



**UNHCR**

United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

## **Note on Issues related to Eligibility for International Protection in the Context of Fumigations**

### **Background and Context**

1. This note seeks to provide guidance on the elements to be considered when establishing whether persons who have fled areas where fumigation operations are conducted, and who are seeking international protection in another country, qualify for refugee status.

2. It is important to bear in mind the broader context in which fumigations take place, notably the close linkages between measures aimed at destroying illicit drug cultivations and armed conflict. Often, the production and trafficking of drugs constitutes the principal source of income for insurgent and paramilitary groups. The importance of drug production and trafficking to these groups is reflected in the expansion of the areas under their control in which plants used for illicit drug production are cultivated. In this context, the destruction of such illegal plantations through spraying from the air as well as ground operations to eradicate illicit cultivations not only serves the purpose of fighting drug-related criminality.

3. Military operations usually accompany the destruction, from the air or on the ground, of illicit plantations. The strategic importance of the areas in which plants used for illicit drugs are cultivated also results in fighting between irregular armed<sup>1</sup> groups aimed at obtaining, or maintaining territorial control. Moreover, those living and working in the areas affected are frequently subject to threats and acts of violence at the hands of irregular armed groups and/or the authorities.

4. Against this background, it appears that in many cases the primary ground for leaving illicit drug-cultivating areas is fear of actual or threatened harm due to violence related to the armed conflict. Where such violence is targeted, those concerned may come within the refugee definition of the 1951 Convention relating to the Status of Refugees (“1951 Convention”) and/or its 1967 Protocol. Others who flee indiscriminate threats resulting from the situation in the areas affected may qualify for refugee status under broader refugee definitions or on the basis of the extended refugee definition under UNHCR’s international protection mandate.

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<sup>1</sup> For the purposes of this note, the term “irregular armed groups” includes insurgents, guerrillas and paramilitary groups, unless otherwise specified.

5. In Part I, this note analyzes eligibility for refugee status under the 1951 Convention criteria in relation to asylum-seekers fleeing from illicit drug cultivating areas. This analysis examines two distinct situations: (A) persons fleeing harm related to conflict and/or generalized violence in areas where fumigations take place and (B) persons fleeing harm resulting from fumigation operations as such. Secondly, a separate assessment is undertaken under Part II with a view to determining other international protection needs that these persons may have under (A) broader refugee definitions and/or (B) by virtue of the extended refugee definition under UNHCR's mandate.

## **I. Eligibility for Refugee Status under the 1951 Convention Criteria**

### **A. Harm related to armed conflict and/or generalized violence in areas where fumigations take place**

#### ***1. Inclusion criteria of Article 1A(2) of the 1951 Convention.***

6. Persons residing in areas where fumigations take place are subject to harm related to the armed conflict. Members of the insurgent or paramilitary group which controls the area concerned often force farmers to become involved in growing plants that are used to produce illicit drugs, and those who refuse to do so face serious threats of being harmed. Moreover, individuals regarded by one armed group as supporters of an opposing group risk being subjected to acts of violence as a result. Inhabitants of areas where the plants used for illicit drug production are grown may also be at risk of harm at the hands of the authorities who view them as supporters of the armed group sometimes solely on account of the fact that these individuals live in an area under the hegemony of the group in question. In addition, where confrontations between irregular armed groups fighting for control over the territory, or between an irregular armed group and the national authorities, occur frequently, this endangers the lives and safety of anyone in the area.

7. In light of the above, adjudicators determining whether persons fleeing for any of the aforementioned reasons come within the refugee definition contained in Article 1A(2) of the 1951 Convention<sup>2</sup> need to establish whether there is a reasonable possibility of harm that is sufficiently serious so as to amount to persecution, and that the feared persecution would be related to a Convention ground.<sup>3</sup>

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<sup>2</sup> Article 1A(2) of the 1951 Convention defines as a refugee any person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

<sup>3</sup> There may be situations where an applicant who was previously persecuted in the country of origin or former habitual residence does not face a risk of renewed persecution if he or she were to return. While this would normally mean that the person would not have a claim to 1951 Convention refugee status, there may be exceptional cases in which it would nevertheless be appropriate to recognize the applicant as a refugee due to compelling reasons arising out of previous persecution. This could apply, for example, where the persecution experienced was particularly atrocious and the applicant is experiencing ongoing traumatic psychological effects which would render return intolerable.

