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MINISTRY OF TERRITORIAL
ADMINISTRATION AND
EMERGENCY SITUATIONS OF
THE REPUBLIC OF ARMENIA

STATE MIGRATION
SERVICE

STANDARD OPERATING PROCEDURES IN THE FIELD OF ASYLUM

January 2015



Asylum Systems
Quality Initiative
in Eastern Europe and South Caucasus



Ապաստանի համակարգերի
որակի նախաձեռնություն
Արևելյան Եվրոպայում և Հարավային Կովկասում



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¹ Namely SOP on Adjudicating Asylum Claims; SOP on the Services of Interpreters in Asylum Procedures; SOP on Evidence Assessment in Asylum procedures; SOP on Management of Individual RSD Files; SOP on Examination of Religion-Based Refugee Claims; SOP on Actions Arising From Judicial Acts of the Republic of Armenia with regard to Administrative Cases; and SOP on Quality Assurance in Asylum Procedures.

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PROCEDURE FOR SUBMITTING APPLICATIONS FOR ASYLUM IN THE REPUBLIC OF ARMENIA AND THEIR REGISTRATION

I. THE CONTENT OF THE PROCEDURE

1. THE GOAL

The goal of the present procedure is the standardization of the submission of asylum application in the Republic of Armenia by foreign citizens and stateless persons to the State Migration Service of the RA Ministry of Territorial Administration and of the steps taken by the general departments and the Department on Asylum Issues of the SMS.

2. THE SCOPE

The present procedure is applied by the General Department and the Department on Asylum Issues of the SMS.

3. REFERENCES TO NORMATIVE LEGAL ACTS

3.1. RA Law on Refugees and Asylum, November 27, 2008

3.2. The N 286-N decision of the RA Government dated 25th of March, 2010 on the affirmation of the form of the asylum application in the Republic of Armenia

3.3. The order number 01-L of the Head of the State Migration Service of the RA Ministry of Territorial Administration dated 24th of February, 2011 on the Confirmation of the Internal Procedures of the Office of the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia.

II. THE DESCRIPTION OF THE PROCEDURE

4. THE SUBMISSION OF THE ASYLUM APPLICATION AND THE REGISTRATION OF THE APPLICATIONS

4.1. For getting asylum in the Republic of Armenia the foreign citizen or the stateless person (hereinafter foreigner) submits a sample application set by the decision of the RA Government (the form is attached) to the General Department of the SMS.

4.2. An asylum application can be submitted by the foreigner who is in the territory of the Republic of Armenia or on the border cross-point of the Republic of Armenia. The specifications of submitting an asylum application on the border cross-point of the Republic of Armenia are stipulated by a separate procedure.

4.3. The asylum application referred to the SMS can be submitted by the foreigner personally as well as by postal mail, e-mail or fax.

4.4. Asylum application received by any means is subject to registration.

4.5. Even those applications are subject to registrations which do not correspond with the stipulated sample.

4.6. The unsigned applications are not subject to registration. In this case the employee of the General Department of the SMS informs the foreigner of the necessity to visit SMS for signing the application. If it is not possible to inform about that by telephone (the foreigner doesn't have a phone or the phone network is unreachable) a note is prepared by the employee of the General Department of the SMS and is submitted for the signing of the Head of the SMS. The writing is sent to the foreigner in the same way as the application was received.

4.7. The registration of the asylum application can be refused only in the case when it is obvious that the applicant is a citizen of the Republic of Armenia. In this case it is explained to the applicant that an asylum application can be submitted only by a foreigner.

4.8. The application is registered through the Mulberry documentation system.

4.9. If the asylum seeker is in the SMS the employee of the General Department refers him/her to the Department on Asylum Issues to assist in writing a sample asylum application in the Republic of Armenia.

4.10. The employee of the Department on Asylum Issues talks to him/her in order to determine the reasons for seeking asylum. If the intention of the foreigner for seeking asylum is not conditioned by the fear of being persecuted in the country of origin the employee of the Department on Asylum Issues of the SMS advises not to write an application.

4.11. If the foreigner reports that he/she wishes to settle lawfully in the RA for working, studying or other reasons not connected with the granting of asylum, the employee of the Department on Asylum Issues refers him/her to the Passport and Visa Department of the Police of the Government of the RA.

4.12. If the asylum seeker doesn't have the possibility to write the application (is illiterate or for any other reason) the asylum application is written by the employee of the Department on Asylum Issues based on the information provided by him/her.

4.13. The employee of the Department on Asylum Issues clarifies from the asylum seeker his/her:

- name, surname, father's name;
- birth day, month and year in a clear order;
- the hometown (city, village);
- the citizenship (country of origin), the country of permanent residence;
- the main reason for applying for asylum.

4.14. The application is written in Armenian by the employee of the Department on Asylum Issues and is signed by the asylum seeker. No deletions or additions are allowed.

4.15. The asylum seeker can write the application in his/her preferred language which is subject to translation by the interpreter of the SMS.

4.16. The asylum seeker along with the asylum application must submit the copies of his/her passport and/or of other identification document. The asylum seeker by his/her wish can submit the original identification document.

4.17. The asylum seekers can also submit other document or their copies (for instance, judicial acts gained in their country of origin, civil status acts, medical acts, documents, photos, newspapers, magazines etc.) along with the asylum application.

4.18. If the asylum seeker has submitted the original documents he/she can take them back at any phase of the review of his/her application. In this case the copies of the documents are kept in his/her individual case.

4.19. If the asylum seeker doesn't have any document it cannot be a base to refuse the registration of his/her asylum application.

4.20. If the documents attached to the application are sizable (more than 10 pages) the employee of the Department on Asylum Issues makes a note in the Mulberry system during the registration of the application that the applications attached to the application will be given to the executor handy.

