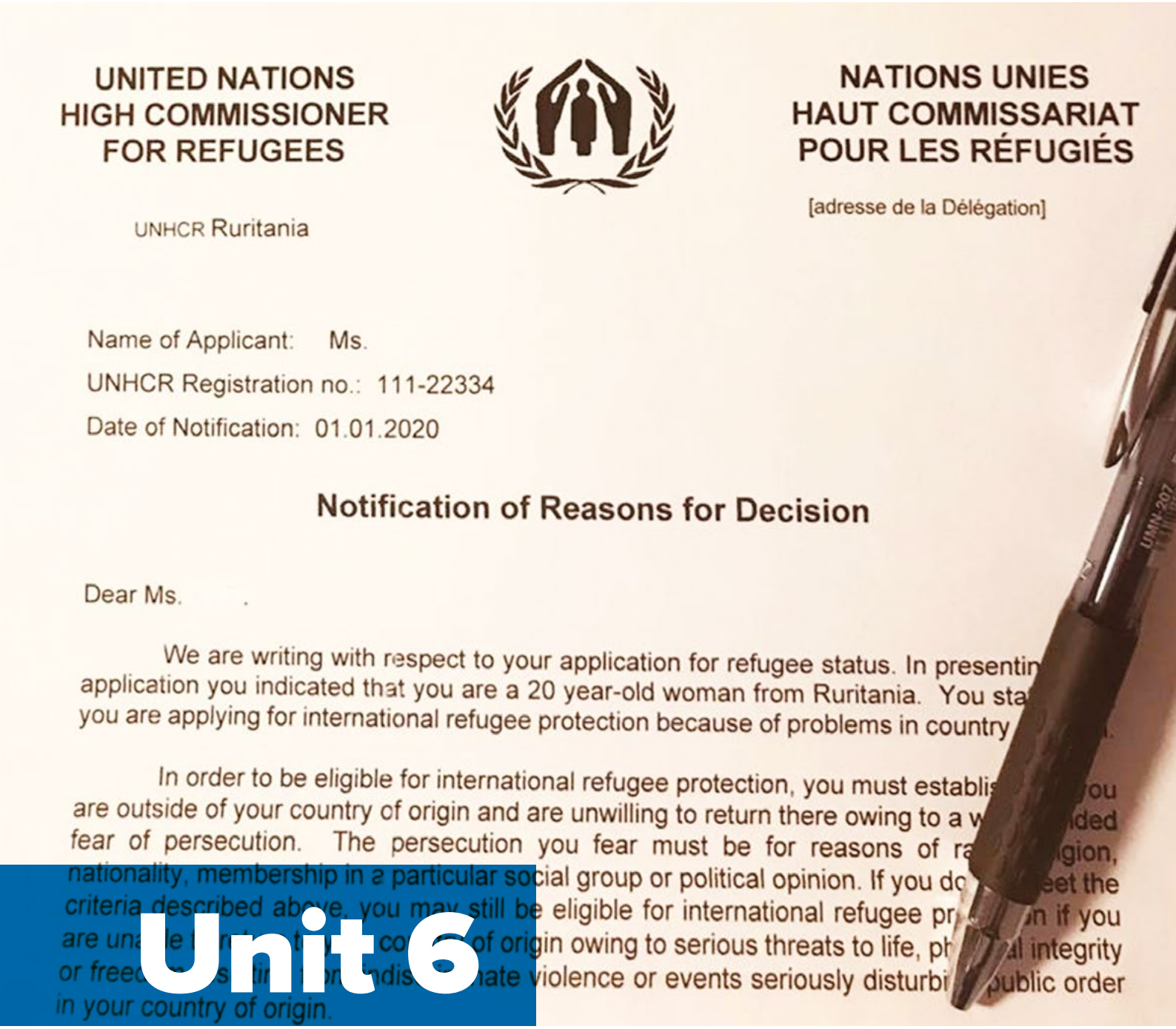

NOTIFICATION OF RSD DECISIONS

6.1 Procedures for Notifying Applicants of RSD Decisions

6.1.1 Form of Notification

As a general rule, Applicants should be **notified in writing** of first instance and appeal RSD decisions.[1] As a general rule, notification of RSD decisions should be done through a notification letter or other appropriate means (see § 6.1.2 – *Means of Notification*). In cases of positive RSD decisions at first instance or on appeal, the issuance of the Refugee Certificate or other documentation certifying refugee status may be considered as sufficient notification of the outcome of the decision.

Notification of decisions on claims for **derivative refugee status**,[2] and of decisions to **cease, cancel or revoke refugee status**, must also be conducted in accordance with the procedures set out in this Unit and, for appeal decisions, in accordance with the procedures set out in § 7.5 – *Notification of Appeal Decisions*, as applicable (see also §§ 5.3.4 – *The Derivative Refugee Status Assessment*, 10.2.9 – *Notification of the Cancellation Decisions* and 11.2.6 – *Notification of Cessation Decisions*).

At the time of the Notification of **positive decisions** the UNHCR Office should inform the recognized refugee of the implications of recognition and provide instructions regarding any additional steps that will have to be taken with UNHCR or the authorities in the host country/country of asylum.

Applicants whose claims are rejected at first instance should be informed of the reasons for the negative decision, as well as of the right to appeal the negative RSD decision and relevant procedures, including the deadline for submitting an appeal application (for notification of a negative decision at the appeal stage, see § 7.5 – *Notification of Appeal Decisions*). At the time of notification of a negative RSD decision, Applicants should receive sufficient information regarding the reasons for the rejection of their refugee claim to permit them to determine whether or not to appeal the first instance RSD decision, and to inform their submissions in the appeal application. Notification letters for negative RSD decisions should be completed in accordance with the principles set out in § 6.2 – *Notification of Negative RSD Decisions to Applicants*, and using the template letter **Notification of Reasons for Decisions (Annex 6-1)**.

As a best practice, it is recommended that all positive and negative notification letters be reviewed and approved by the RSD Supervisor or another designated UNHCR senior staff member with appropriate

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1 Only notification letters of first instance negative RSD decision must set out the reasons for the decisions. For positive decisions at first instance and decisions on appeal, the notification need only indicate the outcome of the determination. For guidance on when and how to notify child Applicants, see § 6.3 – *Notification of RSD Decisions to Third Parties*.

2 Derivative refugee status claims may be rejected if the Applicants do not meet the eligibility criteria (i.e. a close family or a relationship of dependency cannot be established) or if the Applicants are excluded from derivative refugee status pursuant to Article 1D, Article 1E and Article 1F of the 1951 Convention (see § 5.2.5 – *Persons Excluded from Derivative Refugee Status*). Furthermore, family members or other dependants of a Refugee Status Applicant whose claim was rejected cannot be granted derivative refugee status. If the Refugee Status Applicant appeals the first instance RSD decision, the Derivative Refugee Status Applicants should be granted the same rights and protection as the Refugee Status Applicant until the Appeal Application has been decided. Family members/dependants of Refugee Status Applicants whose claims have been rejected may, however, apply for refugee status in their own right and should be counselled to this end (see § 5.2.4 – *Persons not Eligible for Derivative Refugee Status*).

RSD experience before they are issued to Applicants. RSD notification letters should be issued on behalf of UNHCR and should not be signed by or identify any of the individuals who were involved in making or reviewing the RSD decision.

Specific protection concerns may require UNHCR to notify an Applicant of the RSD decision **orally**, or to **limit the information** contained in notification letters of RSD decisions by omitting details which may place the Applicant at risk in the event of disclosure to third parties. Similar considerations apply in cases which give rise to staff safety and/or other security considerations. To the extent possible, information about the RSD decision should be provided to the Applicant through counselling in such cases (see also § 6.2 – *Notification of Negative RSD Decisions to Applicants*).

6.1.2 Means of Notification

UNHCR Offices should make every effort to ensure the confidentiality of the information provided to Applicants at the time of notification.

Whenever possible, notification letters should be **issued to the Applicant in person**, through the attendance of the Applicant at the UNHCR Office. Applicants should be required to identify themselves by presenting their UNHCR Asylum-Seeker Certificate or other relevant UNHCR or host country/ country of asylum issued identity documentation, as well as any other identity documents in their possession prior to receiving the notification letter and counselling. Offices may also use fingerprints and other biometrics on file to verify the identity of Applicants. Applicants may be accompanied by their legal representatives for the purposes of in-person notification. Unless it is determined not to be in their best interests, child Applicants may also be accompanied by their parents or legal / customary caregiver and, for unaccompanied and separated child applicants, by their guardian. When notification is done in person, UNHCR Offices should consider whether, for reasons of staff safety, notification should be carried out by a UNHCR staff member other than the Eligibility Officer who has determined the claim.

Where an appropriate arrangement is in place, notification may also be done in person through an implementing partner.[3] At a minimum, implementing partners providing notification should be bound by the duty of confidentiality of UNHCR procedures and have the knowledge and expertise to counsel on the next steps and UNHCR appeal procedures, as relevant. Applicants who need special assistance in the RSD process and who have been notified through an implementing partner that their claims were rejected should be given the opportunity to be counselled by a UNHCR staff member with sufficient RSD experience on the reasons for a negative RSD decision and/or appeal procedures.

Where notification cannot be done in person by UNHCR or an implementing partner for reasons of security, significant costs or other obstacles relating to travelling in the host country / country of asylum or related to the individual circumstances of the Applicant, **reliable and confidential alternative methods to notify the Applicant** may be used, including recorded mail delivery, delivery to a person duly appointed by the Applicant to receive the notification, or by telephone or via a secure video link (see also § 6.3 – *Notification of RSD Decisions to Third Parties*). Notification by telephone or video link should generally be accompanied by counselling and should include a verification of the identity of the Applicant (e.g. verification of biodata, questions regarding the Applicant's identity). When notification is done by other

[3] Notification through an implementing partner means that the notification letter is handed over to the Applicant by the staff members of the implementing partner, who may also provide a translation of the letter and counselling, where necessary and appropriate.

alternative means, it is recommended that the UNHCR Office follows up with the Applicant to confirm the receipt of the notification letter and the applicable appeal timeframe. The method of notification should be recorded on the Applicant's file, as well as on UNHCR's case management database.

6.1.3 Date of Notification

If notification is done in person, the **date on which Applicant receives notification** of the RSD decision should be recorded on file and on UNHCR's case management database, and should be stamped on the front of the copy of the notification letter kept on file. The Applicant should also sign the copy of the notification letter as proof of receipt. Where alternative methods of notification are used, the actual or an estimated date on which the Applicant can be deemed to receive the notification should be determined and recorded. The date and manner of notification are relevant for **determining the start of the relevant appeal period** for a negative decision, and for informing the Applicant of the deadline to file an appeal.

A copy of the notification letter should be retained on the Applicant's file. In cases where exceptionally notification is done orally, through alternative methods other than in person, a note outlining the information provided should be kept on the Applicant's file.

6.1.4 Language of Notification

Notification of RSD decisions should be carried out in **a language that the Applicant understands**. Where the Applicant does not understand the official language of the UNHCR Office (usually English or French), he/she should receive a full and accurate translation of the notification letter in the relevant language, or should have the opportunity to receive an oral translation of the notification letter by a qualified UNHCR interpreter[4] or designated implementing partner. The staff members of implementing partners that provide translation services for the purposes of notification must be bound by the duty to maintain the confidentiality of UNHCR RSD procedures and should sign an undertaking of confidentiality.

6.1.5 Counselling

Offices should make every effort to ensure that Applicants in detention and Applicants who are illiterate, or who otherwise require assistance in RSD procedures, have the possibility of meeting with a UNHCR staff member to receive counselling on the reasons for the negative RSD decision and appeal procedures.

As a general rule, counselling on RSD decisions should be **provided by UNHCR staff members who have necessary training and are qualified to perform this role**. Where an appropriate arrangement is in place, counselling may also be provided by staff members of an implementing partner with the necessary RSD knowledge and training (see also § 6.1.2 – *Means of Notification*). Where counselling is conducted, it is recommended that this is noted on the Applicant's file.

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[4] As a general rule, Interpreters should not be left alone with the Applicant for the purposes of translating the notification letter (see § 2.5.6 – *Impartiality of UNHCR Interpreters*).

6.2 Notification of Negative RSD Decisions to Applicants

Applicants whose claims are rejected at first instance should, as a general rule, be **informed in writing of the reasons for the rejection** (see also §§ 10.2.9 – *Notification of the Cancellation Decisions* and 11.2.6 – *Notification of Cessation Decisions*). Notification should permit Applicants whose claims were rejected to determine whether or not to appeal the first instance RSD decision, and to inform their submissions in the appeal application. As a general rule, it is not necessary to provide reasons for the appeal decision (see § 7.5 – *Notification of Appeal Decisions*).

UNHCR Offices should use the standard **Notification of Negative RSD Decision letter (Annex 6-1)** when notifying Applicants of the reasons for negative RSD decisions at first instance. When using this form, Eligibility Officers should indicate the grounds for rejection that are relevant to the decision on the Applicant's claim and provide sufficient information regarding the facts relating to the material elements of the claim to permit the Applicant to better understand how the reasons for rejection relate to the Applicant's claim.

STANDARDS & GUIDELINES

THE COMPLETED NOTIFICATION OF NEGATIVE RSD DECISION LETTER SHOULD INCLUDE SUFFICIENT DETAILS TO PERMIT THE APPLICANT TO KNOW THE FOLLOWING:

- What material facts UNHCR has used in determining the Applicant's eligibility for refugee status, including a summary explanation of whether information provided by the Applicant was, or was not, accepted as credible, with reference to any COI which the decision-maker has relied on in reaching this conclusion;
- The reason why, on the basis of these established material facts, UNHCR has found that the Applicant does not meet the eligibility criteria for refugee status.

STANDARDS & GUIDELINES

WRITTEN DISCLOSURE OF INFORMATION RELEVANT TO THE RSD DECISION SHOULD BE LIMITED IN THE FOLLOWING CIRCUMSTANCES:

- Disclosure of the information could jeopardize the security of UNHCR staff or third person;
- Disclosure of the information could jeopardize the safety of the Applicant, his/her family members and/or other associates in the host country/country of asylum or in the country of origin;
- Disclosure of the information could compromise UNHCR's ability to effectively carry out its mandate;
- Disclosure of information provided to UNHCR by a third party on a confidential basis or with a reasonable expectation of confidentiality, including information provided by family members/dependants would be inconsistent with UNHCR's duty of confidentiality.[5]

Where it is necessary to limit information relating to the basis of the negative decision in the written Notification of Negative RSD Decision letter, including for reasons outlined above, the rejected Applicant should, **wherever feasible and appropriate in light of the particular circumstances of the case and**

reasons for limitation of disclosure, have the opportunity to meet with a UNHCR staff member to receive more detailed reasons for the rejection of his/her claim.

STANDARDS & GUIDELINES

AT THE TIME OF NOTIFICATION OF A NEGATIVE RSD DECISION, THE APPLICANT SHOULD BE INFORMED IN WRITING, AND/OR THROUGH COUNSELLING WHERE APPROPRIATE, OF THE FOLLOWING:

- The implications of the rejection of the refugee claim for Applicant's legal status in the host country/country of asylum;
- The impact the rejection of the refugee claim will have on family members and/or dependants who have applied for derivative refugee status;[6]
- The implications of the rejection for any assistance provided by UNHCR;
- The right to appeal the negative RSD decision and the relevant appeal procedures (see § 7.1.2 – *Informing Rejected Applicants of the Right to Appeal*); and
- Procedures regarding the return of documents issued by UNHCR, where the Applicant does not intend to appeal the negative RSD decision.

6.3 Notification of RSD Decisions to Third Parties

Notification of UNHCR RSD decisions to third parties should be governed by the principles set out in § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*. Accordingly, notification letters of an RSD decision may be issued to a third party, including a legal representative, **where the Applicant has expressly authorized** notification in this manner (see also §§ 2.7.3 – *Authorization to Act as Legal Representative* and 2.7.4(b) – *Communication and Access to Information*). In such cases, notification to a third party would have the same effect as notification to the Applicant himself/herself.

The appropriateness of issuing **notification of an RSD decision to a child Applicant** directly should be decided on a case-by-case basis, taking into consideration the age, and the level of maturity and development, and personal circumstances of the child. Where notification to a child Applicant is determined not to be in his/her best interests, the parents or, in their absence, the legal or customary caregiver of the child should be notified of the RSD decision (see also § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*). In cases of Applicants who are **unaccompanied or separated children**, the guardian of the child may also be notified of the RSD decision.

Annex: Notification of Reasons for Decisions

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to Notification of RSD Decisions. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

UNITED NATIONS
HIGH COMMISSIONER
FOR REFUGEES

Address of Country Office.

NATIONS UNIES
HAUT COMMISSARIAT
POUR LES RÉFUGIÉS

adresse de la Délégation.

Name of Applicant:

UNHCR Registration no.:

Date of Notification:

Notification of Reasons for Decision

Dear Name of Applicant:

We are writing with respect to your application for refugee status. In presenting your application you indicated that you are a age year-old man/woman from country of nationality or, if stateless, former habitual residence. You stated that you are applying for international refugee protection because Briefly summarize here the reasons provided by the Applicant, drawing from Part I of the RSD Assessment Form. Include a short statement of what the Applicant claims would happen if he/she returned to the country of origin.

In order to be eligible for international refugee protection, you must establish that you are outside of your country of origin and are unwilling to return there owing to a well-founded fear of persecution. The persecution you fear must be for reasons of race, religion, nationality, membership in a particular social group or political opinion. If you do not meet the criteria described above, you may still be eligible for international refugee protection if you are unable to return to your country of origin owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or events seriously disturbing public order in your country of origin.

We regret to inform you that after a thorough assessment of your refugee claim, and careful consideration of all available information, UNHCR has determined that you are not eligible for international refugee protection under UNHCR's mandate. This decision is based on the following determinations:

Select each paragraph that has been determined to apply to the Applicant and provide the information requested in red in the space boxes. Add other information you relied on to support your finding on the relevant point, drawing as appropriate from the relevant sections of the RSD Assessment Form. Provide as much detail as is required to permit the Applicant to understand the reasons why his/her individual claim was rejected. You should be guided by the factors set out in the RSD Procedural Standards § 6.2 – Notification of Negative RSD Decisions to Applicants when determining whether it is necessary and appropriate to limit disclosure of certain types of information (e.g. for reasons of security of or the confidentiality of communications with other individuals registered with UNHCR).

Do not use this template if the rejection of the Applicant's claim is based on the application of one of the exclusion clauses in Art. 1F.