### *Well-foundedness of the fear*

8. As noted above, the lives, freedom and physical integrity, among others, of persons living and working in areas used by irregular groups for the cultivation of plants used for illicit drug production are adversely affected in a variety of ways. In each individual case, it is necessary to establish the reasons why the person concerned fled an area where fumigations took place, and the harm he or she fears in case of return.

9. In determining whether an applicant's fear is well-founded, the adjudicator needs to assess the situation in the applicant's country of origin, taking into account the personal profile and activities of the applicant as well as any past experiences of harm suffered by the applicant him or herself as well as relatives, friends and other members of the group to which the applicant belongs.<sup>4</sup>

10. The applicant's fear is considered well-founded if there is a reasonable possibility that the harm feared will materialize. Whether or not this is the case will depend on a number of factors. In addition to the applicant's personal circumstances, adjudicators would need to consider the possibility of continued armed conflict and/or generalized violence and resulting serious harm to persons in the areas concerned; whether illegal growing of plants used for the production of drugs in the area is ongoing; whether operations to eradicate such plants continue and if so, the manner in which they are carried out; as well as the general context in which such operations take place.

11. The likelihood of harm at the hands of an irregular armed group or the authorities would also need to be assessed. If the same armed group is still in control, it would need to be considered whether the applicant may be considered as an opponent, either because of his or her previous acts or simply on account of the fact that he or she left the area. If, on the other hand, a different armed group, or the government, has obtained control over the area, the likelihood of violent reprisals against the applicant would depend on whether or not he or she would be perceived as a supporter of the group formerly in control, regardless of whether or not any collaboration was real or perceived, forced or voluntary.

12. Where applicant fears harm at the hands of a non-State actor, the analysis of the well-foundedness of this fear requires an examination of whether or not the State is able and willing to provide protection. In the present context, this needs to be addressed when examining the case of applicants who fear harm at the hands of irregular armed groups.<sup>5</sup>

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<sup>4</sup> Having been subjected to persecution or other kinds of mistreatment in the past is not a precondition for recognition as a refugee – however, such experiences would normally indicate that the applicant continues to be at risk of some form of harm in the future. See UNHCR's *Note on Burden and Standard of Proof in Refugee Claims*, 16 December 1998, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3338>, at paragraph 19.

<sup>5</sup> On the question of the availability of an internal flight or relocation alternative, see UNHCR's *Guidelines on International Protection: "Internal Flight or Relocation Alternative"*, HCR/GIP/03/04, 23 July 2003, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f2791a44>.

*Does the harm amount to persecution?*

13. If the applicant has established a well-founded fear, it needs to be determined whether the harm or predicament which is reasonably likely to materialize amounts to persecution.

14. Not every infringement of an individual's human rights constitutes persecution within the meaning of the 1951 Convention. Although the concept of persecution is not defined in the 1951 Convention, it may be inferred from Article 33 of the 1951 Convention that a threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group is always persecution. Other serious violations of human rights on account of the same grounds also constitute persecution.<sup>6</sup>

15. Persecution may therefore encompass serious human rights violations, including a threat to life or freedom as well as other kinds of serious harm or intolerable predicament, as assessed in the light of the opinions, feelings and psychological make-up of the asylum applicant. A persecutory impact may be established whether or not there is evidence of particularized enmity, malignity or *animus* on the part of the person or group responsible for infliction or threat of a relevant harm, or on the part of a State which withholds its protection from persons at risk of relevant privately inflicted harm. Evidence of persecutory intent may thus be conclusive as to the existence of well-founded fear, but its absence is not conclusive the other way. Persecutory intent is thus irrelevant as long as the effect of the measures taken amounts to persecution for the particular individual concerned, provided there is a link to a Convention ground (see the discussion below at paras. 17-20).