4.21. Right after the registration of the application it is sent to the Head of the SMS. The Head of the SMS sends it to the Head of the Department on Asylum Issues. The Head of the Department on Asylum Issues appoints an executor from one of the employees of the Department who conducts the

review of the application.

4.22. The applications received in the Department on Asylum Issues are recorded in the registry of asylum seekers. The record is done by one of the employees of the Department on Asylum Issues by the instruction of the Head of the Department.

5. THE SUPERVISION ON THE EXECUTION OF THE PROCEDURE

The supervision on the execution of the actions stipulated by the present procedure is done by the head of the SMS, Head of the General Department and the Head of the Department on Asylum Issues within their powers.

6. FINAL PROVISIONS

6.1. The present procedure is provided to those employees of the SMS who have to deal with the activities of accepting and registering the asylum applications.

6.2. The present procedure is subject to review in case of organisational, institutional or legislative changes.

6.3. In the period of the absence from the work of the employees applying the present procedure as well as the future changes are subject to application by their substitutes.

6.4. For the review of the application of the procedures proposals can be submitted to the Head of the SMS by the Head and employees of the Department on Asylum Issues of the SMS as well as the expert on the information about the country of origin.

6.5. The Head of the SMS can review the present procedures by his initiation.

6.6. The present procedure is applied from January 1, 2014.

Name _____
Surname _____
Patronymic _____
Citizenship _____
Previous permanent place of residence _____
Address in Armenia _____
Telephone _____

**APPLICATION
for granting asylum in the Republic of Armenia**

I _____
Name, patronymic, surname

and members of my family (please list the names of your family members, if applicable) _____

apply for asylum for the reasons stated below. Please describe the reasons. _____

_____ 2015 _____
Signature of the applicant

PROCEDURE ON ADJUDICATING ASYLUM CLAIMS

I. CONTENT OF THE PROCEDURE

1. OBJECTIVE

The purpose of this Standard Operating Procedure is to establish uniform standards aimed at ensuring fair, effective, and consistent adjudication of asylum claims by the State Migration Service and to provide detailed explanations to the staff on the application of these standards.

2. SCOPE

This SOP shall be applied by the Head of the Asylum Issues Division of the SMS and its staff members in the framework of examining asylum applications.

3. REFERENCES

This SOP is issued taking into account the requirements of the Law of the Republic of Armenia of 27 November 2008 on Refugees and Asylum and of the Law of the Republic of Armenia of 18 February 2004 on the Fundamentals of Administrative Action and Administrative Proceedings. This SOP also draws upon best international practices of adjudicating asylum claims as reflected in UNHCR policy papers and practices of other States.

II. DESCRIPTION OF THE PROCEDURE

4. DEFINITIONS

The following words, expressions and abbreviations shall have the following meaning in the present Standard Operating Procedure:

Claimant specific information – Information that may be obtained from various sources and is specific of a particular asylum-seeker;

Country of Origin Information – Reliable, timely, and publicly available general information, including information obtained from the Internet, on the conditions in the country of asylum-seeker's origin;

Division – Asylum Issues Division of the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia;

Expert – A person not interested in the outcome of the asylum procedures and with attested specialist knowledge in any of areas of science, technology, arts or crafts who is involved in asylum procedures upon the initiative of SMS or the parties to give expert opinion on any of the factual circumstances of the case.

Parties – The asylum seeker, his/her representative/counsel;

RSD – Refugee status determination;

SMS – State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia;

SOP – Standard Operating Procedure;

Staff member – Staff member of the Asylum Issues Division of the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia;

Witness – A person called upon by the SMS or the parties to testify in asylum procedures on any factual circumstance that may be known to him/her and that needs to be verified within the framework of examination of the case.

The words **applicant**, **asylum-seeker** and **claimant** are used interchangeably in this SOP.

5. DESCRIPTION OF THE PROCEDURE

5.1. The requirement to hold an interview and when interviews may be omitted

Every asylum-seeker will be granted the right to be interviewed before a decision is taken on his/her case. In exceptional cases where the available evidence is sufficient to warrant recognition as a refugee, the adjudication may be conducted without an interview. In the latter case, however, an interview will be granted when the asylum-seeker requests one.

An interview may also be omitted where it is clear from information on file or it becomes clear during the RSD interview that the applicant is affected by a mental or physical condition and is unable, for the foreseeable future, to cope with an interview situation or to respond to the simplest of questions. In such a case a medical report should be requested from either the representative/counsel or the applicant directly.

5.2. Scheduling of RSD interviews

Asylum-seekers will be scheduled for an RSD interview within three days of the registration of the application.

5.3. Postponement/rescheduling of RSD interviews

General requirement for rescheduling

When assigning a date for a rescheduled interview, the staff member shall follow the rules applicable to scheduling of interviews. The basic rule is that Applicants who have had a proceeding adjourned or postponed and for which a resumption date is required shall be given a processing priority.

5.3.1. Applicant's request to reschedule RSD interviews to an earlier or a later date

A request by the applicant to reschedule an RSD interview to an **earlier** date should be made in person (or by signed letter posted to the SMS office). Such requests shall be submitted to the Head of the Division for consideration and should only be granted by him/her where the Applicant is identified as vulnerable or as having special assistance needs in accordance with the Standard Operating Procedure on Receiving and Registering Asylum Claims.

A request made by the Applicant to re-schedule an RSD interview to a **later** date should be referred to the Head of the Division for consideration. The request for a postponement should be granted when the applicant presents personal or procedural reasons (i.e. illness, delay in the arrival of dependents, the need to obtain supporting evidence, etc.) and where the Head of the Division considers these reasons legitimate.

The reply to the requests made by the applicant to re-schedule an RSD interview shall be communicated in person or in writing.

5.3.2. When staff members are unavailable to conduct interviews

Where prior to or on the interview date it becomes apparent that the relevant staff member will not be able to conduct the interview on the scheduled date, the interview shall be rescheduled and the applicant shall be properly informed thereon in person or in writing and explained the reasons for postponement.