Delete all paragraphs which are not relevant to the negative RSD decision and all of the red and blue directions and guidance notes in italics in this template.

MATERIAL FACTS OF APPLICANT'S CLAIM NOT ESTABLISHED OR PARTIALLY ESTABLISHED

Upon consideration of all of the available information, including explanations you have given, UNHCR has determined that the information you provided on relevant and important points of your claim is not credible.

[State each material element of the Applicant's claim in relation to which the Applicant's statements were not accepted as credible and provide the reasons for this finding. For each element identified, describe the credibility problem with reference to the relevant credibility indicator(s) and the information considered. Explain how any explanations provided by the Applicant for the credibility problem were considered. Draw from your analysis in Part II of the RSD Assessment Form when completing this section.]

(a)

(b)

(c)

As a result of these credibility problems and in light of all other information available to UNHCR, the facts related to the above-mentioned aspects of your claim could not be established and, thus, could not be relied upon to support your refugee claim.

[*If the Applicant's statements with regard to a particular material element have not been accepted as credible, but there is other information based on which findings of fact in relation to this material element have been made, describe the credibility problem with reference to the relevant credibility indicator(s) and the information considered and explain how any explanations provided by the Applicant for the credibility problem were considered. Also explain on what basis UNHCR has nevertheless been able to establish the facts related to the material element concerned and state your findings of fact.*

(d)

As a result of these credibility problems and in light of all other information available to UNHCR, your statements in relation to […] could not be accepted as credible. Based on […], however, UNHCR considers it established that you [….]

[If notwithstanding the credibility problems described above, some material elements of the Applicant's claim could be established, select and complete any other paragraph below which reflects the reasons for the negative decision taken].

REJECTION BASED ON 1951 CONVENTION CRITERIA ANALYSIS

Not Outside Country of Nationality (or, if Stateless, of Former Habitual Residence)

UNHCR has determined that you are not outside of your country of origin, Name of the Country, and are therefore not eligible for international refugee protection.

Protection Available in another Country of Nationality (or, if Stateless, of Former Habitual Residence)

UNHCR has determined that you have the nationality of more than one country or in the case of a stateless Applicant, "that you have habitually resided in more than one country" name each country of nationality or former habitual residence. While the problems you have described in country in which Applicant fears harm are noted, you have not established that you are unable to obtain protection in each of the countries of which you are a national, specifically, name of countries in which protection need was not established, and you are therefore not eligible for refugee status.

Rights and Obligations of National of Country of Residence (Art. 1 E)

You are not considered to be in need of refugee protection because you have rights and obligations in the country in which you have taken up residence, country of residence, which are the same as the rights enjoyed by persons who are nationals of that country. You are therefore not eligible for refugee status.

No Well-Founded Fear

On the basis of a thorough review of the available and generally accepted information regarding your country and in light of the facts material to your claim that have been established, UNHCR has determined that there is not a reasonable possibility that you will experience harm if you return there. Briefly summarize the reasons why you have found that there is not a reasonable possibility that the Applicant would face harm upon return to the country of origin. Include any conclusions you have made on the availability of State protection. Draw as appropriate from your analysis in Part III-1 of the RSD Assessment Form. If it has been established that the Applicant has experienced persecution in the past, refer briefly to these aspects of the claim and explain the facts relied upon to determine that the Applicant does not now face a risk of harm. Specify also the main sources of COI consulted and the elements relied upon in making this determination.

Harm does not Amount to Persecution

UNHCR has determined that there is a reasonable possibility that if you return to your country of origin you would experience Summarize each of the forms of harm identified as reasonably possible in the event of the Applicant's return. These may or may not be entirely the same as the feared harms as claimed by the Applicant and summarized in the opening paragraph. These harms have been considered in their entirety and are not considered to be of a nature or seriousness as to constitute persecution either on their own or when considered cumulatively. Summarize the reasons why these harms do not amount to persecution. If it is established that the Applicant will face a violation of one or more of his or her human rights, a careful explanation should be given as to why this does not create an intolerable situation for the individual and, thus, is not sufficiently serious to constitute persecution. Draw as appropriate from your analysis in Part III-2 of the RSD Assessment Form.

[If the harm feared is prosecution, also select and complete the following paragraph:]

UNHCR has determined that there is a reasonable possibility that you will face prosecution and/or punishment for violation of a law of general application in your country of origin. Specifically, summarize the offence and the punishment that is reasonably possible. On the basis of the available information, UNHCR does not have reasons for concluding that the law is persecutory or that it would be applied in a persecutory way to you.

No link to a 1951 Convention Ground

UNHCR has determined that there is a reasonable possibility that if you return to the country of origin, you will face persecution, namely: Summarize the form(s) of persecution identified and the reason why the Applicant may experience the persecution. The relevant facts established may not be identical to those claimed. Draw as appropriate from your analysis in Part III-3 of the RSD Assessment Form. However, this is not for reasons of your race, religion, nationality, membership in a particular social group or political opinion.

Availability of Flight or Relocation Alternative

Upon consideration of the situation in the whole of your country of origin and the nature of your refugee claim, UNHCR has determined that you are able to safely travel to and live in another part of your country of origin without fear of persecution. Specify the region(s) identified and explain briefly why considered to be safe for the Applicant. Draw as appropriate from your analysis in Part III-4 of the RSD Assessment Form.

Taking into account your personal background and experiences, UNHCR has determined that you can legally and safely return to this area without facing serious harm and that you could reasonably live in this area without undue hardship. Refer to the specific factors you have relied on to find that relocation to the area would be both relevant and reasonable for the Applicant referring to COI relied upon. Draw as appropriate from your analysis in Part III-4 of the RSD Assessment Form.

ALSO NOT ELIGIBLE UNDER UNHCR'S BROADER REFUGEE CRITERIA

UNHCR has further determined that there is no reasonable possibility that you would face serious threats to life, physical integrity or freedom resulting from indiscriminate violence or events seriously disturbing public order in your country of origin.

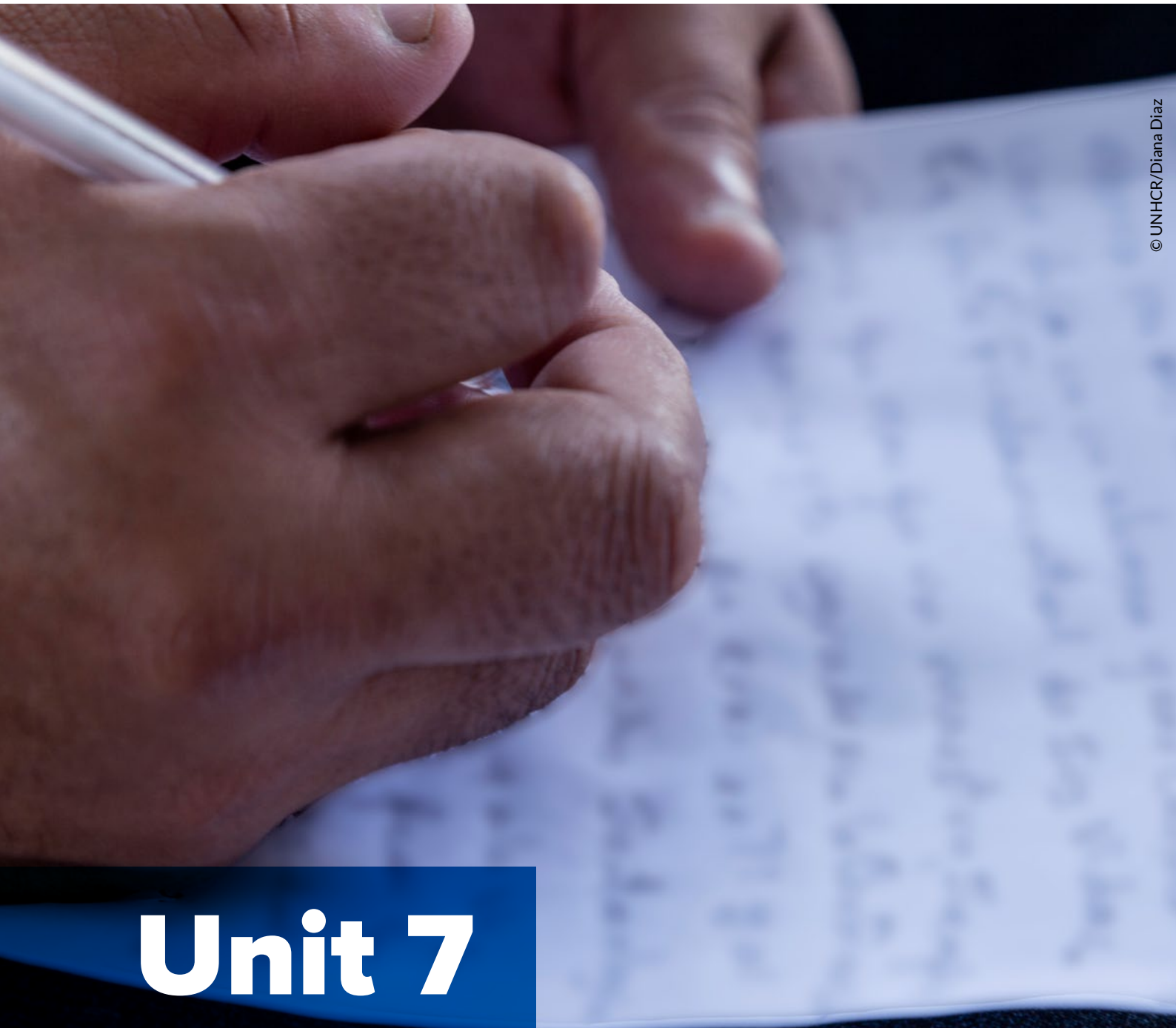
If you believe that the decision to reject your refugee claim has been reached because of an error, or there are new elements that are relevant to your claim, you may apply to have this decision reconsidered on appeal. To lodge an appeal, you must complete the attached **Appeal Application Form** and return it to the UNHCR Office within time specified below.

[Insert standard wording regarding the Appeal procedures in the UNHCR Office or how the Applicant can obtain information about Appeal procedures.]
Click here to enter text.

[CLOSING]
Click here to enter text.

Stamp or Signature of SPO / Head of Office

(As per RSD Procedural Standards Unit 6, the NRD should not be signed or identify any of the individuals who were involved in making/ reviewing the decision.)



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Unit 7

APPEAL OF NEGATIVE RSD DECISIONS

7.1 The Right to Appeal

7.1.1 The Scope of the Right to Appeal

Every Applicant whose RSD decision was negative at first instance has the **right to appeal that negative RSD decision**. The scope of the review on appeal encompasses both findings of fact and the application of the refugee criteria under UNHCR's mandate. The review of the negative RSD decision at the appeal stage should also take into consideration any new information relevant to the claim, including information relating to a change in the Applicant's personal circumstances or a change in the situation in their country of origin.

Access to appeal procedures should not be restricted for reasons relating to procedural irregularities[1] by the Applicant during the RSD procedures (unless in accordance with § 7.2 – *Procedures for Submitting Appeal Applications*) or for reasons related to the merits of the claim. As such, Applicants whose claims were rejected as manifestly unfounded at first instance also have a right to appeal that negative RSD decision.

All appeal applications should be determined on their own merits in accordance with the procedures as set out below (see § 7.4 – *Procedures for Determining Appeal Applications*). **Appeals against negative RSD decisions on claims for derivative refugee status**, and appeals against decisions to cease, cancel or revoke refugee status must also be conducted in accordance with the procedures set out in this Unit.

Applicants should continue to enjoy the rights and protection accorded to them as registered asylum-seekers (or refugees if refugee status is ceased, cancelled or revoked) throughout the period allowed for submitting an appeal and, once the appeal application is submitted, while a final decision is pending.

7.1.2 Informing Applicants of the Right to Appeal

Applicants should be informed of the right to appeal a negative RSD decision and the relevant procedures in accordance with the procedures set out in Unit 6 – Notification of RSD Decisions.

At the end of the RSD Interview, Eligibility Officers should inform Applicants of the procedures to receive notification of the first instance RSD decision and the relevant appeal procedures and timeframes (see § 4.3.10 – *Closing the RSD Interview*).

At the time of notification of a negative RSD decision, Applicants should receive sufficient information regarding the reasons for the rejection of their refugee claim to permit them to determine whether or not to appeal the first instance RSD decision, and to inform their submissions in the appeal application (see § 6.2 – *Notification of Negative RSD Decisions*). Applicants should also receive information regarding the right to appeal the first instance RSD decision and the relevant procedures, including the deadline for submitting an appeal application. An **Appeal Application Form (Annex 7-1)** should be provided to Applicants at this time (see § 6.1 – *Procedures for Notifying Applicants of RSD Decisions*).

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[1] In this context, "procedural irregularities" should be understood as the Applicant not conforming to procedural requirements set out in this Unit, in particular those relating to the time and form of the submission of the appeal application.

7.2 Procedures for Submitting Appeal Applications

7.2.1 Assistance with Submitting the Appeal Application

Wherever possible, Applicants who consider exercising their right to appeal a negative RSD decision should receive any necessary **procedural counselling and assistance by trained UNHCR staff**. This includes information relating to the appeal process and procedures, as well as assistance with completing the Appeal Application Form for Applicants who are unable to complete it themselves. Any information or explanation relating to the substantive elements of the RSD decision requested by an Applicant in addition to the information received at the time of notification should only be provided by UNHCR Protection staff members who have sufficient RSD experience to provide such counselling.

7.2.2 Form of the Appeal Application

As a general rule, **applications for appeal should be made in writing**. Applicants should complete and sign an **Appeal Application Form** (Annex 7-1).

Appeal applications that do not strictly conform to formal filing requirements (that is appeal applications that are not made by using the prescribed Appeal Application Form) may be accepted where the Applicant has clearly indicated an intention to appeal against the negative RSD decision. As a general rule, the intention to appeal should be communicated in writing.

Exceptionally, the intention to appeal may be communicated orally to UNHCR if the personal and contextual circumstances of the Applicant prevent communication of his or her appeal application in writing. This may, for instance, be the case for unaccompanied children of a young age, applicants with mental health and/or physical problems or disabilities, and applicants in detention. The Applicant's intention to appeal, the reasons for the appeal and any information submitted in support of the appeal must be duly recorded on the file by UNHCR, preferably in an Appeal Application Form, and will collectively constitute the appeal application.

7.2.3 UNHCR Office where the Appeal Application is to be Submitted

As a general rule, an appeal application must be submitted to the UNHCR Office that decided the claim in first instance. Intervening circumstances may however render it more appropriate that the appeal application is submitted to a different UNHCR Office. For instance where, for personal or protection reasons, an Applicant has moved onwards to a third country where UNHCR conducts mandate RSD, an appeal application may be submitted to the UNHCR Office in that country, or the UNHCR Office responsible for that country, in accordance with the procedures set out in this Unit and the applicable time limits established by the receiving office.

Where an Applicant whose claim was rejected at first instance registers with a UNHCR Office in a different country, his or her RSD application should be considered as an appeal application if made within the prescribed appeal time limit, or after the expiry of the appeal deadline but before the RSD file would normally be closed. If the RSD application is submitted after the RSD file would normally be closed, the RSD application should be considered as a request to re-open the RSD file and should be processed in accordance with the re-opening procedures set out in § 9.2 – *Re-opening RSD Cases*. The UNHCR Offices involved should coordinate to share the information required to determine the appeal application or the request to re-open the RSD file, as applicable.

7.2.4 Time Limit for Submitting the Appeal Application

UNHCR Offices should establish a **time limit** within which Applicants must submit the appeal application, **and after which negative RSD decisions that have not been appealed should be considered to be final**. In setting appeal deadlines, UNHCR Offices should give due consideration to their operational context, needs and objectives, including the role and capacities of implementing partners, the volume of appeal applications, the available staff resources and the security and protection environment in the host country/country of asylum.

As a general rule, the standard time limit **should not be less than 30 days** after the date on which the Applicant has been notified of the RSD decision and appeal procedures, unless the claims were rejected in accelerated procedures for manifestly unfounded claims, in which case, the time limit **should not be less than 15 days** (§ 6.1 – *Procedures for Notifying Applicant of RSD Decisions*). Timeframes for submitting appeal applications, including appeal applications for claims rejected in accelerated procedures for manifestly unfounded claims, should be **sufficiently flexible** to permit Applicants to obtain legal representation if they wish to do so.

Where notification is done in person, for instance, through an appointment at the UNHCR Office, the period for submitting the appeal application should generally run from the date of the notification, unless the office determines that a later date would be appropriate in the circumstances.

Where a method other than in-person notification is used, an appropriate date on which the Applicant can be deemed to have been notified of the negative RSD decision must be determined and recorded on file. The period for submitting an appeal application should run from the date of deemed notification.

Appeal procedures should be **sufficiently flexible** to permit Applicants to submit an appeal application after the expiry of the deadline where Applicants have valid reasons for submitting an appeal application out of time. Such reasons include, but are not limited to, late receipt of notification of negative RSD decision, health problems, obtaining legal advice and/or representation, and other compelling reasons. To facilitate a flexible approach, the files of Applicants whose RSD decision was negative at first instance should generally not be referred for file closure within a minimum of six weeks following the expiry of the appeal deadline (see § 9.1– *Closing RSD Cases*).

Where an appeal application is submitted after the RSD file has been closed, the appeal application should be considered as a **request to re-open the RSD file**. The RSD file should, thus, be referred to re-opening procedures in order to assess whether the established criteria for re-opening the file are met and, if so, whether the case should be referred to first instance or appeal procedures (see § 9.2 – *Re-opening RSD Cases*). If it is not possible to establish that the Applicant was duly notified of the negative RSD decision or of the appeal deadline, the file should generally be re-opened for the purpose of examining the appeal application.

7.3 Assigning Appeal Files

An appeal application should be determined by a qualified **Eligibility Officer (or other Protection staff member), who was not involved in the adjudication or review of the RSD decision at first instance**. The procedures and principles set out in § 4.1 – *Assigning Cases for RSD Adjudication* are applicable to the assignment of files for determination of appeal applications.

Wherever possible, the appeal should be decided by an Eligibility Officer (or other Protection staff member) who has equivalent or greater experience with RSD than the Eligibility Officer who decided the claim at first instance.