16. The analysis will depend on the circumstances of the individual case, and the kinds of risk identified. In a certain context, many applicants fleeing the effects of armed conflict will be able to establish a threat to their lives, freedom or physical integrity or other kinds of serious harm which reach the threshold of persecution, with or without a link to fumigations or ground operations to eradicate plants that are illegally grown for the purpose of drug production.

*Link to a 1951 Convention ground*

17. Persons living and working in areas where plants used for illicit drug production are grown are often affected by human rights violations and threats resulting from, or occurring in the context of, the fumigations themselves, or the armed confrontations triggered by them. The effects of these operations are described as indiscriminate, in the sense that they have an impact on anyone, whether or not they are involved in growing such plants. However, this does not necessarily mean that there is no link between measures which may amount to persecution and a 1951 Convention ground.

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<sup>6</sup> UNHCR's *Handbook on Procedures and Criteria for Determining Refugee Status* ("Handbook"), Geneva, 1979, re-edited 1992, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3314>, at para. 51. With regard to the requirement of a link to a 1951 Convention ground, see below at paras. 17-20.

18. In UNHCR's view, the causal link would be satisfied: (1) where there is a reasonable risk of being persecuted at the hands of a non-State actor for reasons which are related to one of the Convention grounds, whether or not the failure of the State to protect the claimant is Convention related; or (2) where the risk of being persecuted at the hands of a non-State actor is unrelated to a Convention ground, but the inability or unwillingness of the State to offer protection is for a Convention reason.<sup>7</sup>

19. When assessing whether an applicant's fear of persecution is "for reason of" one or more 1951 Convention grounds, it needs to be examined whether or not the potentially applicable ground is a relevant factor contributing to the persecution by State agents, or, if the agent of persecution is a non-State actor, to the persecution by the latter or to the State's unwillingness or inability to provide protection against such persecution. This would need to be determined in light of the circumstances of the individual case.<sup>8</sup>

20. When examining persecution related to **armed conflict**, the Convention ground "**political opinion**", or "**imputed political opinion**", is particularly relevant. This ground could apply in those situations where individuals in areas with illicit drug cultivations are at risk of persecution by the authorities because they are considered to be supporters of an insurgent (e.g., on the basis of long-time residence in an area under the hegemony of an armed group), or because their resistance to eradication operations, whether voluntary or forced by the insurgent or paramilitary group controlling the area, results in them being perceived as opponents by the authorities. Similarly, this Convention ground may be applicable where a risk of persecution at the hands of an irregular armed group is linked to the perception of the individual concerned as supporting an opposing group or the government, and/or because he or she refuses to resist the eradication operations, or to become involved in illegal growing plants used for drug production in the first place.

## 2. *Exclusion considerations*

21. In cases where the applicant comes within the inclusion criteria of Article 1A(2) of the 1951 Convention but where there are indications that he or she was associated with criminal activities which may bring him or her within the scope of Article 1F of the 1951 Convention, it will be necessary to carry out an exclusion assessment as part of the refugee status determination. This could apply to individuals fleeing from areas who were themselves involved in the production and/or trafficking of illicit drugs.

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<sup>7</sup> See UNHCR's *Guidelines on International Protection: "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*, HCR/GIP/02/02, 7 May 2002, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3d36f23f4>, at paragraph 23. See also UNHCR's *Guidelines on International Protection on "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"*, HCR/GIP/06/07, 7 April 2006, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=443679fa4>, at para 29 and UNHCR's *Guidelines on International Protection on "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*, HCR/GIP/02/01, 7 May 2002, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3d36f1c64>, at para 20. See further "The Causal Nexus in International Refugee Law" by James Hathaway and "The Michigan Guidelines on Nexus to a Convention Ground", <http://www.refugeecaselaw.org/english.pdf>.

<sup>8</sup> See above at paragraph 18.