5.3.3. Adjournment of interviews

Where it becomes apparent in the course of an interview that all matters cannot be adequately dealt with in the time allotted (or within a reasonable time period), the interviewer should adjourn the interview and reschedule it for completion at another time. The interview shall also be suspended and rebooked if the applicant, interviewer or interpreter becomes unwell and unable to continue the

interview. Where the interpreter is the one who becomes unwell, a break shall be called in order to make an attempt to find another interpreter, if at all possible.

5.4. RSD interview ‘no shows’

Where an Applicant does not attend the SMS office for a scheduled RSD interview:

- The staff member shall mark the applicant as ‘No Show’ on the Action Sheet of the RSD File and inform the Head of the Division.
- If there are no known valid reasons for the applicant’s failure to attend a scheduled interview, and the applicant does not approach or contact the office for a period of three months after the last scheduled RSD appointment, the matter should be referred to the Head of the Division and the asylum procedure shall be suspended. Before a decision to suspend the procedure is made, the staff member conducting RSD shall make all reasonable attempts to contact the applicant and to counsel her/him that the procedure will be suspended and on the consequences of suspension. The decision on suspension shall be served on the applicant within three days of its adoption or as soon as possible after the applicant’s whereabouts becomes known.
- Should the applicant appear within three months of suspension of the procedures seeking an RSD interview, the Head of the Division should instruct the case owner to conduct a brief interview with the applicant to inquire as to the reasons the applicant failed to attend the earlier RSD interview and/or failed to maintain contact with SMS. The details of this interview should be carefully documented and placed on the file. The applicant shall also state the reasons for failure to appear for an interview and/or to maintain contact with SMS in a written form requesting to reopen the proceedings. If the reasons submitted by the applicant are found valid by the Head of the Division, he/she shall instruct the case owner to reopen the file and to grant the applicant another RSD interview time. The reasons submitted by the applicant shall be considered valid if such reasons were beyond the control of the applicant. The case owner shall also be instructed to return the file to the active filing shelf.

The case owner shall also counsel the applicant on the consequences of failing to attend a scheduled RSD interview.

5.5. Additional interviews and information

If after conducting the interview and reviewing all the available evidence, there is still insufficient material to make a balanced and well-informed decision or there are significant internal and/or external contradictions requiring clarification, it may be necessary to obtain further information through an additional interview.

If subsequent to the RSD interview it becomes apparent to the staff member that more information from the applicant is required which may be obtained without conducting a complementary interview, the applicant should be contacted and asked to provide the information necessary and a reasonable time should be given to him/her to comply with the request.

The Head of the Division should be notified as to the reasons why further information is required by the staff member prior to making the appointment with the applicant. Staff members will be encouraged to prepare fully for an RSD interview, so as to reduce the need for additional interviews.

5.6. Preparing for an RSD interview

Each personal interview with an asylum-seeker in an asylum procedure must be carefully planned and prepared for. Preparing for the interview is essential to effectively consider the asylum application because the staff member assigned to the case must gather all the necessary evidence to make a timely, informed and fair decision. Being familiar with the outline of the application and relevant country of origin information will help the staff member focus the interview and avoid wasting time on irrelevant questions and will reduce the chance that an additional interview will be needed.

Each staff member conducting RSD shall ensure before the interview that:

1. she/he is familiar with the relevant laws and regulations of the Republic of Armenia governing the conduct of asylum procedures and the requirements of this and other relevant standard operating procedures;
2. she/he has carefully reviewed all the materials in the asylum-seeker’s individual file and is familiar

with his/her case and the claims raised in the Registration/Application form;

3. she/he is familiar with up-to-date, objective and balanced country of origin information relevant to the applicant's claims;
4. adequate time has been set aside to conduct the interview comprehensively.

In preparation for an interview, the staff member conducting RSD shall prepare a case plan. The staff member shall in particular:

- Review the information provided in travel and other documents, and note information which supports or is inconsistent with the facts presented in the Registration/Application form;
- Identify preliminary issues that will be relevant to the determination of the claim;
- Make a list of any missing information that the applicant should be asked to provide at the RSD interview.

When preparing a case plan, the staff member shall use the Case Plan Preparation Checklist (*Annex 1*) which shall be kept in the asylum-seeker's individual file.

5.7. Gathering information and disclosing it to the parties

5.7.1. The basic approach

Staff members conducting RSD are responsible for identifying information needed for the adjudication of the claim and may gather the information which will be disclosed to the parties before the interview or as soon as possible if collected after the interview. However, the Research Specialist, who was specifically recruited to meet the information needs of the Division, is primarily responsible for gathering information from domestic and foreign sources.

Thus, information needs are generally identified by the staff member, particularly where the already available information fails to resolve certain issues that are before the Division. The identified information needs are then communicated to the research specialist who shall process the request on provision of information on the country of origin, in accordance with the established procedures.

5.7.2. General principles

The following principles shall apply to all requests for information other than information provided by the parties:

1. To ensure a fair determination of a refugee claim, the staff member conducting RSD shall endeavor to collect all the relevant evidence whether such evidence may be favorable or prejudicial to any party.
2. The Division will gather information through a transparent and standard process to ensure fairness in decision-making.
3. The staff members conducting RSD will request claimant specific information and use such information only where they complete a risk assessment and are satisfied that there is no serious possibility that gathering the information would endanger the life, liberty or security of the claimant or any other person.
4. Where the source of the information requires payment of a fee, the Research Specialist will inform the requesting staff member and the Head of the Division. The decision to pay any fee will be determined by the Head of the Division in consultation with the case owner.
5. The information will be sought by the Division not automatically but only in instances where the information is deemed relevant to a determinative issue in the claim, can be obtained in a timely manner, and is likely to result in obtaining new or conclusive information. Should the response to a specific information request not be received within the anticipated response time, the staff member will reassess the value of the requested.
6. The information requests shall always specify the concrete and specific data sought.

