

## **Module 6:** **Individual Arrival**

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### **Objectives**

- Identify the key protection concerns of asylum-seekers who arrive individually;
- Identify standards for fair refugee status determination procedures.

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### **Admission to a country of asylum**

- States have the right to control their borders;
- However, they must respect their obligations under IRL and IHRL;
- Right to seek and enjoy asylum (Art. 14, IDHR);
- Principle of *non-refoulement* (Art. 33, 1951 Refugee Convention).

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## Asylum-seekers

- Every individual refugee arriving in a country of asylum seeking refuge is first considered an **asylum-seeker**;
- They must be given access to a **fair** and **efficient** asylum procedure;
- Asylum-seekers may be as yet unrecognised refugees: refugee status is **declaratory**.

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## Asylum-seekers have rights

Rights are defined in international law, and states have agreed to them.

States can't punish someone for seeking asylum:

*Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who... enter... their territory without authorisation, provided they present themselves without delay to the authorities...*

1951 Refugee Convention

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## Who is responsible?

The host government is responsible for:  
Registering, conducting RSD, and documenting refugees;

Although the UNHCR may also conduct status determination under its mandate at the request of the state;

Sequence...

1. Registration
2. Formal status determination
3. Documentation

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## Conditions of reception

- Ability, awareness, and capacity of officials have a major impact on protection quality;
- Government attitude;
- Restrictive government policies;
- Socio-economic factors;
- Enabling legislation;
- Prevailing public opinion towards asylum-seekers.

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## All refugees need:

- Information on asylum procedure;
- Legal advice;
- Attendance in their mother tongue;
- Food, clothing, and safe accommodation;
- Financial assistance;
- Medical assistance and emotional support;
- Access: NGOs, the UNHCR, family, and other support networks;
- Focus on **capacities**.

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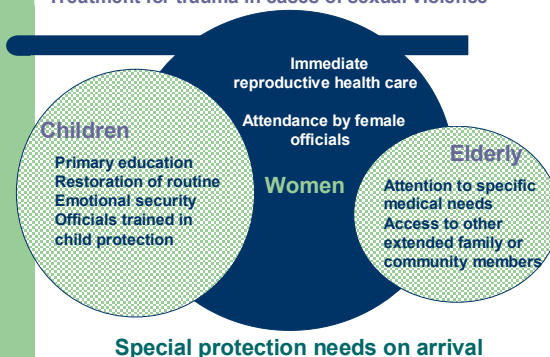
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Screening for special protection needs  
Immediate family tracing in case of separation  
Treatment for trauma in cases of sexual violence




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## Refugee status determination (RSD)

Procedures vary from one country to another depending on resources, local traditions, etc.

- Advice and information;
- Right to counsel, competent interpreters;
- Fair and expeditious;
- Independent, impartial, competent adjudicator;
- Right to independent appeal.

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## Lawful detention

Is a **last resort**

- Any detention of an asylum-seeker should be for the briefest period possible;
- Any detention must be subject to judicial control;
- Children should never be detained;
- Limited to: verify identity; determine preliminary facts, **not** substantive facts; if proves **serious** risk to national security.

Asylum-seekers are not criminals

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## Case study questions

- Outline the protection issues arising in this case;
- How could the RSD procedure be improved in the state?
- How might your organisation contribute to improving this situation?

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### Best practice for states

- Respect for **rights** and **human dignity**;
- Appropriate **range & standard of assistance**;
- **Clear, efficient, and effective RSD** procedures;
- Facilitation of **self-reliance** for asylum-seekers;
- Proactive management **public opinion**;
- **Burden-sharing** with other states;
- **Gender sensitivity** in all interventions (incl. RSD), and **awareness of special protection issues** for **children** and the **elderly**.

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