22. As in all cases, it would need to be established whether or not such persons incurred individual responsibility for crimes within the scope of Article 1F of the 1951 Convention. Drug-related offences would need to be examined against the criteria of Article 1F(b) of the 1951 Convention (“serious non-political crimes committed outside the country of refuge prior to admission to that country as a refugee”). Where the acts as such are sufficiently serious to come within the scope of Article 1F, or where an applicant otherwise provided support to an irregular armed group which could amount to a substantial contribution to the commission of excludable crimes, the possibility that he or she was forced to do so by the armed group in control would need to be taken into consideration when establishing individual responsibility.<sup>9</sup>

## **B. Fumigation operations**

23. In order to determine whether the fumigations themselves can give rise to a claim for refugee status on the basis of the 1951 Convention criteria, an assessment of the circumstances in light of the inclusion criteria along the lines set out above in Part I.A. is required.<sup>10</sup>

24. As a first step, it is necessary to examine the harm caused by the fumigations, both in terms of the **health** of those affected and their **ability to earn a livelihood**:

- (i) The chemicals used to eradicate plants used for illicit drug production – notably the herbicide glyphosate – are said to have negative effects on the health of persons exposed to it. While the degree of harm caused is not yet fully determined, but refers to field research which suggests higher levels of infant mortality<sup>11</sup> after exposure to these chemicals.
- (ii) The chemicals sprayed from airplanes not only destroy plants used for illicit drug production but also other crops legally grown by farmers in the areas affected, either for their own use or to make a living, including for instance small scale of legal coca bush, cannabis or opium poppy-growing plantations.

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<sup>9</sup> Detailed guidance on the substantive and procedural issues involved can be found in UNHCR’s *Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/03/05, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857684>, 4 September 2003 and the accompanying Background Note, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3f5857d24>.

<sup>10</sup> If there are indications that an applicant who is found to meet the inclusion criteria of Article 1A(2) of the 1951 Convention may have been associated with acts within the scope of Article 1F, an exclusion assessment would need to be conducted. See above at paras 21-22.

<sup>11</sup> See Article 24 of the Convention on the Rights of the Child, which states: “1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish infant and child mortality; ...”.

*Well-foundedness of the fear*

25. In assessing whether there would be a reasonable possibility that an individual would face serious damage to his or her health or suffer serious restrictions to his or her ability to earn a livelihood in the event of return to the area which he or she fled, the adjudicator would need to consider whether fumigations continue in that area, and if so, the substances used to eradicate the coca bushes.

*Does the harm amount to persecution?*

26. In order to determine whether any harm caused by fumigation operations as such constitutes persecution, it is important to bear in mind that the eradication of plants used for illicit drug production is not as such unlawful. Furthermore, Article 14(2) of the 1988 United Nations Convention against Illicit Trafficking in Narcotics and Psychotropic Substances provides that “[each] State Party shall take appropriate measures to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances, such as opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory. The measures adopted shall respect fundamental human rights and shall take due account of traditional licit uses, where there is historic evidence of such use, as well as the protection of the environment.” Similarly, as a measure aimed at depriving the insurgency of its financial basis, national authorities may legitimately destroy plants used for illicit drug production.

27. Thus, while the loss of illegally grown plants used for drug production cannot as such be considered to amount to persecution, the authorities nevertheless have an obligation to ensure that their destruction does not result in disproportionate restrictions on the ability of the affected individuals to enjoy their human rights. In this respect, it is necessary to examine whether the destruction of illicit crops results in harm which is sufficiently serious so as to constitute persecution, and if so, whether this is “for reason” of one or more 1951 Convention grounds. Thus, if it is established that the fumigations result in serious harm to an individual, for example because the chemical substances used cause severe damage to his or her health, this could amount to persecution. Where the fumigations results in inadequate quality and/or quantity of food, this may also impact adversely on the health of those affected.