5.7.3. Possible sources of information and means and principles of gathering it

a. Additional relevant country of origin information: Requests for country of origin information – additional to the information already available at the Division – shall be filed with the Research Specialist using the form and in accordance with the procedures set out in Standard Operating Procedure on Preparing and Transferring COI Requests by Staff Members.

b. Information specific of a particular asylum-seeker: The staff member conducting RSD makes the decision to obtain specific information to resolve an issue central to the case. Where specific information is required, the staff member will prepare an Acquisition of Information Form (*Annex 2*) and submit it to the Research Specialist for processing. Where there is doubt as to whether the information sought is additional Country of Origin Information or specific information, the rules of this paragraph shall apply.

b.1. Where appropriate, the staff member conducting RSD will seek the assistance of the Research Specialist in:

1. estimating the time required for obtaining the information;
2. identifying potential sources and methods for gathering the information;
3. assessing the likelihood of obtaining the information;

b.2. The staff member will make sure that the draft Acquisition of Information Form includes the following:

1. a description of the information required;
2. the specific source(s) to approach for the information;
3. the purpose, and method for gathering the information;
4. the timeframe within which the information should be obtained, and
5. the estimated cost, where known.

b.3. Consulting the claimant and obtaining consent. When the staff member decides to proceed with an Acquisition of Information Form, he/she shall:

1. immediately provide a copy of the Acquisition of Information Form to the parties and invite them to comment on it. Comments on the Acquisition of Information Form must be received by the SMS Registry in writing within 5 working days of being provided with a copy of the Form; and
2. include with the Acquisition of Information Form the consent form (*Annex 3*) identifying the sources of information for which the claimant's consent in writing is required for the release of the requested information.

3. Nota Bene: the SMS is not requesting the claimant's permission to acquire the information. Consent is being sought from the claimant where the source of the information requires the claimant's written consent to release the information.

b.4. Final Review of Acquisition of Information Form following Comments and Observations. Once the period for receiving comments has elapsed, the assigned staff member will proceed with a final review of the Acquisition of Information Form by:

1. considering any comments from the parties, and revising the Acquisition of Information Form if appropriate;
2. reviewing the Acquisition of Information Form to ensure that the factors under subsection b.2 have been met, and note this on the form.
3. sending by email the Acquisition of Information Form to the Research Specialist for action and provide a copy of the Acquisition of Information Form to the parties for their information.

b.5. Cancelling an Acquisition of Information Form after the claimant has been consulted. If the staff member determines that the factors under subsection b.2 are **not** met, or decides for some other reason **not** to gather the information, this decision is noted on the form and the parties are provided with a copy of the completed form without delay.

b.6. Proceeding with an Acquisition of Information Form notwithstanding the objections of the claimant or without a signed consent form. The staff member conducting RSD may, after reviewing the applicant's objections to the acquisition of information, alter the Acquisition of Information Form according to the suggestions of the claimant or proceed without making any changes. In case the staff member decides to proceed without making any changes, he/she shall make a Note for the File briefly explaining the reasons underlying such decision. The factors listed at b.2, in particular the risk factors, must be taken into consideration when proceeding without making changes or when the claimant has not signed the consent form.

If the applicant refuses to give consent for releasing personal information, the staff member shall find out and document the reasons behind the refusal. The staff member should not make any adverse

inferences from the fact that the applicant refused to give consent to the release of the information. If appropriate, the staff member shall provide counselling to the applicant on the relevance of the information sought. If the applicant still refuses to give consent and the staff member proceeds with an Acquisition of Information Form without receiving the claimant's consent to release personal information, the Research Specialist can only process the form if the identified source has not previously informed the SMS that claimant consent is required to release personal information.

For example, signed consent forms are usually required for verifying the immigration status of a claimant in any country. Furthermore, many government institutions, agencies and some non-governmental organizations, require consent before releasing personal information. If the signed consent form is not provided, staff member will be informed that consent is required before the Acquisition of Information Form can be processed. If no consent is received within **20** days, the Acquisition of Information Form will be closed by the Research Specialist and the staff member will be informed of this action.

No request for information shall be filed with the national institutions in the country of an asylum-seeker's origin or with any other alleged actors of persecution or serious harm without the express consent of the asylum-seeker concerned.

b.7. Agreement regarding the exchange of information with another organization. If the SMS has entered into a written agreement regarding the disclosure and exchange of information with a state agency of the Republic of Armenia, foreign government, or international governmental or non-governmental agency, or a state agency of the Republic of Armenia is authorized under the law to assist the SMS with verification of facts in the asylum procedure (see paragraph 'c' below) the staff member may, in the absence of evidence to the contrary, presume that:

1. it is likely that the information can be obtained; and
2. there is no serious possibility that the life, liberty or security of any person would be endangered through the gathering of the information.

In any case, any request for information, no matter filed with national or foreign institutions, which contains individual data of an asylum-seeker shall bear a note indicating that the information contained in the request is strictly confidential and may not be shared with third parties.

b.8. Anticipated response time. Should the response to the specific information request not be received within the anticipated response time, the staff member will reassess the value of the requested information, in consultation with the Head of the Division. Following consultation with the Head of the Division, the staff member informs the parties and the Research Specialist of any decision to end the specific information request.

c. National Security Service, Police and Ministry of Foreign Affairs of the Republic of Armenia: These agencies are vested under the Law on Refugees and Asylum of the Republic of Armenia with powers to assist the SMS in verification of the identity of an asylum-seeker and to assist in the verification of the facts presented by him/her. The National Security Service is also authorized to provide opinions to the SMS on the potential danger posed to the national security of the Republic of Armenia by an asylum-seeker who has crossed the border of the Republic of Armenia illegally. Diplomatic representations/consular offices of the Republic of Armenia are also authorized to validate documents submitted by asylum-seekers which were issued by competent authorities operating within the jurisdiction of the respective diplomatic representation/consular office.

