

undertaken by trained RSD staff, but it is important that resettlement staff have a good understanding of the requirements for refugee status determination, which were examined in [Chapter 3](#).

Individual RSD is normally required for purposes of resettlement. However, in some instances, resettlement countries have accepted resettlement submissions from UNHCR on behalf of refugees recognized on a *prima facie* basis. Therefore, it may be sufficient for UNHCR resettlement staff to substantiate the *prima facie* recognition as part of the resettlement submission, provided the refugee cases do not show evident exclusion elements. *Please refer back to [Chapter 3.1.3](#) for more information.*

If any **exclusion triggers** arise during the review, the case **must** be sent back to the Protection Unit for a full-fledged exclusion analysis, the outcome of which will determine whether to proceed with the resettlement submission or not.



If RSD has been undertaken by the government of the country of asylum, this fact needs to be entered in *proGres* and in the physical case file.

There are certain exceptions to the requirement to be recognized as a refugee in order to be submitted for resettlement by UNHCR. Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of non-refugee dependent family members to retain family unity.

## Resettlement of non-refugee stateless persons

Persons of concern to UNHCR include stateless persons who are not refugees. In line with the *General Conclusion on International Protection* No. 95 (LIV), UNHCR can consider resettlement for non-refugee stateless persons on an exceptional basis. See [Chapter 1.2.3](#) and [Chapter 5.3.1](#) for more detail.

Resettlement may be considered for non-refugee stateless persons where the individual:

- **does not have** in the current or a former state of habitual residence a **secure, lawful residence status** which brings with it a minimum standard of treatment equivalent to that set out in the 1954 *Convention relating to the Status of Stateless Persons*; and
- has **no reasonable prospect of acquiring** such a **residence status** or nationality; and
- **has acute protection needs** which cannot be addressed inside the country of current or former habitual residence.

Field offices considering resettlement of non-refugee stateless persons in these circumstances should consult the Resettlement Service. Prospective resettlement countries also need to be consulted prior to submission to confirm their willingness to consider the case, and the possibility of processing stateless persons under their national legislation.

Ideally, States should give similar status to resettled non-refugee stateless persons as that given to resettled refugees. Namely, a status that provides the person in question and their accompanying dependants the enjoyment of civil, economic, social and cultural rights similar to those enjoyed by nationals and the opportunity to eventually become a naturalized citizen of the resettlement country. At the very minimum, the resettled individuals should be granted status as stateless persons under the 1954 *Convention relating to the Status of Stateless Persons*, encompassing rights and obligations enshrined in this instrument.<sup>4</sup>

### Resettlement of non-refugee family members

In exceptional circumstances, UNHCR may also include a dependent non-refugee family member in a resettlement submission in order to retain family unity. This is primarily relevant when a dependent spouse or other relative is a national of the country of asylum, as most other dependants are eligible for derivative refugee status.

During RSD, dependants who are determined to fall within the criteria for refugee status in their own right are granted refugee status rather than derivative refugee status. The family link to the resettled refugee may itself lead to persecution, and “membership in a particular social group” may apply.

Dependants of a recognized refugee, who do not have grounds to make an independent claim, may be granted derivative refugee status in most circumstances. These include dependants who arrive in the country of asylum subsequent to the recognition of the principal applicant, or who are in another country of asylum. Individuals who obtain 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, divorces, death or the fact that a child reaches the age of majority. Therefore, in most circumstances, the dependants of refugees have refugee status or derivative refugee status.

However, nationals of the country of asylum are not eligible for refugee status. Therefore, the inclusion of a non-refugee family member in a resettlement submission is appropriate to retain family unity when the non-refugee is emotionally, socially, and economically dependent on the refugee family and their citizenship does not accord any protection or rights to the family unit.

A detailed assessment of all available documents and the personal circumstances of the family member must be conducted to document the dependency. The agreement of the resettlement country to consider a family including non-

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<sup>4</sup> The 1954 Convention contains provisions regarding stateless persons’ rights and obligations pertaining to their legal status in the country of residence which are similar to the legal regime provided by the 1951 *Convention Relating to Refugee Status*. These rights include access to courts, property rights, which are, at a minimum, equal to those granted to aliens generally, and freedom to practice their religion. Obligations include conformity to the laws and regulations of the country. The Convention further addresses a variety of matters that have an important effect on day-to-day life, such as gainful employment, public education, public relief, labour legislation and social security. UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, <http://www.unhcr.org/refworld/docid/3ae6b384o.html>