28. When assessing whether the threshold of persecution is reached where the fumigations destroy the plantations of a person not involved in coca growing or growing small amounts of plants used for illicit drug production it will also be necessary to examine the impact this has on his or her health and ability to earn a livelihood. In the absence of a legal basis justifying the destruction of legally grown crops, the absence of any compensation or programmes offering alternatives for generating income is an important factor to be considered when assessing whether or not the economic restrictions or hardship resulting from the fumigations amount to persecution. If it is established that return to the country of origin or former habitual residence would expose the person concerned to a danger to his or her life and physical integrity, or serious damage to his or her health, this would clearly amount to persecution. Where the person

concerned would face serious restrictions on his or her ability to earn a livelihood, this may also constitute persecution.<sup>12</sup>

29. The impact of the above-mentioned violations or restrictions on the enjoyment of human rights may differ, depending *inter alia* on the individual's age, gender, health and personal background. For example, the negative impact of the herbicide glyphosate on the unborn child carried by a pregnant woman, or on an infant or a young child's health may be stronger than on an able-bodied adult. Lack of adequate food and proper nutrition may also impact differently and in some cases lead to a threat to an individual's life and survival.<sup>13</sup>

#### *Link with a 1951 Convention ground*

30. It is recalled that for the link with a 1951 Convention ground to be established, it is sufficient to show that the ground is a "relevant factor" contributing to the persecution.<sup>14</sup>

#### (Imputed) Political opinion

31. The Convention ground (**imputed**) "**political opinion**" could be relevant if it can be established that the population living and working in areas of illicit drug cultivation under the control of an irregular armed group and affected by fumigation operations carried out by the national authorities, is regarded by the authorities as siding with or supporting the latter. These categories of persons may also include those individuals who have been forced by the armed groups to become involved in the illicit drug cultivation/production or because of their resistance to eradication operations (whether voluntarily or forced by the armed group).

32. Further inquiries may be necessary to establish, for example, whether there have been any public statements to this effect, or whether the lack of compensation for the destruction of legal crops, or the denial of access to assistance may indicate that the authorities impute a political opinion to those concerned.

#### Membership of a particular social group

33. The applicability of the Conventional ground "**membership of a particular social group**" may be relevant to determining the need for international protection of persons fleeing in the context of fumigation operations carried out against illicit drug cultivation.

34. UNHCR's *Guidelines on International Protection: "Membership of a particular social group" within the context of Article 1A(2) of the 1951 Convention and/or its 1967*

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<sup>12</sup> UNHCR, Handbook, at paras. 62–64

<sup>13</sup> See Article 6 of the Convention on the Rights of the Child containing one of the fundamental principles of the CRC, namely the right to life, survival and development, as well as Article 24 of the CRC on the right to the highest attainable standards of health.

<sup>14</sup> See above paras 18-19.



*Protocol relating to the Status of Refugees* of 7 May 2002, define a particular social group in its paragraph 14:

*“a particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one’s human rights.”*

35. A particular social group cannot be defined exclusively by the persecution that members of the group suffer or by a common fear of being persecuted. However, persecutory action toward a group may be a relevant factor in determining the visibility of a group in a particular society.<sup>15</sup>

36. The definition of a particular social ground provided in UNHCR’s Guidelines reconciles the two dominant approaches by States in their application of this ground in the refugee definition: the “protected characteristics” approach and the “social perception” approach.

37. When determining asylum applications from farmers or other inhabitants of the areas of illicit drug cultivation who fear being subjected to serious human rights violations amounting to persecution as a result of the fumigation operations, an examination of the applicability of the particular social group ground will normally need to be conducted. In applying the “**social perception**” element of the definition, it needs to be examined whether or not a group shares a common characteristic which makes them a cognizable group or sets them apart from society at large. If farmers, and/or inhabitants of the areas with illicit drug plantations in which the fumigation operations are conducted are perceived as a cognizable group that sets them apart from society at large, then it could be argued that they comprise a particular social group, in the same way that persons belonging to a particular occupation or social class could, in certain situations or societies, form a cognizable group.<sup>16</sup> In this context, it should be explored whether the fumigations targeted towards the illicit drug plantations have led to the farmers and other inhabitants of these areas being perceived as a particular social group in the society.<sup>17</sup>

38. In examining the applicability of the “**protected characteristics**” approach of the definition to the cases concerned, it needs to be assessed if a group is united by an immutable characteristic, that may be innate or unalterable for other reasons, such as the historical fact of a past association, occupation or status by determining whether the asserted group is defined by a past temporary or voluntary status that is unchangeable because of its historical permanence.<sup>18</sup> If it can be established that the inhabitants including/or farmers living in the areas with illicit drug plantations affected by the fumigation operations have historical and traditional links with the land and/or their occupation as farmers, it could be argued that they share an immutable and unalterable characteristic that unites them as a particular social group.