c.1. Requests for Applicant specific information filed with the National Security Service, Police and Ministry of Foreign Affairs shall follow the instructions set out under paragraph b (**Information specific of a particular asylum-seeker**). Examples of information sought from these agencies may include but not be limited to the following:

- copies of the claimant's identity and travel documents, travel information and any other relevant documents regarding the claimant;
- any forms completed by the Border Guards or the Police or the claimant at the port-of-entry or the office in Armenia that received the claim;
- information from Armenian consular offices regarding Armenian visa applications made by the

- claimant;
- results of Police identity and criminal screening, which may include criminal checks in other countries by the Police through INTERPOL;
- biometric information;²
- information regarding the applicant's past and present immigration status in Armenia and in foreign countries;
- information on nationalities held by the applicant.

When compiling requests for information to be filed with National Security Service, Police and Ministry of Foreign Affairs, the Research Specialist shall use a standard form (*Annex 5*).

c.2. Forensic verification of documents

Where, after consulting with the Head of the Division, the staff member forms the opinion that forensic verification of a document is necessary, he/she may send the document to the Department of Criminal-Forensics of the Police of the Republic of Armenia (Criminal-Forensics Department) for verification, in accordance with the procedures agreed with that Department.

Where the SMS has the original of a document to be verified, the staff member will send it to the Criminal-Forensics Department. Where another government agency such as the Police or the National Security Service/Border Guards has the original of a document to be verified, the staff member conducting RSD will request a verification of the original document in writing to the Police or the National Security Service as appropriate. Where the claimant has the original of the document to be verified, the staff member will request the claimant to provide the original to the SMS. Once received, the staff member will send it to the Criminal-Forensics Department.

c.3. Requests for opinion on the potential threat posed by the Applicant to the national security of Armenia: Such requests shall be filed with respect to all applicants who have crossed the Armenian border illegally. Such requests shall also be filed with respect to applicants who have crossed the Armenian border legally, if required. Otherwise, instructions set out under paragraph b (**Information specific of a particular asylum-seeker**) shall apply. The Research Specialist shall utilize a standard form (*Annex 6*) when compiling such requests.

The staff member conducting RSD shall always take note of the fact that the Law of Armenia on Refugees and Asylum does not allow the denial of refugee status based on allegations, even when those are well-founded, that the Applicant poses a threat to the national security of the country. However, national security concerns may – depending on the issue at hand – trigger an exclusion assessment in accordance with section 5.18 below.

c.4. Requests filed with the Ministry of Foreign Affairs for the validation of documents submitted by the Applicants: Such requests should be filed by the applicant in accordance with the procedures set out in the Decree of the Government of the Republic of Armenia No. 286-N of 24 March 2011³ with the assistance of the staff member conducting RSD, accompanied by a support letter from SMS.

d. Experts and witnesses

Experts

If the staff member conducting RSD is of the opinion that a particular issue central to the determination of the claim may be effectively resolved/clarified through engaging an expert, he/she shall fill out the Request for an Expert Opinion Form (*Annex 7*) and discuss it with the Head of the Division. After receiving the approval of the Head of the Division, the staff member shall submit it to the Research Specialist for processing. Relevant instructions set out under paragraph 'b' shall apply.

- 2 Biometric information is the use of biological data such as fingerprints, photographs or iris scans that identify a person. Biometric identification is the automated identification of individuals through the matching of one or more of these unique features with a previously obtained sample of the same data. For the purpose of the SMS procedures, biometrics is the result of the biometric identification process. It does not include the biological data per se such as the actual fingerprints, but rather the results of the information matches, if any.
- 3 Decree of the Government of the Republic of Armenia on Approving the Procedure for Consular Validation of Documents by the Ministry of Foreign Affairs of the Republic of Armenia and Diplomatic Representations and Consular Offices of the Republic of Armenia in Foreign States.

The applicant shall also be informed of and be given an opportunity to present expert evidence on a particular issue important for the examination and resolution of the refugee claim. The burden of substantiating that the expert evidence is reliable, i.e. that the expert holds appropriate certification, shall lie on the applicant.

Witnesses

If the staff member conducting RSD is of the opinion that a particular issue central to the determination of the claim may be effectively resolved/clarified by questioning a witness, he/she may engage the particular person as a witness. The parties shall be given notice of the intention to involve the person concerned as a witness and shall be invited to submit questions to be addressed to the witness within five days of receiving the notice. This requirement may be waived in cases where not disclosing the identity of the witness is absolutely necessary to protect his/her safety, provided the asylum-seeker's ability to challenge the substance of the evidence is not substantially prejudiced.

The applicant shall also be informed of and given opportunity to bring a witness to testify on a particular issue central to the determination of the claim.

5.7.4. Disclosure of information to the parties

a) Unless reasons under c) are invoked, country of origin information relevant to the applicant's claim and to be used when making a decision thereon shall be disclosed by providing to the parties a list of the relevant documents and directions to where those documents can be found on the Internet.

b) Once information specific of a particular applicant (replies to information requests, expert reports, etc.) is received, the staff member conducting RSD will provide a copy of it to the parties without delay, and invite them to provide any written comments on the information, either before the interview date or by a date set by the staff member. The parties will also be allowed to provide comments on the information at the RSD interview.

c) In exceptional situations where there are well-justified reasons that the specific information received might, if released to the parties, lead to the life, liberty or security of **any** person or of the national security of the Republic of Armenia being endangered, the staff member will review the information, make a note on those reasons for the review of the Head of the Division who will decide if the information can be released to the parties. Following instructions by the Head of the Division, the staff member conducting RSD shall inform in writing the parties of the decision not to disclose the information and the reasons behind such a decision. The requirement of disclosure of information shall not be waived unless absolutely necessary for the reasons mentioned above.