Where human resources in a UNHCR Office do not permit assignment of an appeal file to an Eligibility Officer (or other Protection staff member), who was not involved in the adjudication or review of the claim at first instance, an appeal may be decided by another qualified staff member who has the necessary protection experience and training. Where necessary, the UNHCR Office should consult with other UNHCR Offices in the Region, the relevant Bureau and/or Division of International Protection, to make appropriate staffing arrangements for determining the appeal, including remote arrangements where necessary and appropriate. These arrangements must not preclude the possibility of an Appeal Interview where it is not appropriate to determine the appeal through a paper review. The criteria for determining whether an Appeal Interview should be granted are set out below in § 7.4.1 – *Assessing whether an Appeal Interview is Necessary*.

7.4 Procedures for Determining Appeal Applications

7.4.1 General Considerations

The purpose of the appeal procedures is to re-examine the negative RSD decision at first instance to assess whether it was based on a **reasonable finding of fact and a correct application of the eligibility criteria for refugee status** under UNHCR's mandate, in light of all the information available at the time of the decision, as well as any new information relevant to the claim, including information relating to a change in the Applicant's personal circumstances or a change in the situation in their country of origin.

Applications for appeal should generally be processed in the order that they were filed. Where compelling protection, safety and/or security reasons exist, **appeal applications may be determined on a priority basis** and may be subject to shorter processing timeframes in accordance with the procedures set out in § 4.9 – *Accelerated RSD Processing*.

As a general rule, the Interpreter assigned to the case at the appeal stage should not have been previously involved in the determination of the claim, particularly where there are indications of a breach of procedural fairness related to the quality of interpretation at first instance (see also § 2.5.6 – I*mpartiality of UNHCR Interpreters*).

Eligibility Officers should begin the appeal determination by conducting a **thorough review of the RSD file**, including the RSD Interview record and the RSD Assessment Form, the Appeal Application Form, and any other information provided by the Applicant in support of the appeal application. The Eligibility Officer should also consider any additional information or issues that were not considered at the first instance but which may affect the outcome of the claim, whether raised by the Applicant or not.

7.4.2 Assessing whether an Appeal Interview is Necessary

As a general rule, **Applicants should be given the opportunity to present their appeal in person**. While the determination of the appeal through paper review will be appropriate in certain circumstances, an appeal interview must be conducted if:

- The negative RSD decision was based on **credibility findings** that were not adequately addressed during the RSD Interview and supported in the RSD Assessment;
- Information that was relevant to the determination of the claim was presented by the Applicant but was **not adequately considered in the RSD Interview** and the RSD Assessment;
- **New information** regarding the personal circumstances of the Applicant or a change in the situation in the country of origin that is relevant to the assessment of the refugee status claim is raised in the appeal application or otherwise becomes available. The Appeal Interview should be conducted to assess the reliability of the information; or
- The Appeal Application Form and/or the RSD Interview record and RSD Assessment, or other relevant information, indicate a **breach of procedural fairness**, which could have affected the ability of the Applicant to establish his or her claim, including but not limited to:
  - Inadequate interpretation;
  - Concerns regarding the real or perceived conduct or profile (ethnic, religious, gender etc.) of the Eligibility Officer or Interpreter
  - Lack of, or limited, opportunity for the Applicant to present relevant information;
  - Lack of, or limited, opportunity for the Applicant to respond to credibility concerns;
  - Failure to inform the Applicant regarding exclusion concerns and/or lack of, or limited, opportunity for the Applicant to respond to exclusion concerns;
  - Concerns regarding the real or perceived conditions of the RSD interview having affected the confidentiality of the RSD procedure; or
  - Inappropriate questioning.

The **determination of the appeal through a paper review** will be appropriate if, after a thorough examination of the file, the Eligibility Officer is satisfied that **all of the following conditions exist**:

- All relevant information has been presented;
- Establishing the material facts, including decisions to accept or reject particular claimed facts (i.e. credibility assessment), is supported by the RSD Interview record (transcript and/or audio recording) and the RSD Assessment; and
- The RSD negative first instance decision reached is based on a clearly correct or incorrect application of the refugee criteria to the accepted facts.

In certain circumstances, the determination of an appeal through paper review may also be appropriate to ensure the safety and security of the Applicant and/or Eligibility Officer.

(a) Appeals in detention and other special cases

As a general rule, appeals of negative RSD decisions that were reached following RSD Interviews with **Applicants in detention** should not be determined through a paper review, given the potential adverse impact that the interviewing conditions (e.g. lack of confidentiality, limited time, security concerns) is likely to have had on the RSD Interview and/or the Applicant's ability or willingness to provide a full and truthful account.

If the Applicant is in detention at the time of the appeal and it is not possible to conduct an interview or the interview conditions would raise serious confidentiality concerns, which may give rise to protection risks for the Applicant, the appeal may exceptionally be determined through a paper review. In adjudicating such cases, the Eligibility Officer will need to take into account the inability of the Applicant to present a statement in support of his or her appeal application in person.

Other categories of cases where appeals should generally not be determined solely through a paper review include appeals:

- by unaccompanied children;
- by persons with mental health problems; or
- presenting complex legal or factual issues.

Whether an appeal application is determined on the basis of a paper review or an Appeal Interview, UNHCR offices should ensure that **appeal applications are processed in a fair, prompt and transparent manner**. The reasons for conducting an Appeal Interview (or not) must be recorded on file.

7.4.3 Conducting the Appeal Interview

The Eligibility Officer should open the Appeal Interview by reviewing the introductory points set out in § 4.3.6 – *Opening the RSD Interview*.

STANDARDS & GUIDELINES

THE ELIGIBILITY OFFICER SHOULD ALSO EXPLAIN THE FOLLOWING PROCEDURAL ISSUES RELATING TO THE APPEAL PROCESS:

- The Appeal Interview is being conducted because the Applicant has requested a review of the RSD decision;
- The purpose of the Appeal Interview is to examine the issues or concerns presented by the Applicant in the Appeal Application Form and to clarify any other issues that are relevant to the determination of the refugee claim. The information that was presented and accepted as credible at the first instance will generally not be re-examined during the Appeal Interview, unless necessary for the determination of the appeal;
- The possible outcomes of the appeal process, including the closure of the Applicant's RSD file if the appeal is denied.

Before commencing the Appeal Interview, the Eligibility Officer should ensure that the Applicant understands the **general reasons why the refugee claim was rejected** in the first instance.

As a general rule, the Eligibility Officer should focus the Appeal Interview on issues that relate to the grounds for conducting the Appeal Interview and on the specific information or concerns presented by the Applicant in the Appeal Application Form. The Eligibility Officer **should not conduct a full RSD Interview** unless this is necessary to decide the appeal. The Applicant's statements and other information provided in support of facts material to the claim that were accepted in the RSD Assessment should not be re-examined in the Appeal Interview unless there are indications that they were not, or not adequately, considered in the RSD Interview and/or Assessment, or unless new information[2] puts previously accepted facts in doubt.

The Eligibility Officer who conducts the Appeal Interview should maintain a verbatim **Appeal Interview transcript**. Wherever possible, offices are strongly encouraged to maintain an **audio recording of the Appeal Interview in addition to the written transcript**. The use of audio recording *in lieu* of a written transcript may, exceptionally, be appropriate in cases involving **particularly vulnerable Applicants** (such as young unaccompanied or separated children, victims of trauma or applicants with mental health issues). Not having to take down a written record of the interview is likely to assist in building rapport and may create a less stressful and less intimidating environment for the Applicant. In such cases, the audio recording should generally be transcribed after the interview to facilitate the decision-making and review process. The principles and considerations set out in § 4.3.12 – *Recording the RSD Interview* are relevant to the appeal procedures.

7.4.4 The Appeal Assessment

Notwithstanding whether the determination of the appeal is completed through paper review or following an appeal interview, the reasons for the determination of the appeal should be documented in the **Appeal RSD Assessment Form (Annex Annex 7-2)**, which should be signed by the Eligibility Officer who decided the appeal.

7.4.5 Review of Appeal Decisions

Every Appeal Assessment should be reviewed by a UNHCR Protection staff member other than the Officers who determined the claim at first instance and on appeal. Where it is not feasible to review all Appeal Assessments, it is strongly recommended that at a minimum every Appeal Assessment that overturns the RSD decision be reviewed, as well as all decisions reached through paper review.

[2] In this context, "new information" should be understood as new information, including any Applicant's statements, relating to a change in the personal circumstances of the Applicant or in the situation in the country of origin that is relevant to the assessment of the refugee status claim (see § 7.4.2 – Assessing whether an Appeal Interview is Necessary).

7.5 Notification of Appeal Decisions

UNHCR Offices should establish timelines for the issuance of appeal decisions. Appeal procedures should promote fair and **prompt review and determination** of all appeals.

Applicants should be **notified in writing** of the decision on their appeal. As a general rule, it is **not necessary to provide reasons for the appeal decision**.

The files of Applicants who are rejected on appeal should be referred to procedures for closure of the file (see § 9.1 – *Closing RSD Cases*).

Annexes

Annex 1: UNHCR Appeal Application Form for Refugee Status Determination

UNITED NATIONS
HIGH COMMISSIONER
FOR REFUGEES

Address of Country Office.

NATIONS UNIES
HAUT COMMISSARIAT
POUR LES RÉFUGIÉS

Adresse de la Délégation.

FOR UNHCR USE ONLY	UNCHR REGISTRATION NO.	
	RSD FILE NO.	
	DATE OF NOTIFICATION OF FIRST INSTANCE DECISION	
	DATE OF RECEIPT OF APPEAL APPLICATION	

APPEAL APPLICATION FORM
FOR
REFUGEE STATUS DETERMINATION

Name of Applicant:

Date of Birth:

UNHCR Registration No.:

Telephone No.:

In the spaces provided below, please indicate the reasons why you believe that the decision reached in your refugee status claim is wrong. Please check all the reasons that apply and, in each instance, please explain why. Please do not limit yourself to the information you have already given UNHCR and provide as many details as possible.

You may use as many additional pages as necessary; please ensure that you and your legal representative [if any] have signed all additional pages.

NOTE: It is also very important for you to be aware that your Appeal Application could be reviewed and decided on the basis of the file and the information you have provided in this form, without the need for an appeal interview.

Please contact UNHCR at the address indicated above, if you have any questions about the appeal process or your appeal application, or if you need assistance with filling this Appeal Application Form.

Reasons for Appeal

☐ **Incorrect facts**

If any of the facts relied upon by UNHCR in reaching the decision in your refugee claim are incorrect, please explain which ones and provide the correct information/facts. Please indicate whether the facts relied upon by UNHCR are different from the facts you have presented in the RSD Application or during the interview. If you believe that UNHCR misunderstood or misinterpreted parts of your story, please explain which parts were misunderstood or misinterpreted and what is the correct situation.

Click to enter text.

☐ **Problems with procedures or process at first instance**

Please indicate any issues or incidents relating to the procedures or process for determining your claim that made it difficult for you to explain why you are a refugee. These may include, for example, problems with the gender of the interpreter or the interviewer, problems with interpretation or language, problems with the way the questions were asked or how the interview was conducted, whether inconsistencies were put to you for comment, the presence of family members or other persons who prevented you from telling your story, or issues relating to the information or evidence you have submitted or was submitted on your behalf, etc.

Click to enter text.

☐ **New information relevant to your refugee claim**

Please provide any information relevant to your refugee claim that you have not previously presented to UNHCR, and explain why you could not or did not present this information earlier.

Click to enter text.

☐ **Other reasons**

Please write any other reasons why you believe the decision reached in your case by UNHCR was wrong. This may include, for example, an incorrect application of the refugee criteria, as explained to you in the RSD Interview.

Click to enter text.

List of Supporting Evidence

Please list below any additional documents or other evidence you are submitting in support of your Appeal Application:

1. Click to enter text.
2. Click to enter text.
3. Click to enter text.
4. Click to enter text.
5. Click to enter text.

I declare that the information I have provided above is true and complete to the best of my knowledge.

Signed: _____ Date: Click to enter date.

Annex 2: UNHCR Appeal Assessment Form

RSD APPEAL ASSESSMENT FORM[1]

UNHCR Office:	RSD Case NO.:
Notification of Negative RSD Decision Date: Click to enter a date.	
Appeal Submission Date: Click to enter a date.	Appeal Officer:
Date of Appeal Interview(S) (If Applicable):	Language of Appeal Interview (If Applicable):

Applicant's Basic Bio-Data

Full Name:	Nationality:
If Stateless, Country (Countries) of Former Habitual Residence:	
Date of Birth:	Ethnicity:
Sex:	Religion:

PART I - TIMELINESS OF APPEAL

I-1 Has the appeal application been submitted within the established time limit?

Yes ☐ No☐

*If '**Yes'**, briefly explain and then proceed to Part II: Review of Appeal Application:*

*If '**No'**, briefly explain with reference to the date of receipt of the appeal application, the established time limit to submit an appeal application, and the date of notification of the negative RSD decision:*

I-2 If the appeal application has been submitted outside of the established time limit, are there valid reasons that would warrant consideration of the appeal out of time?

Yes ☐ No☐

*If '**Yes'**, briefly explain and proceed to Part II – Review of Appeal Application:*

*If '**No'**, briefly explain and proceed to Part VI: Recommendation and delete the remainder of this form.*

[1] This Appeal Assessment Form is intended to be used for individual cases where a negative RSD decision has been taken at First Instance either through regular RSD, simplified RSD or accelerated RSD. This Appeal Assessment Form is not applicable for individual RSD decisions rejected at first instance through RSD processes such as derivative, cancellation, cessation and revocation.

1

PART II - REVIEW OF APPEAL APPLICATION

II-1 Summarize the issues or concerns raised in the Appeal Application:

Click here to enter text.

PART III - REVIEW OF NEGATIVE RSD DECISION AND FILE

Reasons for Negative RSD Decision

III-1 Indicate the ground(s) for the negative RSD decision and briefly summarize the reasons for rejection:

Tick all boxes applicable and summarize, for each selected box, the reason(s)/analysis presented in the first instance RSD Assessment Form:

- ☐ Material facts of the claim not established due to issues of
  - ☐ Credibility
  - ☐ Non-cooperation
- ☐ Inclusion
  - ☐ Not outside the country of nationality/habitual residence
  - ☐ Well-founded fear
  - ☐ Persecution
  - ☐ Grounds for persecution
  - ☐ Internal flight or relocation alternative
  - ☐ Broader refugee criteria
- ☐ Exclusion
  - ☐ Exclusion pursuant to Article 1F
    - ☐ Art 1F (a)
    - ☐ Art 1F (b)
    - ☐ Art 1F (c)
- ☐ Exclusion pursuant to Article 1D
- ☐ Exclusion pursuant to Article 1E

Click here to enter text.

Material Facts

III-2 Were the findings with regard to the credibility of the Applicant's statements on material elements of the claim reasonable?

Consider the Applicant's oral and written statements as well as all other information, including COI that was available at the time of the negative RSD decision. Assess the **credibility analysis and findings** made at first instance, taking into account applicable credibility indicators and other relevant factors which may have affected the Applicant's ability to substantiate his/her claim as well as, where applicable, any issues of (non-)cooperation during the first instance proceedings.

Yes ☐ No☐

*If '**Yes'**, briefly explain the reasons why you consider the credibility finding(s) regarding (one or more of) the material elements of the claim to be reasonable:*

Click here to enter text.

*If '**No'**, briefly explain the reasons why you consider the credibility finding(s) regarding (one or more of) the material elements of the claim not to be reasonable:*

Click here to enter text.

III-3 Were the material facts of the claim correctly established?

Consider the credibility findings with regard to the Applicant's statements as well as all other information available at the time of the negative RSD decision. Assess the **findings of fact** made at first instance, taking into account any factors which may have affected the Applicant's ability to substantiate his/her claim as well as, where applicable, any issues of (non-)cooperation during the first instance proceedings.

Yes ☐ No☐

*If '**Yes'**, briefly explain the reasons why you consider that the first-instance decision-maker made correct findings of fact with regard to (some or all of) the material facts of the claim:*

Click here to enter text.

*If '**No'**, briefly explain the reasons why you consider that the first-instance decision-maker made incorrect findings of fact with regard to (some or all of) the material facts of the claim.*

Click here to enter text.

Application of the Eligibility Criteria at first instance

III-4 Were the eligibility criteria for refugee status under the 1951 Convention and the broader refugee criteria correctly applied?

Consider the legal analysis conducted at first instance, taking into consideration the interpretation of relevant eligibility criteria by the first-instance decision-maker as well as their application to the facts of the case.

a) Not outside the country of nationality/ habitual residence **Yes ☐ No ☐ N/A ☐**
b) Well-founded fear **Yes ☐ No ☐ N/A ☐**
c) Persecution **Yes ☐ No ☐ N/A ☐**
d) Grounds for persecution **Yes ☐ No ☐ N/A ☐**

e) Internal flight or relocation alternative **Yes ☐ No ☐ N/A ☐**
f) Broader refugee criteria **Yes ☐ No ☐ N/A ☐**
g) Exclusion pursuant to Article 1F **Yes ☐ No ☐ N/A ☐**
   a. If 'Yes', tick the relevant ground(s) ☐ Art 1F (a)
   ☐ Art 1F (b)
   ☐ Art 1F (c)
h) Exclusion pursuant to Article 1D **Yes ☐ No ☐ N/A ☐**
i) Exclusion pursuant to Article 1E **Yes ☐ No ☐ N/A ☐**

*If '**Yes**' (and, where relevant, 'N/A') for all of the above, proceed to next question.*

*If '**No**' for any of the above, briefly explain the reasons why you consider that the first-instance decision-maker incorrectly applied the eligibility criteria with regard to the element(s) concerned.*

Click here to enter text.

Procedural Fairness

III-5 Has there been a breach of procedural fairness which could have affected the Applicant's ability to establish the claim?

Consider all relevant information on file and assess whether there are any indications that a breach/breaches of procedural fairness could have been a factor in leading to the negative first-instance RSD decision.

a) Inadequate interpretation **Yes ☐ No ☐**
b) Real or perceived concerns regarding the conduct or profile (ethnic, religious, gender, age, etc.) of the Eligibility Officer or Interpreter **Yes ☐ No ☐**
c) Lack of, or limited, opportunity for the Applicant to present relevant information **Yes ☐ No ☐**
d) Lack of, or limited, opportunity for the Applicant to respond to credibility concerns **Yes ☐ No ☐**
e) Failure to inform the Applicant regarding exclusion concerns and/or lack of, or limited, opportunity for the Applicant to respond to exclusion concerns **Yes ☐ No ☐**
f) Real or perceived concerns regarding the confidentiality of the RSD procedure **Yes ☐ No ☐**
g) Inappropriate questioning
h) Other breaches of procedural fairness (elaborate below) **Yes ☐ No ☐**

*If '**Yes**' to any of the above, briefly explain, for each box selected, the reasons why you consider that a breach of procedural fairness has occurred and indicate whether, and if so how, it may have affected the first-instance RSD decision.*

Click here to enter text.