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<sup>15</sup> See UNHCR, *Guidelines on Membership of a particular social group*, at paragraph 14.

<sup>16</sup> See UNHCR, *Guidelines on Membership of a particular social group*, at paragraphs 9 and 13.

<sup>17</sup> See UNHCR, *Guidelines on Membership of a particular social group*, at paragraph 14.

<sup>18</sup> See UNHCR, *Guidelines on Membership of a particular social group*, at paragraph 6.

39. As with the other Convention grounds, it is not necessary to establish that all persons belonging to a particular social group have been singled out for persecution.<sup>19</sup> Likewise, in order to qualify for refugee status, an asylum applicant who is determined to be a member of a particular social group must still demonstrate a well-founded fear of being persecuted based on her or his membership in the particular social group, not be within one of the exclusion grounds, and meet other relevant criteria.<sup>20</sup>

## **II. Other International Protection Needs**

40. As a general rule, claims submitted by persons seeking international protection should be examined first with a view to determining whether or not the applicant comes within the inclusion criteria of the refugee definition set out in Article 1A(2) of the 1951 Convention. This also applies with regard to refugee status determination concerning individuals fleeing areas of armed conflict and/or generalized violence where plants used to produce illicit drugs are grown and where fumigation operations conducted by the national authorities are undertaken.

41. Applicants who do not meet the 1951 Convention criteria may nevertheless require international protection because their lives, safety or freedom have been threatened by generalized violence or other circumstances which have seriously disturbed public order.

### **A. Refugee status under broader refugee definitions**

42. In those countries which have adopted broader refugee definitions, persons referred to above at paragraph 41 may fall within the scope of such definitions.

43. When assessing the existence of a threat to the life, safety or freedom which is related to one of the objective circumstances mentioned (“generalized violence” and “armed conflict” are particularly relevant here) in the case of a person who fled areas in which fumigations took place, the adjudicator needs to bear in mind the extent to which the spraying forms part of the strategic and tactical response within the context of the armed conflict so that the applicant is in fact fleeing generalized violence arising out of the armed conflict.

44. When determining whether a person who has left a coca-growing area due to indiscriminate threats to their lives, safety and freedom continues to be in need of international protection against such threats, decision-makers need to have regard to the situation in the particular area concerned. Under certain circumstances, the fact that the individual left the area concerned and/or a change in circumstances in the area of origin

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<sup>19</sup> See UNHCR, *Guidelines on Membership of a particular social group*, at paragraph 17.

<sup>20</sup> See UNHCR, *Guidelines on Membership of a particular social group*, at paragraph 19.

could mean that an individual who fled indiscriminate violence now comes within the refugee definition of the 1951 Convention.<sup>21</sup>

45. Individuals who come within the broader refugee definitions but with regard to whom there are indications that they may have been associated with crimes falling within Article 1F of the 1951 Convention would also need to undergo an exclusion assessment.<sup>22</sup>

**B. Refugee status on the basis of the extended refugee definition under UNHCR's mandate**

46. Where UNHCR conducts RSD under its own international protection mandate, persons who do not meet the eligibility criteria set out in the 1951 Convention would qualify for refugee status on the basis of the extended refugee definition under UNHCR's mandate if it is established that they are outside their country or origin or habitual residence and unable or unwilling to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order.<sup>23</sup>

47. Individuals who come within the extended refugee definition under UNHCR's mandate, but with regard to whom there are indications that they may have been associated with crimes falling within Article 1F of the 1951 Convention would also need to undergo an exclusion assessment.<sup>24</sup>

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<sup>21</sup> See also above at para. 11.

<sup>22</sup> See above at paras. 21-22.

<sup>23</sup> For further guidance, see Chapters 1 and 4 of UNHCR's *Manual on Mandate RSD*, 1 October 2005.

<sup>24</sup> See above at paras. 21-22.