5.8 Interview rooms

RSD interviews shall normally take place at the premises of the SMS, unless the individual circumstances require otherwise.

5.8.1. Designated interview rooms

The Head of the Division shall ensure that there is at least one properly designated interview room which complies with the standards laid down in this Standard Operating Procedure.

5.8.2. Physical layout of rooms in which interviews are conducted

The Head of the Division shall ensure that RSD interviews are conducted in rooms that adhere to basic principles which have regard to the confidentiality of the applicant and the security of the staff. Among other things interview rooms should:

- be adequately and appropriately lit, and where necessary heated or cooled. These interview rooms should be adequately ventilated.
- be set up in a non-confrontational manner. Ideally, the interviewing officer's desk should be positioned so as to give easy access to a door for the staff member in case of emergency. Nothing should be placed on the desk other than the keyboard and computer monitor (or notepad and pen). Ideally, desks in the interviewing room should be wide for staff security considerations.
- have "panic buttons" installed within easy and discrete access by the staff member conducting the interview. Ideally these should be placed under the desktop within easy reach of the eligibility assistant.

- have security staff (if available) placed discretely nearby while interviews are being conducted in case of emergency.
- guarantee applicant confidentiality – such that persons passing by the room should not be able to overhear the conversation taking place within. Similarly, staff members are to ensure that there are no distractions while the interview is taking place. Telephone calls or interruptions by other people should be avoided. All mobile phones should be switched off.
- have a notice available in Armenian, Russian and English indicating that an interview is in progress, which the staff member should place on the door of the room.
- be set up so that interpreter’s chairs are positioned at the side of the staff member so as not to obstruct the clear line of sight between the Applicant and the staff member.
- have drinking water available for the applicant and the interpreter. Drinking water should be offered in plastic cups or plastic drinking bottles.
- have chairs that are made of plastic.

A telephone may be placed in the interview room but should be placed within a drawer in the interviewer’s desk or behind the interviewer in a place not accessible to the person being interviewed.

5.9. Restrictions on applicant movements in SMS premises

Applicants entering the SMS premises should not be permitted to wander freely around its grounds. Applicants should be escorted by the relevant staff member to and from the waiting area and interview rooms.

5.10. Dress code of staff members

Staff members should ensure that they dress in an appropriate and culturally sensitive manner when conducting RSD interviews.

5.11. Participation by representatives/counsels

When opening an RSD interview at which a representative/counsel will participate, the staff member should explain that:

- The representative/counsel will have the opportunity to make brief opening statement at the beginning of the interview, a closing statement at the end of the interview and any other submissions (including posing questions to the applicant) at the end of the RSD interview;
- The representative/counsel should refrain from interrupting the applicant or the staff member during the RSD interview;
- A copy of the authorization (*Annex 4*) to the counsel from the applicant to act as such should be placed in the applicant’s file prior to the beginning of the interview.

5.12. Attendance of third parties at RSD interviews

For reasons of confidentiality, an applicant will normally be interviewed alone or in the company of his/her representative/counsel. Exceptionally, however, and with sufficient advance notice, a friend or other companion may be admitted to provide emotional or medical support, at the discretion of the interviewer. Companions are admitted on condition that they are there solely to provide medical or emotional support, will not intervene in any way during the interview, and will observe complete confidentiality afterwards.

If a third party wishes to attend an RSD interview, the staff member should obtain the express written and signed consent of the applicant before commencement of the interview which should be placed on the RSD file.

Staff members should exercise discretion in determining whether to grant the request. In assessing the appropriateness of the participation of a third party, staff members should consider any special needs or vulnerabilities of the applicant, the nature of the relationship between the applicant and the third party, as well as any factors indicating that the attendance of the third party would be likely to promote or undermine the objectives of the RSD interview. Permission should not be granted if the person attending the interview may be a witness called to support the claims made by the applicant.

Applicant’s family members shall not be permitted to attend an RSD interview, unless culturally required.

If there is doubt as to whether permission should be granted to the third party to sit on the interview, the staff member should refer the matter to the Head of the Division for consideration and determination. If a third party is permitted to remain in the interview room during the conduct of the interview, this fact should be noted by the staff member in the transcript of interview.

UNHCR representatives shall be informed of any upcoming RSD interview five working days prior to the interview and given full access to the RSD interview upon the written consent of the applicant.

5.13. Vulnerable applicants and applicants with specific needs

Where a staff member identifies an applicant as being an unaccompanied child, the case must be referred immediately to the Head of the Division for appropriate action and referral.

When dealing with survivors of trauma, specific considerations laid down under section 5.15.7 shall apply.

When vulnerability or specific needs are identified, it is also appropriate to provide information about service-providers in Armenia that can assist the individual. This information can therefore be provided during or at the end of an RSD interview.

5.14. Interviewing applicants in prison

Contact should be made well in advance of the interview with the prison management to arrange a time and date for the interview and, once arranged, to serve notice of the interview on the applicant. Appropriate arrangements should be made with the prison management for acquiring permission for the staff member and interpreter (as well as any third party) to enter the premises of the prison. Arrangements should also be made in advance to have an appropriate room offering sufficient privacy allocated in the prison for the conduct of the interview.

All the standards set out in this SOP with respect to interviewing applicants shall apply to interviews conducted in prison. In addition, extra care must be taken by the staff member to prepare for the interview in prison since it can be more complicated to arrange an additional interview.

5.15. Conducting the RSD Interview

Staff members conducting RSD interviews should use the RSD interview checklist (*Annex 8*) to help them in the process of information gathering. The used checklist shall be kept in the applicant's individual file.