*If '**No'** to any of the above, proceed to next question. No explanation is needed, except where an issue related to procedural fairness has been raised specifically in the appeal submission – if this is the case, tick 'No' and briefly explain why you consider that the issue was not capable of affecting the first-instance RSD decision.*

Click here to enter text.

PART IV - APPEAL INTERVIEW

In light of all of the above, indicate whether an Appeal Interview is required and why:

Yes ☐ No ☐

*If '**No'**, briefly explain and then proceed directly to Part V: Appeal assessment*

Click here to enter text.

*If '**Yes'**, tick all applicable boxes and briefly explain, for each box selected, the key issues to be addressed during the appeal interview:*

☐ to address issues of procedural fairness
☐ to address concerns with regard to the credibility findings related to material elements of the claim
☐ to address mistake(s) in the findings of fact (error(s) of fact)
☐ to address error(s) in the application of the eligibility criteria (error(s) of law)
☐ to examine newly submitted information regarding the personal circumstances of the Applicant and/or a change in the situation in the country of origin relevant to the determination of the claim
☐ for other reasons:
Click here to enter text.

If an Appeal Interview is required, conduct the interview before proceeding to Part V: Appeal assessment.

Briefly outline the key issues to be addressed during the interview, including:

(i)
(ii)
(iii) …

PART V - APPEAL ASSESSMENT

Applicant's Claim on Appeal

V-1: Based on the review of the information provided by the Applicant during the first instance proceedings and on appeal (including, where applicable, the appeal interview), has any new or different information material to the claim arisen as part of the appeal process?

Yes ☐ No ☐

*If '**No**', cross-reference to the Summary of Claim at First Instance and proceed to question V-2.*

*If '**Yes**', briefly summarize the reasons provided by the Applicant at appeal level for leaving the country of nationality or former habitual residence and for being unwilling or unable to return there, focusing on aspects of the Applicant's claim which are different and/or go beyond the claim presented at first instance, and proceed to question V-3.*

Click here to enter text.

V-2: For cases that have not presented any new or different information material to the claim, has the review of the negative first-instance RSD Decision revealed any error affecting the outcome of the first-instance proceedings?

Yes ☐ No ☐

*If '**Yes**', briefly explain and proceed to Question V-3.*

Click here to enter text.

*If '**No**', proceed directly to Part VI – Recommendation.*

Materials Facts on Appeal

V-3 Identify the material elements relevant to the Applicant's claim on appeal and, for each of them, set out the credibility assessment with regard to the Applicant's statements as well as your determination as to the established material facts.

List the material elements of the claim as presented by the Applicant on appeal.

To the extent that the material elements remain the same as at first instance, copy-paste the conclusions on the material facts from the first instance RSD Assessment. Add newly identified material elements and/or amend those identified at first instance, as appropriate.

- *With regard to those material elements for which there is **no new or different information** on appeal, and for which **no error has been identified** under III-2 (credibility analysis) and/or III-3 (findings of fact), it is sufficient to cross-reference the relevant parts of the first-instance negative RSD Decision and briefly re-state the conclusions with regard to the material facts without further analysis/reasoning.*

- *With regard to those material elements for which the **credibility assessment and/or findings of fact need to be revisited on appeal** (because new or different information exists, and/or because errors in the credibility assessment/findings of fact have been*

detected under Questions III-2 and/or III-3), , present your analysis using the following structure:

> ***(i) Material Element (1):*** *Applicant's identity, nationality, ethnicity*
> *A. Credibility Findings*
> *B. Established Facts*
>
> ***(ii) Material Element (2):*** *[next relevant material element]*
> *A. Credibility Findings*
> *B. Established Facts*
>
> *[…]*
>
> ***Conclusions on the Material Facts***
> *In this final section, spell out the conclusions you have reached in establishing the material facts of the case on appeal*

If, as a result of your analysis, you assess that the material facts necessary to determine eligibility cannot be established, explain and proceed to Part VI: Recommendation.

Click here to enter text.

Application of the Eligibility Criteria on Appeal

To the extent that the legal analysis remains the same as at first instance, it is sufficient to cross-reference and proceed to the next question.

Well-Founded Fear

V-4 Considering the material facts as established on appeal, relevant COI, and the experience of similarly situated individuals in the country of nationality or, if stateless, former habitual residence, is there a reasonable possibility that the Applicant would experience harm if returned to that country?

Explain with reference to the material facts of the Applicant's claim as established on appeal, as well as relevant and up-to-date COI. Identify the harms that are reasonably possible if the Applicant were to return to his/her country of nationality or habitual residence.

Yes ☐ No ☐

*If '**Yes**', explain and specify the kind(s) of harm identified:*

Click here to enter text.

*If '**No**', explain and proceed to Question V-8:*

Click here to enter text.

Persecution

V-5 Does the harm, which has been determined on appeal to be reasonably possible in the event of the Applicant's return to the country of nationality or, if stateless, former habitual residence, constitute persecution?

Yes ☐ No ☐

Explain with reference to the forms of harm identified, including serious violations of human rights, as well as less serious violations of human rights and/or discrimination which could cumulatively constitute persecution.

If '***Yes***', *explain why the harm(s) identified amount to persecution.*

Click here to enter text.

If '***No***', *explain and proceed to Question V-8.*

Click here to enter text.

Reasons for Persecution

V-6 Is the persecution identified in V-5 for reasons of one or more of the grounds in the 1951 Convention/1967 Protocol?

Yes ☐ No ☐

If '***Yes***', *select the relevant ground(s), specifying whether real or imputed. Provide an explanation why the persecution is for reasons of* ***(each of) the ground(s)*** *selected.*

If '***No***', *explain and proceed to Question V-8.*

☐ race

☐ religion

☐ nationality

☐ membership of a particular social group

☐ political opinion

If "*No*", click here to enter text.

Availability of Internal Flight or Relocation Alternative

V-7 Considering the material facts as established on appeal, can the Applicant (determined to have a well-founded fear of persecution for reasons of one or more of the Convention grounds in the country of nationality or, if stateless, former habitual residence) return and/or relocate to any part of that country where he or she could reasonably live without fear of persecution or undue hardship?

Yes ☐ No ☐

Explain with reference to relevant and up-to-date COI, and proceed to Question V-8.

Click here to enter text.

Conclusion on Inclusion under 1951 Convention/1967 Protocol

V-8 Does the Applicant meet the inclusion criteria in Article 1(A) 2 of the 1951 Convention/1967 Protocol?

Yes ☐ No ☐

Inclusion Assessment – UNHCR Broader Refugee Criteria

V-9 If the Applicant does not fall within the inclusion criteria of the 1951 Convention/1967 Protocol, is he/she outside his/her country of nationality or, if stateless, former habitual residence and unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or other events seriously disturbing public order?

Yes ☐ No ☐

*If '**Yes**', explain:*

Click here to enter text.

If the Applicant meets the inclusion criteria of the 1951 Convention/1967 Protocol (VI-7) or the broader refugee criteria (VI-8), proceed to Question VI-9.

If the Applicant does not meet the inclusion criteria, proceed to Part VII.

Application of the Exclusion Clauses

V-10 Is there any information in the Applicant's case which requires consideration of the possibility of exclusion based on Article 1F (a), (b) or (c) of the 1951 Convention?

Yes ☐ No ☐

*If '**No**', exclusion clauses are triggered, proceed to Part VI -Recommendation.*

*If '**Yes**', complete and attach the Exclusion Assessment part of the RSD Assessment Form prior to proceeding to Part VI - Recommendation.*

PART VI – RECOMMENDATION

In light of the foregoing assessment, it is recommended that:

☐The appeal is inadmissible because the Appeal Application was submitted out of time, and there are no valid reasons that would warrant consideration of the appeal.

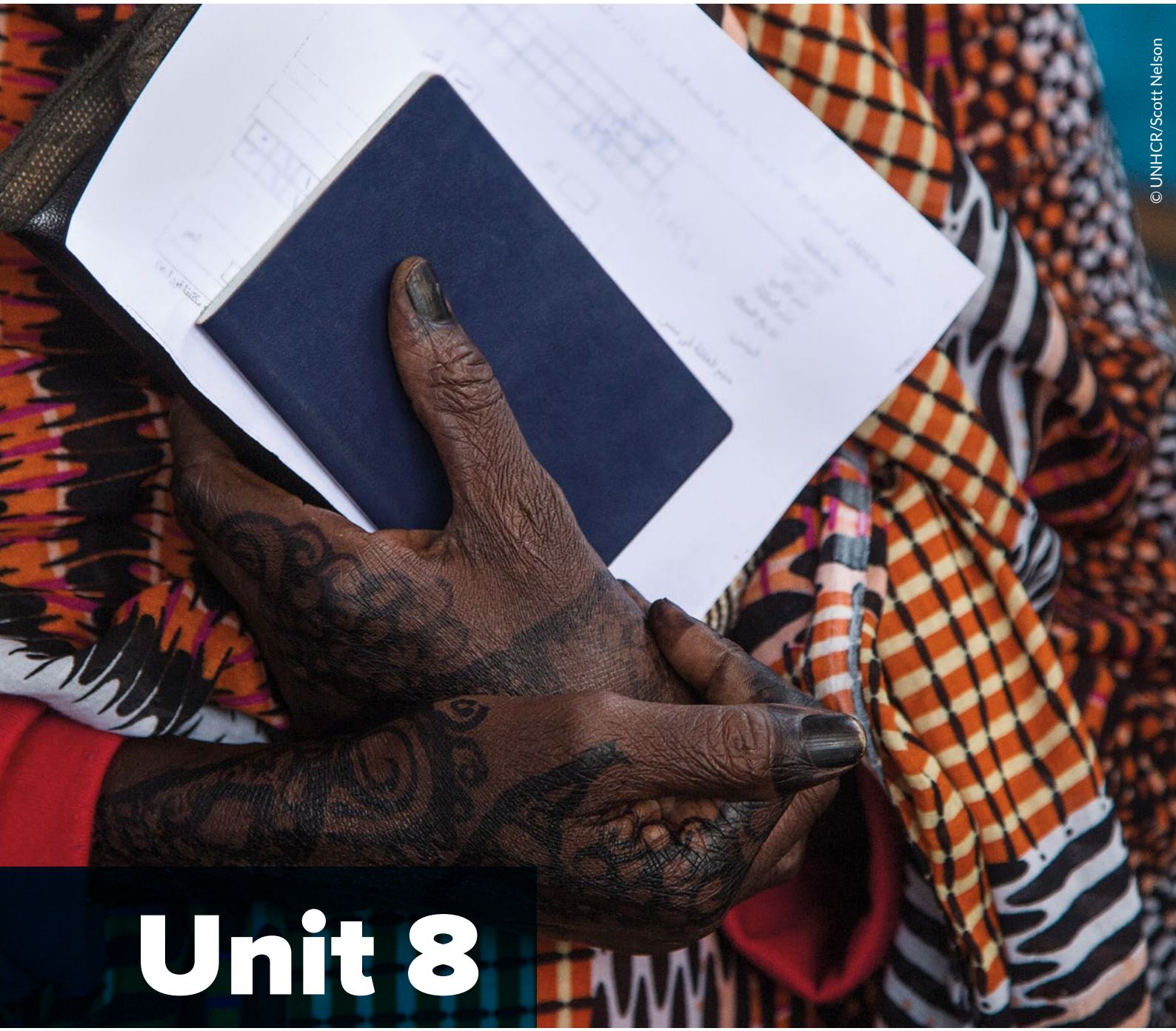
☐The appeal is accepted, and the negative first-instance RSD decision is overturned as the Applicant meets the criteria set out in Art. 1A(2) of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and should be recognized as a refugee.

☐The appeal is accepted, and the negative first-instance RSD decision is overturned as the Applicant is outside of his/her country of nationality or, if stateless, former habitual residence and is unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or other events seriously disturbing public order. The Applicant should be recognized as a refugee pursuant to the broader refugee criteria.

☐The appeal is rejected, and the negative first-instance RSD decision is maintained for the same reasons as at stated in the negative RSD decision.

☐The appeal is rejected, and the negative first-instance RSD decision is maintained for different reasons as outlined above.

Name and Signature of Eligibility Officer:	Name and co-signature of Reviewing Officer(s):
Date:	Date:



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Unit 8

UNHCR REFUGEE IDENTITY DOCUMENTATION

8.1 General Principles

The issuance of identity documents for refugees is primarily the responsibility of the authorities of the host country/country of asylum. UNHCR Offices should advocate with the Government of host country/country of asylum for national authorities to issue refugee identity documents with the same design and specifications applied to identity documentation issued to nationals. This is with a view to ensure formal recognition of refugee status, as well as facilitate access to rights, protection and services in the host country/country of asylum.

Where identity documentation is not issued by, or jointly with, the Government of the host country/country of asylum, UNHCR Offices should provide necessary identity documentation to every individual who is determined to meet the criteria for refugee status under UNHCR's mandate, including family members and/or dependants of a recognized refugee who are determined to be eligible for derivative refugee status (see also § 3.3 – *Identity Documentation for Registered Asylum-Seekers*).

UNHCR Offices should determine, based on the operational environment and in consultation with the host Government as appropriate, the type of identity documentation to be issued to refugees recognized under UNHCR's mandate. While the issuance of a refugee identity card (ID card) is generally recommended, other identity documentation, such as UNHCR Refugee Certificates may also be issued.

The UNHCR refugee identity documentation should attest to the fact that the individual named in the document is a refugee, and as such, is a person who should *inter alia* be protected from forcible return to a country in which he/she would face persecution.

UNHCR Offices should undertake any necessary **demarches with the relevant authorities in the host country/country of asylum** to explain the form and significance of identity documentation issued by UNHCR to refugees and to promote recognition and acceptance of the identity document, as well as access to rights and services, in the host country/country of asylum.

8.2 Procedures for Issuing UNHCR Refugee Identity Documents

8.2.1 Form of UNHCR Refugee Identity Documents

Insofar as possible, UNHCR-issued refugee ID cards should follow the design, format and content of national identity documents in the host country/country of asylum. Refugee ID cards should generally contain the following information:

STANDARDS & GUIDELINES

UNHCR ID CARDS

- The type and title of the identity document;
- Name and logo of UNHCR;
- Unique document number;
- The name by which the refugee is registered with UNHCR;
- Other basic biodata (such as the date of birth and sex of the refugee);
- A photograph of the refugee;
- Date of issuance and expiration (where applicable);
- A general statement of rights associated with the document.

When UNHCR Refugee Certificates are issued instead of UNHCR refugee ID cards, they should be issued in the standard format (**Annex 8-1**). In addition to the attestation of the individual's status as a refugee, referred to in § 8.1 above, the document should generally contain the following information:

STANDARDS & GUIDELINES

UNHCR REFUGEE CERTIFICATES

- The name by which the refugee is registered with UNHCR and other core bio-data including the date and place of birth, sex and nationality;
- The UNHCR registration number of the refugee;
- A photograph of the refugee to whom the UNHCR Refugee Certificate is issued;
- The unique document/reference number under which the document was issued by UNHCR;
- The date of issuance and, where applicable, of expiration of the UNHCR Refugee Certificate;
- The signature of a UNHCR staff member who is authorized to sign UNHCR Refugee Certificates;
- The UNHCR logo and address and contact information for the UNHCR Office that issued the document.

For all UNHCR-issued refugee identity documents, it is recommended that the following information is not included:

- Biodata that may give rise to protection risks in the host country/country of asylum, such as ethnicity and religion;
- Information about the Applicant's family composition and size, or data relating to family members.

UNHCR refugee identity documents should be issued in the language of the host country and the main working language of the UNHCR Office.

If the UNHCR refugee identity document has a limited period of validity, the refugee should be informed of the procedures for renewal at the time that the identity document is issued.

8.2.2 Oversight and Controls

UNHCR refugee identity documents should be prepared by **designated UNHCR staff** who should work under the **direct supervision** of the Registration Supervisor or another designated Protection staff member.

Access to **templates for UNHCR refugee identity documents** and related materials, and circulation of UNHCR refugee identity documents during preparation and review procedures should be strictly controlled (i.e. through numbering and logging procedures, restricted access to and secure storage of templates and other materials, etc.). All efforts should be made to avoid misuse or theft of identification documentation materials and data.

Procedures for preparing and issuing UNHCR refugee identity documents should include **effective review/quality check mechanisms** to ensure that the information they contain is accurate, and that they are issued only to individuals who have been found to meet the criteria for refugee status under UNHCR's mandate. Each UNHCR refugee identity document should be reviewed/checked for accuracy by the Registration Supervisor or another designated Protection staff supervisor before it is issued. Where responsibility for review is delegated or rests with another Protection staff member, the Registration Supervisor should conduct regular and random reviews of UNHCR refugee identity documents to monitor the effectiveness of supervision and controls. UNHCR refugee identity documents should be stamped or carry an electronic signature of the Head of Office or a Protection staff member designated by the Head of Office, as applicable.

Each UNHCR Office, in consultation with UNHCR Headquarters as necessary, should employ the most effective techniques available to prevent fraudulent production or tampering of UNHCR refugee identity documents, including using carefully controlled security paper, embossing, bar codes, or dry seals (see also § 8.4 – *Fraudulently Obtained and Fraudulent Use of UNHCR Refugee Identity Documents*).

As a general rule, refugee documentation should be issued by UNHCR even if registration is conducted by implementing partners on behalf of UNHCR. However, refugee documentation may exceptionally be issued by such partners provided that the necessary fraud prevention safeguards are in place.

8.2.3 Replacement of Lost or Stolen UNHCR Refugee Identity Documents

Replacement of lost or stolen UNHCR refugee identity documents should be carried out pursuant to established procedures. As a general rule, refugees who are seeking replacement of a lost or stolen UNHCR refugee identity document should be required to attend **in person** at the UNHCR Office and should be asked to provide a written and signed explanation of the circumstances of the loss, as well as an undertaking to return the original document to UNHCR if it is recovered. Where, exceptionally, refugee documentation is issued by an implementing partner on behalf of UNHCR, replacement of lost or stolen refugee identity documents may also done by the same implementing partner. The guidance and procedures set out in this section are relevant and should inform the replacement of refugee identity documents by implementing partners.