5.15.1. Opening the RSD interview

Staff members should ensure that the opening of RSD interviews should conform to the following procedure:

- The staff member should greet and seat the applicant and should also introduce her/himself and the interpreter and anybody else in the room to the applicant who should be asked to consent to their presence.
- If the interview is delayed, the staff member should apologize for the delay.
 - The staff member should be satisfied that the applicant presenting himself/herself is the subject of the case file who has been requested to attend an interview, and is at the address already registered.
- Where staff resources do not permit assignment of a same sex staff member and/or interpreter (if so requested by the applicant), the staff member should explain this to the applicant and ascertain whether the applicant agrees to continue with the interview in these circumstances. The staff member should consider any factors indicating that the interview should not proceed and reschedule the interview to a time when a same-sex interviewer/interpreter is available.
- The staff member should ask if the applicant is prepared to be interviewed.
- The staff member should ascertain whether the applicant and the interpreter understand one another.
- The staff member should provide some background explanations to the applicant, including:
 - the purpose of the interview;
 - the refugee definition being applied to assess the applicant's claim;
 - grounds for being granted complementary forms of protection;

- the procedures followed with respect to the determination of refugee status and eligibility for being granted a complementary form of protection.
- The staff member should also remind the applicant of his/her rights and obligations. These may include:
 - The right to confidentiality. The applicant should be reassured that none of the information she or he provides to the staff member shall be shared with the authorities of the country of origin, or with any other third party in his/her country of origin without the applicant's express consent. Also, the applicant should be informed that the interpreter and any other person present at the interview (UNHCR, typist etc.) will respect the confidentiality of the interview and are obliged to do so. The applicant should be informed that the information on his/her individual file may be disclosed to other government counterparts and of the purpose of such disclosure.
 - The right and obligation of the applicant to give evidence and the possible consequences of not complying with this obligation. The applicant should also be informed that the interview process is an opportunity for the applicant to present his/her claims.
 - The obligation of the applicant to be truthful and the possible consequences of breaching that obligation.
 - The applicant's right to ask for a break.
 - The applicant's right to communicate any comprehension and communication problems and to voice out any complaints with respect to interpretation or the kind of questioning.
- The staff member should explain to the applicant the process that the interview will take; whether breaks will be taken during the course of the interview; and how the questions will be asked. This also includes the fact that other members of the applicant's family/ dependants may also need to be interviewed.
 - the applicant should be told when tentatively the decision can be expected. the applicant should be informed what will happen if the response is negative (explain the right and procedure to lodge an appeal, including that the applicant shall have 30 days from the date she/he receives the SMS's decision refusing her/him refugee status within which to lodge an appeal; the details of the court where appeal may be lodged and information on any legal aid available).
 - the applicant should be informed what will happen if he/she is recognized by SMS as a refugee (documentation, family reunification etc.).
 - the applicant should be requested to keep SMS informed as to any changes in their address and contact details.
 - the applicant should be informed of the fact that if the SMS makes attempts to contact the applicant and no contact is forthcoming (i.e. attempts to contact the applicant are unsuccessful), the asylum procedures on the applicant's case may be suspended six weeks from the date that contact was last attempted.
 - The applicant shall be provided information (including any written materials available) on legal, social, psychological and other assistance available in the country.
- The staff member should ascertain whether the applicant has understood everything or has any questions. If the applicant indicates that she/he has understood everything and/or has no questions, the interview can proceed. If not, the staff member should take care to re-explain any points not clearly understood and to answer questions.

Before proceeding to the main body of the interview, some warm-up questions on the family, education and/or work/profession of the applicant should be asked.

5.15.2. Main body of the interview

General principles

Every interview must focus on establishing and testing key aspects of the claim and avoid areas which are not relevant. Obtaining relevant and detailed evidence on material elements of the claim at an interview will enable a decision maker to make a well-informed and balanced decision on the asylum claim.

An applicant should be expected to provide information to a level of detail which a person who experienced a given incident or undertook particular activities should reasonably be expected to recall. At the same time the interviewer has to be mindful of the particular circumstances of the applicant that might inhibit the applicant's ability to provide evidence in the manner expected.

The investigation should focus on potentially externally verifiable details such as published facts, key dates and locations of events or incidents, but it should also probe the context in which the individual lived and worked in the country of claimed persecution, as well as (for example) the reasons for their conversion to one particular religion over others, or their involvement in one political party over others and so on.

Interviewers should not hesitate to invite an applicant to submit supporting evidence which he/she may reasonably be expected to be able to obtain, and to do so within a specified timescale, normally ten working days. This should be clearly recorded on the interview record.

Questioning techniques

Once the outline of the account has been established, it will usually be appropriate to ask more probing questions to gather more detail about the events e.g. „Tell me more about... ; „When/where did it happen? „How many people attended the demonstration? Who led it? „Was it legal? „Was it reported in the media – which?

Summaries are useful for interviewers to check that they have obtained the correct details e.g. “So you were mainly involved in distributing leaflets?” “Your sister was a member of the group – is this correct?” Summarising also illustrates to the Applicant that all of the information has been properly recorded.

‘Signposting’ is a useful way for interviewers to inform the applicant what they are going to ask questions about e.g. ‘I would like to talk to you about your arrest.’ ‘I am going to ask you about your journey to Armenia.’ Signposting can increase an applicant's sense of security about being interviewed.

Interviewers should ask the applicant to focus on the question being asked and rephrase the question if necessary. Applicants can be advised that they will have the opportunity at the end of the interview to add any other comments or issues which they were not asked about.

Questions on similarly situated persons in the country of origin should be addressed particularly in case of applicants who do not allege past persecution.