Before issuing a replacement UNHCR refugee identity document UNHCR staff should take necessary measures to confirm the identity of the individual making the request and their status as persons who have been determined by UNHCR to be eligible for refugee status. Standard procedures should require the retrieval of the registration record of the individual making the request, including the individual's photograph and biometrics, as well as the Office record of the original UNHCR refugee identity document (see § 8.3 – *Maintaining Office Records of UNHCR Refugee Identity Documents*). The individual making the request should also be asked to present any identity documents in his or her possession.

Replacement of UNHCR refugee identity documents should be subject to **effective review and approval procedures** by Protection staff who are designated to supervise the issuance of UNHCR documents.

In any case where the identity of the individual making the request, or their status with UNHCR, cannot be confirmed by the UNHCR Office, or where there are reasons to doubt the legitimacy of the purpose for which the replacement UNHCR refugee identity document is sought (e.g. repeated requests for replacement of lost refugee identity documents), the request should be referred to the Protection staff member who is responsible to supervise the issuance of UNHCR Refugee Certificates.

8.2.4 Retrieval of UNHCR Refugee Identity Documents

In the interest of maintaining the integrity of identity documentation issued by UNHCR to recognized refugees, UNHCR Offices should **take all feasible steps to retrieve valid UNHCR refugee identity documentation**, including UNHCR Refugee Certificates, issued to individuals whose refugee status has been ceased, cancelled or revoked (for further guidance, see § 10.6 – *Withdrawal of UNHCR-issued Refugee Documents in Cancellation or Revocation Procedures* and § 11.5 – *Withdrawal of UNHCR-issued Refugee Documents in Cessation Procedures*). In so far as possible, UNHCR Offices should also make efforts to retrieve valid UNHCR refugee identity documentation of deceased recognized refugees. Where retrieval is not possible, the Office's central record of identity documents should be updated to reflect that the particular document is no longer valid (see § 8.3 – *Maintaining Office Records of UNHCR Refugee Identity Documents* below).

8.3 Maintaining Office Records of UNHCR Refugee Identity Documents

A copy of each UNHCR refugee identity document issued to an Applicant and any accompanying family member/dependant should be **retained on the appropriate individual file**.

Each UNHCR Office should maintain a **central record of all UNHCR refugee identity documents** issued by the Office, including retrievals and replacements of lost or stolen UNHCR identity documents. The central record may be maintained as part of the UNHCR case management database. The guidance on the information relating to UNHCR asylum-seeker identity documents that should be recorded is also applicable in respect to UNHCR refugee identity documents (see § 3.3.7 – *Maintaining Office Records of UNHCR Asylum-Seeker Identity Documents*).

8.4 Fraudulently Obtained and Fraudulent Use of UNHCR Refugee Identity Documents

Fraudulent use or fraudulent acquisition of refugee identity documents include situations where an individual has made or knowingly used a fake document, or where an individual has used another's person identity document.

Procedures relating to UNHCR-issued refugee identity documents should include appropriate measures to prevent, detect and respond to the fraudulent use or acquisition of refugee identity documents in accordance with UNHCR's policy and guidance for addressing fraud by persons of concern. Such measures may include, for instance, the use of unique security paper for refugee identity documents, as well as counselling for asylum-seekers and refugees on the risks associated with fraud and mechanisms to report incidents of fraud (see also § 8.2.2 – *Oversight and Controls*).

Established procedures should also include measures to confiscate and, where necessary, appropriately dispose of UNHCR identity documents used by persons other than the individual to whom they were issued. Misuse of UNHCR identity documents by refugees to whom they were legitimately issued should be dealt in accordance with UNHCR's policy and guidance for addressing fraud by persons of concern and established procedures.

Any incident of suspected fraudulent production or use of UNHCR refugee identity documents should immediately be brought to the attention of the UNHCR Office **Anti-Fraud Focal Point** designated by the Representative in accordance with UNHCR's policy and guidance for addressing fraud by persons of concern. The Anti-Fraud Focal Point should take the necessary measures to address the situation, in consultation with DIP and other relevant entities in Headquarters as necessary.

Annex: UNHCR Refugee Certificate

Government Logo **Refugee Certificate**

UNHCR
The UN Refugee Agency

Document Reference Number	ABC/20/0012456
UNHCR Registration Number	000-00001234
Name	XXXXX, XXXX
Sex	XXXXX
Nationality	XXXXX
Date of Birth	01 Jan 1980
Place of Birth	XXXXX

Photo

To Whom It May Concern

This is to certify that the above-named individual has been recognized as a refugee by the United Nations High Commissioner for Refugees, pursuant to its mandate. As a refugee, this individual should be protected from forcible return to a country where they would face persecution. Any assistance accorded to this individual would be most appreciated.

Questions regarding the information contained in this document may be directed to the United Nations High Commissioner for Refugees at the address mentioned.

Government Authority	UNHCR:
Address	UNHCR Office Address
Signature of authorizing Officer	Signature of authorizing Officer

Date of Issuance	03 Jan 2020
Date of Expiry	02 Jan 2021

Unit 9

PROCEDURES FOR RSD CASE CLOSURE AND RE-OPENING

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9.1 Closing RSD Cases

Applicants should have their RSD cases closed in the following circumstances:

STANDARDS & GUIDELINES

RSD CASES SHOULD BE CLOSED IN THE FOLLOWING CIRCUMSTANCES:

- Where an Applicant's refugee status or appeal application is abandoned or deemed to have been abandoned;
- Where an Applicant's refugee status or appeal application is withdrawn;
- Upon the death of the Applicant;
- Following the Applicant's naturalization in the host country/country of asylum or a third country before a RSD decision (at first instance or on appeal) is issued;[1]
- Following an Applicant's voluntary[2] or forcible return to his/her country of nationality/habitual residence before a RSD decision (at first instance or on appeal) is issued;
- Following an Applicant's onward movement to a third country before a RSD decision (at first instance or on appeal) is issued;
- Upon the RSD decision (at first instance or on appeal) becoming final.[3]

Closure of the RSD case should not be confused with closure of the individual case in UNHCR's case management database. For instance, while the RSD case will be closed as a result of recognition of status, the recognized refugee may continue to remain of concern to UNHCR and his/her individual case may remain active on the case management database for reasons unrelated to RSD, such as provision of assistance or processing for durable solutions.

Applicants who do not attend their first instance or appeal RSD Interview[4] and do not contact UNHCR to reschedule the Interview within the 6 weeks following the date of the scheduled Interview, or a longer period considered appropriate by the UNHCR Office, should be deemed to have **abandoned the refugee status claim**.[5] Offices should take adequate measures to ensure attendance at first instance and appeal RSD Interviews and avoid unnecessary or premature closure of RSD cases.[6]

UNHCR Offices should establish procedures to permit Applicants to submit a formal **withdrawal of a refugee status or appeal application** and to request and receive appropriate counselling in this process. As a general rule, the request to withdraw a refugee status or appeal application should be made in writing. Exceptionally, Applicants who are illiterate or who otherwise require assistance in RSD procedures may request the withdrawal of their RSD or appeal application orally, in person at the UNHCR Office. The withdrawal request and reasons for withdrawal, if any provided, must be duly recorded on the Applicant's file and UNHCR's case management database. The RSD cases of Applicants who have withdrawn their refugee status or appeal application should be closed.

If UNHCR receives reliable information to establish that an Applicant is **deceased** or that he/she has moved onwards to a third country,[7] or has been legally **naturalized** in the host country/country of asylum or in a third country before a RSD decision is issued at first instance or on appeal, the Applicant's RSD case should be closed. Similarly, if UNHCR receives reliable information to establish that an Applicant has **voluntarily returned** to his/her country of origin or has been deported or otherwise forcibly removed from the host country/country of asylum, the Applicant's case should be closed. UNHCR Offices should take reasonable steps to verify such information, including by trying to contact the Applicant at the last known address or telephone number.

If an **Applicant does not exercise the right to appeal** within the established time limit, the negative RSD decision in first instance should be considered **final** and the case should be closed. In accordance with the requirement for flexibility in considering appeal applications that are received after the appeal filing deadline, cases of Applicants whose claims were rejected at first instance should not be referred for case closure for **a minimum of the six weeks** following the expiry of the appeal deadline (see also § 7.2.4 – *Time Limit for Submitting the Appeal Application*).

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4 In some instances, failing to attend a RSD appointment with UNHCR prior to the RSD Interview (such as an appointment for renewal of an asylum-seeker certificate) and not contacting UNHCR within the six weeks following the initial date of the appointment may also result in the refugee status claim being deemed abandoned. Whether missing a RSD appointment may be considered a deemed abandonment of the claim will depend on the operational context and the circumstances of the case.

5 In cases where a first instance decision is issued, but no appeal application is filed within the prescribed timeframe, the decision will be considered final and the case would be closed for this reason rather than abandonment.

6 Such measures may include calling the Applicant to confirm attendance prior to the RSD Interview, and sending Applicants automatic reminders of scheduled RSD Interviews. Offices may also pro-actively contact an Applicant after failure to attend a RSD Interview in order to ascertain if he/she had valid reasons for not attending or whether the refugee status claim should be considered abandoned and the file closed.

7 Reliable information that an Applicant has moved onwards to a third country may include information that the Applicant has registered with UNHCR in that country or information that he/she has applied for asylum in the third country. In the case of Applicants who have registered with UNHCR in a third country, the UNHCR Office should transfer all information on the Applicant's RSD file and any other relevant information to the UNHCR Office in the third country before closing the RSD case.

The RSD cases of Applicants whose claims are **rejected on appeal** or whose claims were recognized at first instance or on appeal should be referred for case closure.

UNHCR Offices should adopt procedures for closure of RSD cases. Procedures for closing RSD cases should require that case closure is duly recorded on file and UNHCR's case management database, and should set out timeframes for closing the case as appropriate in light of the reasons for closure. It is recommended that procedures for closing RSD cases include procedures for bringing forward and closing cases where the refugee status claim was deemed abandoned. The RSD cases of Applicants who have withdrawn their refugee status or appeal application should be closed upon receipt of the withdrawal request or as soon as practicable thereafter.

Appropriate storage requirements for closed RSD cases should be set out in the UNHCR Offices file management procedures (see § 2.2.6 – *Storing and Archiving Closed RSD Files*).

9.2 Re-opening RSD Cases

9.2.1 General Considerations

UNHCR Offices should adopt procedures for processing applications by individuals who have closed RSD cases with UNHCR to determine whether case re-opening is appropriate. Re-opening of closed RSD cases may be justified in the following circumstances.

(a) Withdrawn refugee status or appeal applications

Applicants whose claims **have been withdrawn before the first instance or appeal decision** was issued and who subsequently seek to apply for RSD should have their RSD case re-opened and referred to first instance or appeal RSD procedures, as appropriate in accordance with the principles set out in § 9.2.1(d) – *Stage at which the RSD case is re-opened* below.

(b) Refugee status or appeal applications deemed abandoned

Offices should adopt a flexible approach to the **re-opening of closed cases that were considered to be abandoned** after the Applicant failed to attend the first instance or appeal RSD Interview or to contact the UNHCR Offices within the six weeks following the scheduled Interview. Requests to re-open the case and to reschedule the missed Interview should generally be granted unless an Applicant has missed several scheduled Interviews without a valid explanation, and there is good reason to believe the Applicant is not acting in good faith. Given the potential protection implications of not having a refugee status claim determined for an Applicant who has registered with UNHCR, decisions not to re-open the RSD case should only be made in exceptional circumstances and only with the authorization of the RSD Supervisor. The reasons for the decision not to re-open the case and to reschedule the first instance or appeal RSD Interview should be clearly recorded on the Applicant's file. Where a re-opening is considered appropriate, the case should be referred to first instance or appeal RSD procedures, as appropriate in accordance with the principles set out in § 9.2.1(d) – *Stage at which the RSD case is re-opened* below.

The same approach should apply in instances were the RSD cases are closed on the basis of reliable information regarding the Applicant's death, his/her naturalization in the host country/country of asylum or a third country, his/her onward movement to a third country, or voluntary or forcible return to the country of nationality or former habitual residence. Where a re-opening is considered appropriate, the case should be referred to first instance RSD procedures if the claim was deemed abandoned at first instance, or to appeal procedures if the claim was deemed abandoned at that stage. Exceptionally, where there is reliable information of a significant change in the personal circumstances of the Applicant or the conditions in the Applicant's country of nationality/former habitual residence, the case should be referred to first instance procedures.

(c) Final decisions (first instance or appeal)

As a general rule, Applicants whose refugee claims have been **duly examined and rejected under UNHCR RSD procedures, and whose cases have been closed**, should not have their claims re-examined. These include Applicants whose claims were rejected on appeal or who have failed to exercise the right to appeal a first instance negative RSD decision within prescribed period. However, in certain cases, it may be appropriate to re-open a closed case and to refer the individual to RSD procedures.

In the case of **Applicants whose claims were rejected at first instance and had their RSD cases closed as a result of failing to file an appeal application**, if the Office is not able to establish that the Applicant was duly notified of the negative decision and the relevant appeal deadline, the case should be re-opened for the purposes of examining the appeal.

Even if the Applicant was duly notified of the negative decision and appeal deadline, claims rejected in final instance[8] should also be re-opened and referred to first instance or appeal RSD procedures, as appropriate (see § 9.2.1(d) – *Stage at which the RSD case is re-opened*), in the following circumstances.

STANDARDS & GUIDELINES

APPROPRIATE CASES FOR RE-OPENING OF CLAIMS REJECTED IN FINAL INSTANCE:

- There is reliable information of a **significant change in the personal circumstances** of the Applicant or the **conditions in the Applicant's country of nationality/habitual residence** that may substantially affect eligibility for refugee status, including under criteria for a *sur place* claim;
- UNHCR receives **reliable and material new information** indicating that the **claim may have been improperly decided**. "New" information means information that was not before the Eligibility Officer at the time of the RSD or appeal procedure. If the information was available to the Applicant at the time of the previous RSD or appeal procedure, he/she should provide a credible and reasonable explanation for having failed to provide it to UNHCR;
- There is **serious reason to believe that the claim was improperly decided** and/or that grounds for eligibility for refugee status were not adequately examined or addressed.

(d) Stage at which the RSD case is re-opened

Where a re-opening is considered appropriate, a RSD case that was **withdrawn or deemed abandoned** should generally be re-opened at the stage at which it was closed (i.e. at first instance or on appeal).

For Applicants whose claims were **rejected in final instance** (whether on appeal or at first instance where an appeal application was not filed), the RSD case should generally be referred to **appeal procedures** if re-opened. This includes cases where there is serious reason to believe or reliable and material new information indicating that the claim may have been improperly decided or that the grounds for eligibility for refugee status were not adequately examined or addressed. Exceptionally, where the request for re-opening is based on completely **new grounds** which were not disclosed at the time of the initial RSD and/or appeal procedure, the case should be referred to **first instance RSD procedures**, provided that the Applicant has a reasonable explanation for not having disclosed these grounds at the time of the initial RSD and/or appeal procedure.[9]

[8] Rejected in "final instance" means rejected at first instance where an appeal application is not filed within the prescribed timeframe for appeal or rejected on appeal.

[9] For instance, there may be cases where Applicants chose not to disclose SGBV or SOGI claims at the time of the initial procedures due to stigma, shame, cultural taboos, etc.

Irrespective of the reason for closure, if there is reliable information of a significant change in the Applicant's personal circumstances or situation in his/her country of nationality/former habitual residence that may substantially affect eligibility for refugee status, the RSD case should generally be **re-opened at first instance** since the new information would essentially amount to a new claim.

9.2.2 Re-opening Procedures

As a general rule, applications for re-opening a RSD case should be made **in writing and outline the reasons for the request**, including any new or additional information submitted in support of the request. Exceptionally, application for re-opening may be made in person by illiterate Applicants or Applicants who need special assistance in RSD procedures. These may include unaccompanied children of a young age, Applicants with mental conditions or physical or intellectual disabilities, and Applicants in detention. The reasons for requesting the re-opening of the RSD case and supporting information should be duly noted on the Applicant's file.

Procedures for re-opening of RSD cases of Applicants whose claims were rejected in final instance, should include a **screening of the application for re-opening** and relevant information on the file by an Eligibility Officer or other member of the Protection staff, who should assess whether the established criteria for re-opening an RSD case are met, and make a recommendation.[10] Wherever possible, the Eligibility Officer or Protection staff member dealing with the re-opening application should not have been involved in the determination of the case sought to be re-opened.

A recommendation to re-open, or not to reopen a closed RSD case must state the reasons for the recommendation and whether the case should be re-opened at first instance or on appeal, where applicable. A recommendation to re-open a closed RSD case must be reviewed and **approved by the RSD Supervisor**, or another Protection staff member authorized to approve the re-opening. Wherever possible, random checks of decisions not to re-open RSD cases should be carried out by the RSD Supervisor or a designated RSD staff member. The recommendation to re-open, or not to reopen a RSD case and reasons thereof must be recorded on the Applicant's file.

As a general rule, applications for re-opening should not be rejected without some form of screening procedure. Where the volume of Applications for case re-opening received by a UNHCR Office exceeds the operational capacity to conduct effective screening, the UNHCR Office should assess all procedural or other factors that may be contributing to the high volume, and consult with the relevant regional Bureau and DIP to coordinate an appropriate response.

Applicants should be informed, in a timely manner, whether their re-opening request has been granted or not. Wherever possible, Applicants should be informed of the reason(s) for a refusal to re-open the case.

[10] If a decision to re-open, or not to reopen cannot be reached as a result of the screening of the application and a review of relevant information on the Applicant's file, a protection interview with the Applicant may exceptionally be conducted in order to determine whether a re-opening is warranted given the circumstances of the case. For instance, an interview may be needed in order to examine or clarify any new or additional information provided to UNHCR in support of the re-opening application.

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Unit 10

PROCEDURES FOR CANCELLATION AND REVOCATION OF REFUGEE STATUS

10.1 General Principles

Cancellation of refugee status refers to a decision to invalidate a refugee status recognition which should not have been made in the first place.

Cancellation applies to individuals who, **at the time of recognition, were not entitled to refugee status**, either because they did not meet the inclusion criteria of the refugee definition under UNHCR's mandate[1] or because exclusion should have been applied.[2] Cancellation would also be justified if the individual's recognition as a refugee was incompatible with the civilian and humanitarian character of asylum.

Cancellation of refugee status must be **distinguished from revocation of refugee status. Revocation of refugee status** results in the withdrawal of refugee status that was properly conferred when subsequent to recognition a refugee engages in conduct coming within the scope of the exclusion clauses of Article 1F (a) or (c), which would render him/her underserving of continued international refugee protection.[3]

Cancellation and revocation procedures should be **distinguished from cessation procedures, which are intended to reassess refugee status that was properly conferred, but is no longer needed** owing to a change in circumstances affecting the need for international refugee protection (see § 11 – *Procedures for Cessation of Refugee Status*). Cancellation and revocation procedures only apply where decisions to recognize refugee status are final and, therefore, should also be distinguished from procedures for review and revision of a RSD decision before it is issued to the Applicant (see § 4.4 – *Procedures for Review of RSD Decisions*).

UNHCR procedures to cancel refugee status that was wrongly conferred and procedures to revoke the refugee status of individuals who, through their own actions, are no longer deserving of international refugee protection are necessary to **preserve the integrity of UNHCR mandate refugee status and procedures**. If information comes to light, after an individual has been formally recognized as a refugee by UNHCR, to indicate that the individual may have been wrongly recognized, or that the individual may have engaged in conduct coming within the scope of the exclusion clauses in Article 1F(a) and (c), UNHCR should assess whether there are grounds for formally initiating cancellation or revocation procedures (see § 10.2.2 – *When to Formally Initiate Cancellation Procedures*). Cancellation procedures should not, however, be used as a remedy for deficient RSD procedures, or a supplement to or replacement for effective procedures for review and appeal of RSD decisions. Cancellation procedures can be initiated only in relation to decisions to recognize refugee status which have become final, that is, they are no longer subject to appeal or review.

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1 An individual person meets the inclusion criteria for recognition as a refugee under UNHCR's mandate if he/she comes within the scope of Article 1A(2) of the 1951 Convention, or if he/she is outside his/her country of nationality or habitual residence and unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or events seriously disturbing public order.

2 An individual person is excluded from recognition as a refugee under UNHCR's mandate if he/she is falls within the scope of Article 1D of the 1951 Convention and, in line with its second paragraph, is receiving protection and assistance from a UN agency other than UNHCR; if he or she is recognized by the competent authorities of a country in which they have taken residence as having the rights and obligations attached to the possession of the nationality of that country, as provided for in Article 1E of the 1951 Convention; or if there are serious reasons for considering that he or she has committed crimes or acts falling within the scope of the exclusion clause in Article 1F of the 1951 Convention.

3 Neither "cancellation" nor "revocation" are terms found in the 1951 Convention. They are used by UNHCR and some States when referring to the situations described in this Unit. Other States, however, use different terminology (e.g. "annulation", "withdrawal", "termination", etc.).

UNHCR staff should be aware of the purpose of cancellation and revocation procedures and the circumstances that would make cancellation or revocation of refugee status appropriate. **Cancellation of refugee status should only be undertaken where it is established that the individual concerned was not entitled to refugee status at the time of recognition.** To avoid unjustly depriving an individual of refugee protection, a determination of the individual's international protection needs existing at the time of deciding on cancellation should also be conducted in the cancellation procedures. **Revocation of refugee status should only be undertaken where it is established that the individual concerned engaged in conduct coming within the scope of the exclusion clauses of Article 1F(a) or (c) following recognition.**

10.2 Cancellation Procedures

Each UNHCR Office should implement procedures to ensure **fair, transparent and consistent procedures for cancellation of refugee status**. Procedures should set out the criteria for formally initiating cancellation procedures, the responsibilities of staff members in cancellation cases, and the rights of the individuals concerned. Given the significance of the cancellation procedures for the individual concerned, and the potentially very serious consequences of an unjustified cancellation of refugee status, UNHCR cancellation procedures **must incorporate the highest standards of fairness and due process**.

Cancellation of refugee status must be **determined on an individual basis** following the examination of the facts and circumstances relating to the individual concerned. The individual whose refugee status is subject to cancellation procedures must be given the opportunity to make relevant submissions in an interview and/or in writing (see § 10.2.5 – *The Cancellation Interview*).

UNHCR Offices should consult UNHCR guidelines on the application of the exclusion clauses, and seek additional guidance from DIP as required when examining the appropriateness of cancellation of refugee status as a result of the application of the exclusion clauses in Article 1F.

10.2.1 When to Consider a Possible Cancellation of Refugee Status

In the context of UNHCR mandate RSD procedures, refugee status will need to be considered cancelled whenever it is established that recognition was erroneously granted. This applies **irrespective of the reasons for the mistake**, which may be due to one or more of the following:

- **Misrepresentation or concealment** by the individual concerned or a third party of information that was material to the determination of the claim, with or without fraudulent intent;
- **Misconduct** by the individual (such as threats or bribery) being the motivating reason for the positive RSD decision;
- **Error of fact or law** by UNHCR in applying the inclusion or exclusion criteria;[4]
- **Misconduct or administrative error** by UNHCR at any stage in the RSD procedures, including the wrongful issuance of UNHCR documents or recognition in exchange for a bribe or any nonmonetary compensation.

Refugee status should not be cancelled **solely on the basis of a change of opinion regarding a credibility finding** which provided the basis for establishing a fact, or facts, which were material to the RSD decision.

However, where the initial credibility finding related to core aspects of the individual's claim is inconsistent with new and reliable information that has come to light, or is clearly contradicted by information that was on the RSD file at the time of determination, a re-assessment of the credibility finding may be necessary to determine whether the refugee decision was based on an error of fact.

When examining the existence of grounds for cancellation, the **relevant inquiry is whether an incorrect refugee status determination was made**, rather than the intent of the persons whose words or actions led to the incorrect decision.

10.2.2 When to Formally Initiate Cancellation Procedures

Cancellation procedures should be formally initiated if there is **reliable information indicating that the recognition of refugee status was granted erroneously**.

Such information may come to light in a variety of ways, including but not limited to the following:

- Statements made by the refugee himself/herself, or by others, in the course of subsequent UNHCR procedures (for example, resettlement or refugee status determination proceedings concerning family members) may materially contradict information provided at the determination stage.
- Information concerning the possible applicability of an exclusion clause in Article 1F may come to light in the course of national or international criminal proceedings or where an extradition request affects a mandate refugee.
- Information relevant to the refugee status determination by UNHCR may come to light as a result of new country of origin information, or in the context of resettlement proceedings or national asylum procedures.

When determining whether to formally initiate cancellation procedures, the reliability of the information available, as well as its significance for the particular case, must be carefully assessed.

Where the available information does not conclusively indicate that the initial decision to recognize status was incorrect or where there are concerns about the reliability of such information, UNHCR may need to gather additional information in order to establish whether there is a sufficient basis for questioning the correctness of the decision to recognize refugee status. Such information should be gathered **prior to formally initiating cancellation procedures** and may be sought from the refugee himself/herself by **conducting a Protection Interview with him/her to obtain, confirm and assess relevant information and/or may be gathered from other sources before formally initiating cancellation procedures.** Where a Protection Interview is conducted, a full and accurate record of the interview must be maintained through a verbatim transcript and/or an audio or video recording. The refugee should be informed about the scope and purpose of the Protection Interview, i.e. that it is intended to confirm and update information regarding his/her continued international protection needs.

Any information that comes to light relating to a possible error in a decision to recognize refugee status should be immediately brought to the attention of the RSD Supervisor or a designated Protection staff member, who should decide the appropriate course of action, i.e. formally initiate cancellation procedures or gather additional information with a view to determining whether such procedures should be initiated, including through conducting a Protection Interview. The determination that grounds exist to formally refer a recognized refugee to cancellation procedures should be made by the RSD Supervisor

or the designated Protection staff member, who should provide written authorization to formally initiate cancellation procedures.

10.2.3 Notice of Initiation of Cancellation Procedures

Individuals who are formally referred to cancellation procedures should receive **notice of the nature and purpose of the cancellation procedures and of the reasons** why UNHCR considers that, unless the individual provides information in support of the initial positive RSD decision, his/her refugee status would be cancelled.

The individual concerned should also be advised that he/she will have the opportunity to explain or challenge the information upon which the cancellation procedures have been commenced, and to present any other information relating to **current international protection needs**.[5] Procedures for assessing new evidence regarding eligibility for refugee status are set out below in § 10.2.6 – *Assessing Current International Protection Needs*. The individual should also be advised that if he/she fails to attend the Cancellation Interview and/or make written submissions within the prescribed period, the cancellation assessment may nevertheless be conducted and a decision issued.

The requirement to notify the individual concerned, and to give the opportunity and sufficient time to reply to the information that has led to the formal initiation of cancellation procedures, are fundamental elements of fairness and due process.

The notification should be in writing. The relevant information should be provided in an accessible manner and communicated in a language that the refugee understands. UNHCR Offices should make reasonable efforts to notify the individual concerned of the initiation of cancellation procedures. The date and means of notification should be recorded on the individual's RSD file and in UNHCR's case management database.

Where, despite reasonable efforts, **it is not possible to notify the individual concerned**, cancellation procedures should in principle not proceed. In such cases, the written authorization to commence cancellation procedures and all other documents relating to the cancellation should be retained on the individual file. The individual's status as a person with respect to whom cancellation procedures are authorized should be clearly noted on the File Action Sheet and in UNHCR's case management database in which information about the individual is recorded.

[5] An individual's situation at the time of the cancellation procedures may give rise to a need for protection under UNHCR's mandate. Current international protection needs are a relevant consideration also for cases referred to revocation procedures in terms of assessing the proportionality of the application of Article 1F(a) or (c) in light of the circumstances arising in the individual case.

In exceptional cases, including where an individual has been indicted by an international criminal tribunal or where there is other **reliable and compelling information to support cancellation, but it is not possible to notify the individual concerned**, cancellation proceedings may be undertaken by a UNHCR Office in accordance with established review and approval procedures.

10.2.4 File Assignment for Cancellation Procedures

Files for cancellation procedures should be assigned to an Eligibility Officer or other Protection staff who have **training and experience with RSD**. Wherever possible, cancellation files should be assigned to Eligibility Officers or other Protection staff who are authorized to review RSD decisions or who have supervisory responsibilities in RSD procedures. Wherever possible and appropriate, the cancellation files should be assigned to the Eligibility Officer or Protection staff member who conducted the Protection Interview prior to the formal initiation of the cancellation procedures.

Cancellation procedures that are likely to involve examination of the **application of the exclusion criteria** should be assigned to an Eligibility Officer or a Protection staff member who has experience and knowledge regarding the application of the exclusion clauses in Article 1F. The considerations set out in § 4.1 – *Assigning Files for RSD Adjudication* are relevant to the assignment of files in cancellation procedures.

10.2.5 The Cancellation Interview

Every individual whose refugee status is being re-examined in cancellation procedures must have **an individual Cancellation Interview**, in which he/she should be given the opportunity to respond to specific grounds for initiating the procedures and provide any other evidence that is relevant to the decision whether or not to cancel refugee status.[6] The individual should be given adequate time to prepare for the Cancellation Interview.

The purpose of the Cancellation Interview is to gather sufficient information to permit an **assessment of the correctness of the initial decision to recognize refugee status** and to identify any reason why an individual who was improperly recognized in the past should nevertheless **continue to have refugee status**.[7]

The Eligibility Officer or Protection staff member who conducts the Cancellation Interview should be thoroughly familiar with the RSD file of the individual concerned, including the information upon which the cancellation procedures are based.

The procedures and principles for RSD Interviews, as set out in § 4.3 – *The RSD Interview and Assessment*, are relevant and should be reflected in the procedures for conducting Cancellation Interviews. In particular, the Eligibility Officer or Protection staff member who conducts the Cancellation Interview should maintain a full and accurate record of the interview, through a verbatim transcript and/or an audio

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[6] Information regarding whether the individual's has a well-founded fear of persecution at the time of the revocation procedures would need to be examined during the Revocation Interview only to the extent necessary to assess the consequences of the application of an exclusion clause at the time of the revocation procedures.

[7] The purpose of the Revocation Interview is to examine whether there are serious reasons for considering that the individual has committed acts falling within the scope of the exclusion clause in Article 1F(a) or (c) of the 1951 Convention following recognition.

or video recording. The procedures and principles set out in § 4.3.12 – *Recording the RSD Interview* should be followed in Cancellation Interviews. It is also recommended that, at the beginning of the Cancellation Interview, the individual refugee is counselled regarding the nature and purpose of the cancellation procedures and the reasons why UNHCR is considering cancelling the refugee status. However, in exceptional circumstances, generally relating to the security of UNHCR staff or a witness or other source of information, it may be necessary to limit full disclosure of reasons why UNHCR is considering cancelling the refugee status. The individual should also be informed of the right to appeal a cancellation decision.

At the Cancellation Interview, the individual should be given the **opportunity to present new information relating to the existence of a well-founded fear of persecution** in the country of origin or his/her eligibility for refugee status under UNHCR's broader refugee criteria at the time of the Cancellation Interview (see § 10.2.6 – *Assessing Current International Protection Needs*).

If an individual has been duly notified of cancellation proceedings (see § 10.2.9 – *Notification of the Cancellation Decision*), **but does not attend the Cancellation Interview**, the Eligibility Officer or Protection staff member may proceed with the Cancellation Assessment and, where appropriate, the individual's refugee status may be cancelled.

10.2.6 Assessing Current International Protection Needs

The Eligibility Officer or Protection staff member who conducts the Cancellation Interview should also consider the individual's eligibility for refugee status under UNHCR's mandate at the time of the Cancellation Interview.

Cancellation of refugee status and RSD adjudication are distinct procedures, to which distinct criteria apply. However, for reasons of consistency and efficiency, if the individual provides information relating to his/her eligibility for refugee status at the time of the Cancellation Interview, or if there are other indications that he/she may currently be eligible for international protection, the Protection staff member should examine current protection needs and eligibility for refugee status.

When conducting RSD adjudication in the context of cancellation procedures Protection staff should incorporate the procedural safeguards that are applicable in standard RSD procedures. Concurrent processing should not undermine the thoroughness or the reliability of the RSD. The individual should be given necessary opportunity to prepare and present the claim. If the facts relating to the current RSD adjudication raise complex issues, or if research or other preparation is necessary to permit the Protection staff member to effectively question the individual, a **Complementary RSD Interview** should be scheduled.

When RSD is undertaken concurrently with cancellation procedures, it is recommended that s**eparate Assessments** should be prepared for the cancellation decision and the RSD decision. All RSD Assessments should be prepared using the **RSD Assessment Form**. The principles and procedures set out in § 4.4 – *Procedures for Review of RSD Decisions* and § 6 – *Notification of RSD Decisions should also apply*.

10.2.7 The Cancellation Assessment and Decision

In each case, the cancellation decision should be recorded in a Cancellation Assessment, which should include the following:

STANDARDS & GUIDELINES

THE CANCELLATION ASSESSMENT

- A summary of the information relevant to the grounds for re-assessing the refugee status recognition, including any relevant information provided by the individual whose refugee status is subject to individual cancellation procedures;
- A record of:

  (i) the credibility assessment conducted with regard to any statements provided by the individual concerned and, where relevant, other persons (e.g. family members or witnesses) in relation to the grounds for cancellation and of the reasons why these statements have, or have not, been accepted as credible;[8] and

  (ii) the determination of what material facts can be considered established, based on the credibility findings, where applicable, and any other reliable information (for further guidance on establishing material facts, see § 4.3.15 – The RSD Assessment);
- A determination of whether the established facts support a finding that the individual's refugee status was incorrectly recognized and, if so, a recommendation that the refugee status is cancelled.

The Eligibility Officer should sign and date the Cancellation Assessment before referring the recommendation and file to the review and approval procedures established by the Office (see § 10.2.8 – *Review of the Cancellation Decision*).

10.2.8 Review of the Cancellation Decisions

Cancellation procedures in each UNHCR Office should include a mechanism for review of all cancellation decisions. The principles and procedures set out in § 4.4 – *Procedures for Review of RSD Decisions* are relevant to, and should inform the development of review procedures of cancellation decisions.

The review and approval by the **RSD Supervisor** or the **Head of Office** should be required in all cases where a determination is made to cancel refugee status of a person who was recognized pursuant to UNHCR's mandate.

Following review procedures within the UNHCR Office, **all decisions to cancel an individual's refugee status** must be submitted for review in accordance with the principles and procedures set out in § 4.4.3 – *Procedures for Consultation with UNHCR Regional Bureau(s) and DIP on RSD Decisions*. The review should be carried out by **the designated focal point in the relevant Regional Bureau**, unless an individual case or group of cases is delegated by the Bureau Director for review to another qualified and appropriate

[8] Where the refugee concerned does not attend a Cancellation Interview nor makes any other submissions regarding the applicability of cancellation in his/her case, a credibility assessment will not be necessary.

staff member at the regional level. Any changes to the RSD decision as a result of the Regional Bureau, and where applicable, DIP's review should be made in accordance with the procedures set out in § 4.4.2 – *Procedures for Revising the RSD Assessment or Decision*. The individual concerned should be notified of the decision to cancel or revoke only once this is reviewed or endorsed by the Regional Bureau, and where applicable, DIP.

Cases which raise complex procedural, doctrinal or interpretative issues may be referred by the relevant Regional Bureau to DIP for guidance if necessary (see § 4.4.3 – *Procedures for Consultation with UNHCR Regional Bureau(s) and DIP on RSD Decisions*).

STANDARDS & GUIDELINES

THE SUBMISSION FOR HEADQUARTERS REVIEW SHOULD INCLUDE THE FOLLOWING:

- A copy of the Cancellation Assessment, as well as the initial RSD Assessment and, where applicable, the Appeal Assessment;
- Copies of the transcripts of the Cancellation Interview, the Protection Interview leading to the initiation of cancellation procedures where applicable, as well as the transcripts of the interview(s) on which the initial RSD/appeal decision(s) recognizing refugee status was based. In the absence of a verbatim written transcript, the audio recordings of the interviews should be submitted;
- Copies of the supporting documentation submitted by or on behalf of the individual during the cancellation procedures;
- Any other information relevant to the decision to cancel status.

Alternative review procedures may be adopted in certain RSD operations where the Bureau and/or DIP determine that only cases of a specific type or exceptional nature need to be reviewed by Headquarters (for further guidance, see § 4.4.3 – *Procedures for Consultation with UNHCR HQ on RSD Decisions)*.

10.2.9 Notification of the Cancellation Decision

Individuals whose refugee status is cancelled by UNHCR must receive **notice in writing of the decision and the reasons** supporting the cancellation decision. Individuals whose refugee status is maintained following cancellation procedures must also be notified of the decision. The principles and procedures set out in § 6 – *Notification of RSD Decisions apply to the notification of cancellation decisions*.

STANDARDS & GUIDELINES

NOTIFICATION OF A DECISION ON THE CANCELLATION OF REFUGEE STATUS SHOULD ALSO INFORM THE INDIVIDUAL OF THE CONSEQUENCES OF CANCELLATION, INCLUDING:

- The ending of refugee status of the individual concerned;
- Where possible, the known implications of cancellation of refugee status for the individual's legal status in the host country / country of asylum;
- The effect of cancellation on protection and assistance received from UNHCR, including processing for resettlement;
- The effect of cancellation on derivative refugee status of family members/dependants, where applicable (see § 10.5 – *Ending of Derivative Refugee Status*);
- The right to appeal the cancellation decision and the relevant procedures and applicable deadlines;
- Procedures regarding the return of refugee identity documents issued by UNHCR (see §10.6 – *Withdrawal of UNHCR-issued Refugee Documents in Cancellation and Revocation Procedures*).

The criteria and principles regarding limiting disclosure set out in § 6.2 – *Notification of Negative RSD Decisions to Applicants* are relevant to decisions to limit disclosure during cancellation proceedings. Eligibility Officers should seek the guidance of the RSD Supervisor, or another designated Protection staff member who has knowledge and experience in cancellation cases, to determine the appropriate disclosure. UNHCR security staff should also be consulted whenever disclosure may give rise to risks for the security of staff, persons of concern or other third parties. Alternatives to withholding relevant information should be considered, including making partial disclosure, or disclosing the evidence without revealing the source, so that the individual concerned is not unduly denied the opportunity to challenge or explain information upon which the cancellation decision is based.

When the examination of the grounds for cancellation of refugee status is conducted at the same time as the determination of the individual's need for international refugee protection (i.e. eligibility for refugee or derivative refugee status under UNHCR's mandate), the decision in cancellation procedures should not be issued until the RSD decision has been made and the individual's current eligibility for (derivative) refugee status is determined, to avoid confusion regarding the person's status with UNHCR as a result of the two procedures.

If it is determined that an individual was incorrectly recognized in the past, but has **subsequently become eligible for (derivative) refugee status**, the individual should generally be notified of the decision taken with respect to the cancellation of the original refugee status, as well as the decision to recognize him/her as a refugee based on subsequent changes in the individual's personal circumstances or the circumstances in the country of origin. In such cases, it is not necessary to provide reasons for the cancellation and RSD decisions.

In light of the serious implications of cancellation procedures, and potential confusion and uncertainty associated with these procedures, particularly when adjudication for RSD is undertaken concurrently, procedures for notification should, wherever possible, include the possibility to receive **counselling on the decision from UNHCR staff** with appropriate RSD training and experience. Notification should permit the individual to know the decision in each procedure, as well as to clearly understand their status with UNHCR as a result of these procedures.

10.3 Appeal of Decisions to Cancel Refugee Status

Individuals whose refugee status is ended by UNHCR pursuant to cancellation procedures **have the right to appeal the cancellation decision**. The timeframe for submitting an appeal application should be no less than 30 days after the date of notification of the cancellation decision. In so far as possible, the appeal should be determined by an Eligibility Officer or another qualified Protection staff member who was not involved in the determination or review of the initial refugee claim or the cancellation decision. The principles and procedures set out in § 7 – *Appeal of Negative RSD Decisions* are applicable and should inform the development of appeal procedures in cancellation cases.

While the appeal of the cancellation decision is pending, the individual's refugee status remains valid. As such, an individual subject to cancellation procedures should continue to enjoy the rights and protection accorded to them as recognized refugees throughout the period allowed for submitting an appeal and, once the appeal application is submitted, while a final decision is pending. The derivative refugee status of family members/dependants also remains valid while a final decision on the cancellation of status or appeal of the recognized refugee is pending (see also § 10.5 – *Ending of Derivative Refugee Status*).

A first instance decision to cancel refugee status that is not appealed within the established timeframe or an appeal decision to cancel refugee status is considered final and should result in the closure of the file.[9] Cancellation of refugee status does not prevent an individual from requesting a re-opening of the RSD case at a later date (see § 9.2 – *Re-Opening RSD Cases*).

10.4 Revocation Procedures

Each UNHCR Office should implement procedures to ensure **fair, transparent and consistent procedures for revocation of refugee status**. Revocation procedures should be formally initiated if there is **reliable information indicating that an individual has engaged in conduct coming within the scope of the exclusion clauses of Article 1F(a) or (c) following recognition**.

Unless otherwise specified, the procedures for cancellation set out in this Unit generally apply to procedures for revocation of refugee status. UNHCR Offices should consult UNHCR guidelines on the application of the exclusion clauses, and seek additional guidance from DIP as required when examining the appropriateness of revocation of refugee status.

[9] To facilitate a flexible approach, the files of individuals whose refugee status was ended as a result of first instance cancellation or revocation procedures should generally not be referred to file closure until a minimum period of six weeks has elapsed following the expiry of the appeal deadline (see § 9.1 – *Closure of RSD Cases* § 7.2.4 – *Time Limit for Submitting the Appeal Application*).

10.5 Ending of Derivative Refugee Status

10.5.1 Ending of derivative refugee status as a result of the cancellation or revocation of the refugee status from which it was derived

Cancellation or revocation of refugee status of a refugee will automatically result in the ending of the derivative refugee status of his/her family members / dependants. Wherever possible, UNHCR Offices should take all reasonable steps to notify persons whose derivative refugee status has been ended following the cancellation or revocation of the status of an individual refugee, and to inform them that the ending of the derivative refugee status does not affect their right to make an independent refugee claim should they have grounds to claim refugee protection (see also § 5.3.5(a) – *Termination of Derivative Refugee Status as a result of the Cancellation, Revocation or Cessation of the refugee status of the Refugee Status Applicant* and § 10.2.9 – *Notification of Cancellation Decision*).

The decision to end derivative refugee status in these circumstances does not require the review and approval of the RSD Supervisor of the Head of Office. The ending of the derivative status should be recorded on the appropriate individual file and in UNHCR's case management database.

In order to enable family members / dependants to apply for refugee status in their own right and, thus, avoid a gap in protection, their refugee identity documentation should not be withdrawn for a set period of time as deemed appropriate by the UNHCR Office following the automatic ending of their derivative refugee status.

10.5.2 Cancellation or revocation of derivative refugee status

The derivative refugee status of a family member/dependant should be cancelled if it is subsequently determined that, at the time of the granting of status, the family member/dependant did not meet the relevant eligibility criteria for derivative refugee status (i.e. a family or dependency relationship did not exist) or if the family member/dependant should have been excluded pursuant to the exclusion clauses in Articles 1D, 1E or 1F of the 1951 Convention. Family members/dependants, whose derivative refugee status is cancelled because they did not meet the eligibility criteria at the time of the granting of derivative refugee status, should be given the opportunity to present information regarding their current relationship with the recognized refugee and/or an independent refugee claim if they have grounds to claim refugee protection at the time of the cancellation procedures. The derivative refugee status of family members/dependants should be maintained if a family or dependency relationship was established following the original recognition (for further guidance regarding cancellation of derivative refugee status, see § 5.3.5(b) – *Cancellation, Revocation and Cessation of Derivative Refugee Status*).

The derivative refugee status of a family member/dependant should be revoked if, following the grant of status, the family member/dependant engaged in conduct that would bring him/her within the exclusion clauses of Article 1F(a) or (c) of the 1951 Convention thereby rendering him/her underserving of international refugee protection.

The ending of derivative refugee status, as a result of the circumstances described above should be noted on the appropriate individual file and in UNHCR's case management database. The principles and procedures set out in this Unit regarding the cancellation and revocation of refugee status of an individual also apply to the cancellation and revocation of derivative refugee status of family members / dependants.

10.6 Withdrawal of UNHCR-issued Refugee Documents in Cancellation and Revocation Procedures

In the interest of maintaining the integrity of identity documentation issued by UNHCR to recognized refugees, UNHCR Offices should take **all reasonable steps to withdraw valid UNHCR refugee identity documentation issued** to individuals whose refugee status has been ended as a result of cancellation or revocation procedures (see also § 8.2.4 – *Retrieval of UNHCR Refugee Identity Documents*).

At the time of notification of the cancellation or revocation decision, individuals whose refugee status has been ended should be requested to return the UNHCR Refugee Certificate or any other refugee identity documentation that was issued by UNHCR upon recognition. Documentation issued by UNHCR to family members / dependants who were granted derivative refugee status should also be returned to UNHCR (see also § 10.5.1 – *Ending of derivative refugee status as a result of the cancellation or revocation of the refugee status from which it was derived*). The fact that the refugee documentation has been returned to UNHCR should be recorded on the individual's RSD file and in the Office's central record of identity documents. Where retrieval is not possible, the Office's central record of identity documents should be updated to reflect that the particular document is no longer valid (see § 8.3 – *Maintaining Office Records of UNHCR Refugee Identity Documents*).

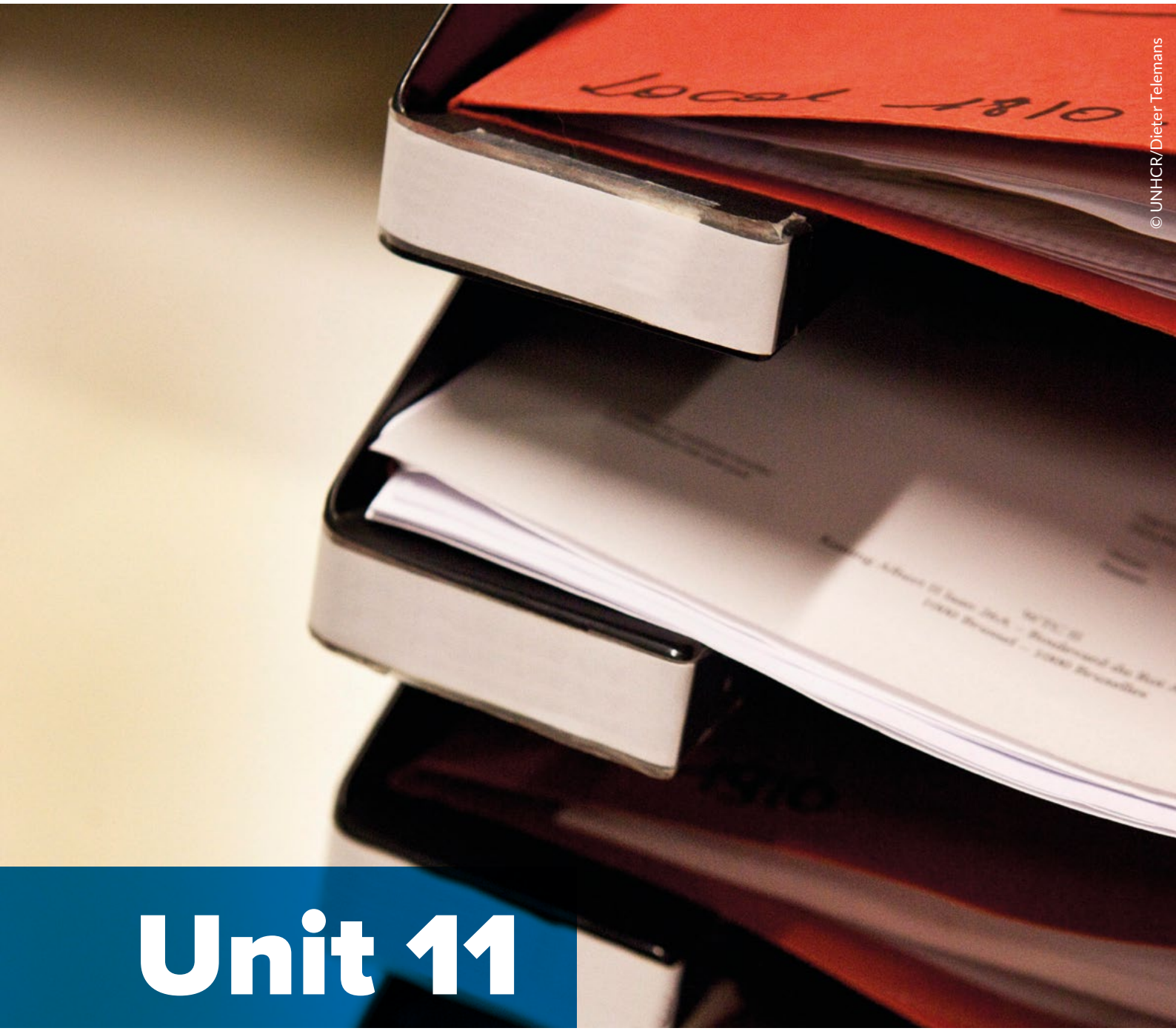
Individuals who appeal the first instance cancellation decision should be allowed to retain the UNHCR refugee identity documentation until a final decision on their refugee status is reached. To ensure the preservation of the family unity, family members / dependants should also be allowed to retain their UNHCR refugee identity documentation during this period.

Wherever possible, the UNHCR identity document held by refugees whose initial status was determined to be incorrect, but who were found to have become subsequently eligible for refugee status should be **amended to reflect the later date of recognition**.

Annex: List of Additional Resources

UNHCR, *Note on the Cancellation of Refugee Status*, 22 November 2004, available at: https://www.refworld.org/docid/41a5dfd94.html

UNHCR, *Guidelines on the Cancellation of Mandate Refugee Status*, 22 November 2004 (*internal*), available at: https://bit.ly/2WEkOCf



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Unit 11

PROCEDURES FOR CESSATION OF REFUGEE STATUS

11.1 General Principles

The 1951 Convention sets out circumstances under which **refugee status that was properly granted by UNHCR under its mandate may be ended**, because the individual who was recognized as a refugee is no longer in need of international refugee protection.

The cessation clauses can be divided into two broad categories:

- Those relating to **a change in the personal circumstances brought about by certain voluntary acts of the refugee** (cessation clauses in Article 1C(1)-(4));
- Those relating to **a fundamental change in the objective circumstances in the country of origin that were the basis of the recognition of refugee status** (cessation clauses in Article 1C(5)-(6)).

This Unit is intended to provide procedural guidance on assessing the **application of the cessation clauses to individual refugees in both categories**, when reliable information comes to light to indicate that an individual may no longer be in need of international refugee protection.

Where **general cessation of refugee status is to be declared on a group basis** because of a fundamental and durable change in the objective circumstances in the country of origin pursuant to Article 1C (5) and (6), UNHCR Offices should **consult with the relevant regional Bureau and functional units in DIP and the Division of Resilience and Solutions (DRS)** to develop and implement appropriate procedures. These should include procedures allowing individuals falling within the scope of the cessation declaration to apply for an exemption to cessation (**"exemption procedures"**) on one of the following grounds:

- They continue to be in need of international refugee protection (i.e. continue to have a well-founded fear of persecution, despite the general positive changes in the country of origin); or
- Due to compelling reasons arising out of previous persecution, they cannot be expected to return to their country of origin.

Applicable minimum procedural standards are set out in § 11.3 – *Exemption Procedures* below.

Cessation of refugee status should be **distinguished from cancellation** of refugee status; the latter refers to decisions to invalidate refugee status which was wrongly granted to persons who, at the time of recognition, were not eligible for refugee protection, either because they did not fall within the inclusion criteria or because the exclusion criteria applied. Cessation also differs from **revocation**, which UNHCR understands as ending the refugee status of refugees who, following recognition, engage in conduct coming within the scope of the exclusion clauses in Article 1F(a) or 1F(c) (see §10 – *Procedures for Cancellation and Revocation of Refugee Status*).

UNHCR staff should be aware of the purpose of the cessation procedures and the circumstances that would make cessation of refugee status appropriate. **Cessation should only be undertaken where the facts that would bring the individual within one of the cessation clauses have been established, and where no other factors indicating the continued need for refugee protection exist.**

11.2 Cessation Procedures

Each UNHCR Office should implement procedures to ensure **fair, transparent and consistent application of the cessation clauses**. Procedures should set out the criteria for formal referral to cessation procedures, the responsibilities of staff members in cessation cases, and the rights of the individuals concerned. Given the significance of the cessation procedures for the individual concerned, and the potentially very serious consequences of an unjustified ending of refugee status, UNHCR cessation procedures **must incorporate the highest standards of fairness and due process**.

11.2.1 When to Formally Initiate Cessation Procedures

Individual cessation procedures should be formally initiated if there is **reliable information indicating that an individual is no longer in need of international refugee protection** because he/she falls within the scope of one of the cessation clauses in Article 1C. Such information may come to light in a variety of ways, including through statements made by the refugee himself/herself, or by others, in the course of subsequent UNHCR procedures (for example, resettlement or refugee status determination proceedings concerning family members).

When determining whether to formally initiate cessation procedures, the reliability of the information available, as well as its significance for the particular case, must be carefully assessed.

Where the available information does not conclusively indicate that the individual is no longer in need of international refugee protection or where there are concerns about the reliability of such information, UNHCR may need to gather additional information in order to establish whether there is sufficient basis for considering that a refugee no longer needs international refugee protection and, thus, whether to formally initiate cessation procedures. Such information should be gathered **prior to formally initiating cessation procedures** and may be sought from the refugee himself/herself by **conducting a Protection Interview with him/her to obtain, confirm and assess relevant information, or may be gathered from other sources before formally initiating cessation procedures**. Where a Protection Interview is conducted, a full and accurate record of the interview must be maintained through a verbatim transcript and/or an audio or video recording. The refugee should be informed about the scope of the Protection Interview, namely to confirm and update information regarding his/her continued international protection needs.

Any information that comes to light relating to possible cessation of refugee status should be immediately brought to the attention of the RSD Supervisor or a designated Protection staff member, who should decide the appropriate course of action, i.e. formally initiate cessation procedures or gather additional information with a view to determining whether such procedures should be initiated, including through conducting a Protection Interview. The determination that grounds exist to formally refer a recognized refugee to cessation procedures should be made by the RSD Supervisor or the designated Protection staff member.[1]

[1] Exceptionally, where fundamental changes in the objective circumstances in the country of origin may warrant the cessation of refugee status for a distinct caseload or a group of individuals with a specific profile, the decision to initiate individual cessation procedures for such caseload or group of individuals should be taken in consultation with the relevant Regional Bureau and DIP.

11.2.2 Notice of Initiation of Cessation Procedures

Cessation procedures must include **requirements to notify the refugee** concerned regarding the nature and purpose of the cessation procedures, and the reasons why UNHCR considers that the individual's refugee status should be ended. The individual should be advised that if he/she has information to explain or challenge the information upon which the cessation procedures have been commenced, or other information regarding the continued need for refugee protection, he/she may request a **Cessation Interview** with a UNHCR staff member to present this information and/or make written submissions to this effect. The individual should also be advised that if he/she fails to request a Cessation Interview and/or make written submission within the prescribed period (see also § 11.2.3 – *Cessation Interviews*), the cessation assessment will nevertheless be conducted and a decision will be issued.

The requirement to notify the individual concerned, and to give the opportunity and sufficient time to reply to the information that has led to the formal initiation of cessation procedures, are fundamental elements of fairness and due process.

The notification should be in writing. The relevant information should be provided in an accessible manner and communicated in a language that the refugee understands. The principles and procedures set out in § 10.2.9 – *Notification of the Cancellation Decision* are relevant, and should be reflected in individual cessation procedures. UNHCR Offices should make reasonable efforts to notify the individual concerned of the initiation of cessation procedures. The date and means of notification should be recorded on the individual's RSD file and in UNHCR's case management database.

Where, despite reasonable efforts, it is not possible to notify the individual concerned and where there is **reliable information indicating that the individual is no longer in need of international refugee protection** as a result of his/her own actions (e.g. reliable evidence that an individual has re-established him/herself in the country of origin, or has acquired the rights of a national in a third country) or as a result of fundamental changes in the objective circumstances in the country of origin, refugee status may be ceased without notice. In such cases, the assessment and decision to cease refugee status must be done in accordance with the established procedures (see § 11.2.4 – *Cessation Assessment and Decision*, and § 11.2.5 – *Review of Cessation Decisions*).

Cases referred to individual cessation procedures should be assigned to Eligibility Officers or other Protection staff who have the required knowledge and experience in RSD.

11.2.3 Cessation Interviews

Individuals who are notified of individual cessation procedures should be given a reasonable period of time, which should not be shorter than **30 days after the date of notification**, within which to request a Cessation Interview. Cessation procedures should be **sufficiently flexible** to permit the individual concerned to request a Cessation Interview and/or to make submissions in the cessation procedures within a reasonable period after the deadline has elapsed where the individual has valid reasons for failing to request the interview or to make a submission within the deadline. Such reasons include, but are not limited to, late receipt of notification of initiation of cessation procedures, health problems, or other compelling reasons.

The Eligibility Officer or Protection staff member who conducts the Cessation Interview should maintain a full and accurate record of the interview, through a verbatim transcript and/or an audio or video recording. The procedures and principles set out in § 4.3.12 – *Recording the RSD Interview* should be followed in Cessation Interviews. It is also recommended that, at the beginning of the Cessation Interview, the individual refugee is counselled regarding the nature and purpose of the cessation procedures and the reasons why UNHCR considers that the individual's refugee status should be ended.

If an individual has been duly notified of the cessation procedures (see § 11.2.2 – *Notice on Initiation of Cessation Procedures*) but does not request a Cessation Interview nor present information relating to the need for continued international protection, once the deadline has elapsed, the Eligibility Officer may proceed with the Cessation Assessment and, where appropriate, the individual's refugee status may be ceased.

11.2.4 The Cessation Assessment and Decision

In each case, the cessation decision should be recorded in a **Cessation Assessment**, which should include the following:

STANDARDS & GUIDELINES

CESSATION ASSESSMENT

- A summary of the information relevant to the grounds for cessation, including any relevant information provided by the individual whose refugee status is subject to individual cessation procedures;
- A record of:
  (i) the credibility assessment conducted with regard to any statements provided by the individual concerned and, where relevant, other persons (e.g. family members or witnesses) in relation to the grounds for cessation and of the reasons why these statements have, or have not, been accepted as credible;[2] and
  (ii) the determination of what material facts can be considered established, based on the credibility findings, where applicable, and any other reliable information (for further guidance on establishing material facts, see § 4.3.15 – The RSD Assessment);
- A determination of whether the established facts support a finding that the individual is no longer in need of refugee protection in accordance with the cessation clauses in Article 1C of the 1951 Convention and relevant UNHCR cessation policy and guidance (see *Annex 11-1: List of UNHCR and other Additional Relevant Resources*).[3]

Caseload or profile-specific Cessation Assessment forms may be used to facilitate and expedite the assessment of cessation of refugee status of individuals belonging to a caseload to which the "ceased circumstances" or "general cessation" clauses in Article 1C(5) and (6) apply. To promote quality and consistency in decision-making, such forms should be developed in consultation with the relevant Regional Bureau and relevant functional sections in DIP and the Division of Resilience and Solutions (DRS).

The Eligibility Officer should sign and date the Cessation Assessment before referring the recommendation and file to the review and approval procedures established by the Office (see § 11.2.4 – *Review of Cessation Decisions*).

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[2] Where the refugee concerned neither requests a Cessation Interview nor makes any submissions regarding the applicability of cessation in his/her case and/or regarding his/her continued need for international refugee protection, a credibility assessment will not be necessary.

[3] In cases falling under the scope of the cessation clauses in Article 1C(5) or (6), a determination of whether the individual continues to have a well-founded fear of persecution or whether he/she should be exempted from cessation due to compelling circumstances arising from past persecution will need to be addressed as part of the assessment.

11.2.5 Review of Cessation Decisions

Cessation procedures in each UNHCR Office should include a mechanism for review of all cessation decisions. The principles and procedures set out in § 4.4 – *Procedures for Review of RSD Decisions* are relevant to, and should inform the development of review procedures of cessation decisions.

The review and approval by the **RSD Supervisor** or the **Head of Office** should be required in all cases where a decision is made to cease

- the refugee status of a person who was recognized pursuant to UNHCR's mandate; and
- the derivative refugee status, where the decision to cease is based on the individual's own actions or changed circumstances.

As the cessation of the refugee status of an individual will automatically result in the ending of the derivative refugee status of his/her family members / dependants (i.e. there is no consideration of the grounds for cessation), the decision to end derivative refugee status in these circumstances does not require the review and approval of the RSD Supervisor of the Head of Office (see also § 11.4 – *Cessation of Derivative Refugee Status*).

Following review procedures within the UNHCR Office, **all decisions to cease an individual's refugee status pursuant to Article 1C(1)-(4) of the 1951 Convention** must be submitted for review in accordance with the principles and procedures set out in § 4.4.3 – *Procedures for Consultation with UNHCR Regional Bureau(s) and DIP on RSD Decisions*. The review should be carried out by **the designated focal point in the relevant Regional Bureau**, unless an individual case or group of cases is delegated by the Bureau Director for review to another qualified and appropriate staff member at the regional level. Any changes to the RSD decision as a result of the Regional Bureau, and where applicable, DIP's review should be made in accordance with the procedures set out in § 4.4.2 – *Procedures for Revising the RSD Assessment or Decision*. The individual concerned should be notified of the decision to cease the individual's refugee status only once this is reviewed or endorsed by the Regional Bureau, and where applicable, DIP.

Cases which raise complex procedural, doctrinal or interpretative issues may be referred by the relevant Regional Bureau to DIP for guidance if necessary (see § 4.4.3 – *Procedures for Consultation with UNHCR Regional Bureau(s) and DIP on RSD Decisions*).

STANDARDS & GUIDELINES

THE SUBMISSION FOR HEADQUARTERS REVIEW SHOULD INCLUDE THE FOLLOWING:

- A copy of the Cessation Assessment, as well as the initial RSD Assessment and, where applicable, the Appeal Assessment;
- Copies of the transcripts of the Cessation Interview, the Protection Interview leading to the initiation of cessation procedures where applicable, as well as the transcripts of the interview(s) on which the initial RSD/appeal decision(s) was based. In the absence of a verbatim written transcript, the audio recordings of the interviews should be submitted;
- Copies of the supporting documentation submitted by or on behalf of the individual during the cessation procedures;
- Any other information relevant to the decision to cease status.

Alternative review procedures may be adopted in certain RSD operations where the Bureau and/or DIP determine that only cases of a specific type or exceptional nature need to be reviewed by Headquarters (for further guidance, see § 4.4.3 – *Procedures for Consultation with UNHCR HQ on RSD Decisions*).

11.2.6 Notification of Cessation Decisions

Individuals whose refugee status is ceased pursuant to UNHCR cessation procedures must receive **notice in writing of the decision and the reasons** supporting the cessation decision. Individuals whose refugee status is maintained following cessation procedures must also be notified of the decision. The principles and procedures set out in § 6 – *Notification of RSD Decisions* apply to the notification of cessation decisions.

STANDARDS & GUIDELINES

NOTIFICATIONS OF NEGATIVE DECISIONS LEADING TO THE CESSATION OF REFUGEE STATUS SHOULD ALSO INFORM THE INDIVIDUAL OF THE **CONSEQUENCES OF CESSATION**, INCLUDING:

- Where possible, the known implications of cessation of refugee status for the individual's legal status in the host country / country of asylum;
- The effect of cessation on protection and assistance received from UNHCR, including processing for resettlement;
- The effect of cessation on the derivative refugee status of family members/dependants, where applicable (see § 11.4 – *Ending of Derivative Refugee Status*);
- The right to appeal the decision to cease refugee status and the relevant procedures and applicable deadlines;
- Procedures regarding the return of refugee identity documents issued by UNHCR (see § 11.5 – *Withdrawal of UNHCR-issued Refugee Documents in Cessation Procedures*)

11.2.7 Appeal of Cessation Decisions

Individuals, whose refugee status is ended by UNHCR pursuant to individual cessation procedures, have the right to appeal the cessation decision. The timeframe for submitting an appeal application should be no less than 30 days after the date of notification of the cessation decision. In so far as possible, the appeal should be determined by an Eligibility Officer or another qualified Protection staff member who was not involved in the adjudication or review of the cessation decision at first instance. The principles and procedures set out in § 7 – *Appeal of Negative RSD Decisions* are applicable and should inform the development of appeal procedures in cessation cases.

While the appeal of the cessation decision is pending, the individual's refugee status remains valid. As such, an individual subject to cessation procedures should continue to enjoy the rights and protection accorded to them as recognized refugees throughout the period allowed for submitting an appeal and, once the appeal application is submitted, while a final decision is pending. The derivative refugee status of family members/dependants also remains valid while a final decision on the cessation of status or appeal of the recognized refugee is pending (see also § 11.4 – *Ending of Derivative Refugee Status*).

A first instance decision to cease refugee status that is not appealed within the established timeframe or an appeal decision to cease refugee status is considered final and should result in the closure of the file.[4] Cessation of refugee status does not prevent an individual from requesting a re-opening of the RSD case at a later date (see § 9.2 – *Re-opening RSD Cases*).

11.3 Exemption Procedures

The refugee status of individuals falling within the scope of a cessation declaration ceases automatically once the cessation declaration comes into effect. UNHCR Offices must thus establish fair and efficient procedures to allow individuals (i) who continue to have a well-founded fear of persecution or (ii) who have compelling reasons arising out of previous persecution for refusing to avail themselves of the protection of the country of origin, to apply for an exemption to cessation. Exemption procedures must be established in consultation with the relevant Regional Bureau and functional units in DIP and DRS, and in accordance with UNHCR's cessation policies and guidance.

Individuals who fall within the scope of a cessation declaration should be notified within a reasonable timeframe prior to the entry into effect of the cessation declaration. The relevant information should be communicated in a language and manner that they understand.

STANDARDS & GUIDELINES

NOTIFICATIONS PRIOR TO THE ENTRY INTO EFFECT OF THE CESSATION DECLARATION SHOULD INCLUDE INFORMATION REGARDING:

- The cessation declaration, the process, scope of the cessation, timeframe for its entry into effect, and its consequences;
- The effect of cessation on protection and assistance received from UNHCR, including processing for resettlement;
- The implications of cessation of refugee status for the individual's legal status in the host country / country of asylum, including where possible any legal avenues to remain in the host country / country of asylum, and other available durable solutions;
- The exemption procedures, rights and obligations under the procedures and applicable deadlines.

Applicants in exemption procedures must have the opportunity to present information regarding their continued well-founded fear of persecution or compelling reasons for being exempt from cessation in person during **a first instance interview with a Protection staff member with RSD experience**. They should have the right to appeal a negative first instance decision regarding the applicability of exemption.

Applicants in exemption procedures retain their refugee status and associated rights until a final decision has been taken on their application. Family members / dependants of Applicants in exemption procedures also maintain their derivative refugee status pending a final decision on the application.

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[4] To facilitate a flexible approach, the files of individuals whose refugee status was ceased in first instance cessation procedures should generally not be referred to file closure until a minimum of six weeks has elapsed following the expiry of the appeal deadline (see § 9.1 – *Closure of RSD Cases* § 7.2.4 – *Time Limit for Submitting the Appeal Application*).

The principles and procedures set out in this Unit, as well as in § 3 – *Reception and Registration for Mandate RSD*, § 4 – *Adjudication of Refugee Status Claims*, § 6 – *Notification of RSD Decisions* and § 7 – *Appeal of Negative RSD Decisions*, are relevant and should inform the development and implementation of exemption procedures.

11.4 Ending of Derivative Refugee Status

11.4.1 Ending of derivative refugee status as a result of the cessation of the refugee status from which it was derived

Cessation of the refugee status of an individual will also result in the cessation of the derivative refugee status of his/her family members and dependants. Wherever possible, UNHCR Offices should take all reasonable steps to notify persons whose derivative refugee status has been ended following the cessation of the status of an individual refugee. At the time of notification, UNHCR Offices should also inform family members/dependants that the cessation of the derivative refugee status does not affect their right to make an independent refugee claim should they have grounds to claim refugee protection (see also § 5.3.5(a) – *Termination of Derivative Refugee Status as a result of the Cancellation, Revocation or Cessation of the refugee status of the Refugee Status Applicant* and § 11.2.6 – *Notification of Cessation Decisions*). The ending of the derivative status should be recorded on the appropriate individual file and in UNHCR's case management database.

11.4.2 Cessation of derivative refugee status

The derivative refugee status of family members/dependants may also be ceased based on their own actions or changed circumstances. Individuals with derivative refugee status should be given the opportunity to present an independent refugee claim if they have grounds to claim refugee protection at the time of the cessation procedures (for further guidance regarding cessation of derivative refugee status, see § 5.3.5(b) – *Cancellation, Revocation and Cessation of Derivative Refugee Status* and § 11.2.6 – *Notification of Cessation Decisions*). The principles and procedures set out in this Unit regarding the cessation of refugee status of an individual, including the right to appeal a cessation decision, also apply to the cessation of derivative refugee status of family members / dependants.

Where the derivative refugee status of family members / dependants is ceased as a result of a declaration of cessation, UNHCR Offices should take all reasonable steps to notify affected individuals of the cessation of their status. At the time of notification, UNHCR Offices should also inform family members/dependants of the exemption procedures in place, as well as of their rights and obligations and applicable deadlines in accordance with the guidance in § 11.3 – *Exemption Procedures* above. Where the refugee status of an individual is maintained following exemption procedures, the derivative refugee status of his/her family members/dependants will also be maintained as long as the family or dependency relationship still exits.

The cessation of the derivative status should be noted on the appropriate individual file and in UNHCR's case management database.

11.5 Withdrawal of UNHCR-issued Refugee Documents in Cessation Procedures

In the interest of maintaining the integrity of identity documentation issued by UNHCR to recognized refugees, UNHCR Offices should take **all reasonable steps to withdraw valid UNHCR refugee identity documentation**, including UNHCR Refugee Certificates, **issued** to individuals whose refugee status has been ended under cessation procedures or as a result of a cessation declaration (see also § 8.2.4 – *Retrieval of UNHCR Refugee Identity Documents*).

At the time of notification of a cessation decision or at the time of the notification of the application of a cessation declaration, individuals whose refugee status has been ended should be requested to return the UNHCR Refugee Certificate or any other refugee identity documentation that was issued by UNHCR upon recognition. Documentation issued by UNHCR to family members / dependants who were granted derivative refugee status should also be returned to UNHCR. The fact that the refugee documentation has been returned to UNHCR should be recorded on the individual's RSD file and in the Office's central record of identity documents. Where retrieval is not possible, the Office's central record of identity documents should be updated to reflect that the particular document is no longer valid (see § 8.3 – *Maintaining Office Records of UNHCR Refugee Identity Documents*).

Individuals who appeal the first instance cessation decision should be allowed to retain UNHCR refugee identity documentation until a final decision on their refugee status is reached. Individuals whose refugee status was ceased as a result of a cessation declaration and who apply for exemption procedures should also be allowed to retain UNHCR refugee identity documentation until a final decision on their refugee status is reached. To ensure the preservation of the family unity, family members / dependants should also be allowed to retain their UNHCR refugee identity documentation during this period.

Where the individuals to whom the UNHCR refugee identity document was issued are not in possession of other identity documents, or where the UNHCR refugee identity document may be required to document the refugee status held, it may be appropriate to permit the individuals to retain the refugee identity document issued by UNHCR upon recognition. In such cases and insofar as possible, the documentation should be clearly **amended to reflect the cessation of the refugee status**, and Offices should take any other necessary measures to prevent the improper use of the UNHCR refugee identity documents.

Annex: List of Additional Resources

UNHCR, *Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the "Ceased Circumstances" Clauses)*, 10 February 2003, HCR/GIP/03/03, available at: http://www.refworld.org/docid/3e50de6b4.html

UNHCR, *Guidelines on Exemption Procedures in respect of Cessation Declarations*, December 2011, available at: http://www.refworld.org/docid/4eef5c3a2.html

UNHCR, *Note on Suspension of "General Cessation" Declarations in respect of particular persons or groups based on acquired rights to family unity*, December 2011, available at: http://www.refworld.org/docid/4eef5a1b2.html

UNHCR, *Note/Advice on individual cessation in the context of prima facie recognition of refugee status for persons who have voluntarily returned to their country of origin*, 7 October 2011, available at: https://refworld-internal.unhcr.org/cgi-bin/texis.exe/refworld/intranet/rwmain?page=search&docid=51ac5e104&skip=0&query=cessation%20prima%20facie

UNHCR, *The Cessation Clauses: Guidelines on Their Application*, 26 April 1999, available at: http://www.refworld.org/docid/3c06138c4.html

UNHCR, *Note on Cessation Clauses*, 30 May 1997, EC/47/SC/CRP.30, available at: http://www.refworld.org/docid/47fdfaf1d.html

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