Staff members should ensure that the following *guidelines* (although not exhaustively stated) are observed as closely as possible in the conduct of the main part of the RSD interview:

- during the interview it is important that a relaxed and professional environment is maintained;
- the staff member should maintain eye contact with the applicant and ask questions directly to the applicant, not to or through the interpreter if present;
- the staff member should avoid reading papers or appearing distracted while the applicant is speaking;
- the staff member should utilize a facial expression and gestures which are attentive, but as neutral as possible;
- the staff member should give the applicant time to answer questions put to her/him. Interruptions to the applicant's flow of words should be kept to a minimum and only where necessary. A new question should not be introduced until the applicant has fully answered the previous one. Questions should generally be short and uncomplicated and should alternate between open and closed questions. The staff member should not pose a string of questions that may have the effect of confusing the applicant. Questions should flow logically, but the staff member should be prepared to follow leads or digressions where appropriate;
 - Legal terms such as “membership of a particular social group” or “persecution” should be avoided unless well-explained to the applicant;
- the staff member should avoid cross-examination, or a harsh tone of voice when asking questions;
 - questions concerning the travel route of the applicant, documentation, conditions of entering Armenia and other issues of secondary importance should be addressed only after the questions aimed at establishing the basis of the applicant's claim;

- if the staff member is faced with contradictory or unclear statements the applicant should be asked to provide an explanation after giving him/her an opportunity to freely talk about the basis of his/her claim. Similarly, evidence from third sources which contradicts the evidence of the applicant should be put to the applicant for comment. The staff member should avoid a critical or judgmental attitude when confronting the applicant with contradictory or unclear statements or when putting information adverse to the applicant's claims;
- any irregularities in documents provided by the applicant should be put to the applicant for comment;
- in posing questions to the applicant, the staff member should take into account, *inter alia*, the ethnic background, gender, age of the applicant, education level, as well as his/her experiences through traumatizing situations, if any;
- if the applicant refuses to answer, or cannot answer a question put by the staff member, the question can be put again or be reformulated. Applicants should not be badgered or harassed for failing to answer a question. If the applicant refuses to answer a question, the staff member should gently remind the applicant of the need for the applicant to be as forthcoming as possible in her/his evidence. At the same time the applicant shall be told by the staff member that he/she should not guess the answers to the questions posed but should simply state that he/she does not possess relevant information or is unable to recall it;
- if the staff member is unclear as to statements made by the applicant, the applicant should be asked to clarify the information.

5.15.3. Concluding the RSD interview

By the end of the interview, interviewers should be satisfied, subject to any further research or information, that they have the information they need from the applicant for a sound decision to be made on the asylum and human rights aspects of the application. If they decide to ask for further evidence, this should be recorded and the applicant should be given up to two weeks, depending on the nature of the evidence and the time reasonably required to obtain it, in which to do so. If the applicant fails to submit the evidence within the given period but requests to extend the deadline for its submission, the staff member shall refer the matter to the Head of the Division who shall decide on whether to grant the request depending on how central the evidence is to the determination of the claim.

In concluding RSD interviews, the staff member should ensure that the following issues are covered:

- a. the main substance of the applicant's claim should be read back to the applicant and the applicant should be asked if she/he has anything to add or wishes to clarify.
- b. the applicant should be informed that should any further information be required, she/he may be contacted and that she/he will be given a reasonable time to respond to such a request.
- c. the applicant is reminded of the next procedural steps and referred to any other agencies/organizations for assistance/counselling where appropriate.
- d. the applicant should be thanked for attending the interview and for providing evidence;
- e. the interpreter should be thanked.

5.15.4. Recording the RSD interview and reading back the interview transcript to the applicant

Staff members are required to take a detailed transcript of the record of interview in bold/normal format. This transcript should include:

- Name of the staff member conducting the RSD Interview.
- Name of the interpreter.
- Any third parties who are present.
- The date and time that the RSD Interview began, any breaks, interruptions or adjournments and the time the interview closed.
- The precise questions asked by the staff member and the responses provided by the applicant and any witnesses.
- Relevant observations regarding the behaviour and demeanour of the applicant at particular

stages of the RSD Interview (although care must be taken by staff members to avoid using such observations as a means of denying or refusing refugee status to an applicant).

In RSD interviews, the standard *RSD interview transcript (Annex 9)* should be used.

Note taking should not interrupt the flow of the RSD interview.

The interviewer must provide a copy of the interview transcript to the applicant who shall sign the original copy of the transcript to confirm receipt of a copy. For this purpose, right after the interview or on a date fixed and communicated to the applicant after the interview, the interview transcript shall be read back to the applicant with the help of an interpreter where necessary. This requirement may be waived if the applicant consents to sign the interview transcript without a read-over, provided that the interview has been audio recorded. Any amendments or additions to the interview transcript to which the interviewer agrees should be initialed by both the applicant and the interviewer. Amendments and additions requested by the applicant which the interviewer does not agree with should be mentioned in brackets in the relevant parts of the transcript and initialed by the applicant.

RSD interviews should be audio recorded where possible. The audio recording should be copied to a CD ROM (in three copies) which shall be kept in the applicant's file. The original recording shall be destroyed immediately after being copied to CD ROM. The applicant may be given a copy of the recording on receipt of a dated signature of acknowledgment. This may be written at the end of the interview transcript.

Applicants and their representatives are not permitted to use their own recording equipment during an asylum interview, but there should normally be no difficulty with a representative using a laptop for the purpose of taking notes providing it does not distract the applicant.

5.15.4. Review of original documents in the RSD interview

The staff member should examine the original documents to once again make sure that copies on the file are identical to the originals, and that a legible and complete copy of every original is on the file.

Any documents submitted at interview should be listed on the interview record. Accepting an 'original' document during an interview does not imply acceptance as genuine. The applicant should be asked about the provenance, contents, and relevance of documents during the course of the interview.

If the applicant submits a document in a foreign language he/she should be asked what the document is and what relevance it has. If the document is or could be relevant, the applicant should be given five working days to submit a notarized translation, unless he/she has no financial means to pay for such services or it would be more effective for the SMS to obtain one in which case the staff member shall arrange the non-official translation of the document.

When examining original documents, staff members should take the opportunity to inspect the following features of the documents to identify evidence of tampering or other signs that the documents may not be authentic.

When inspecting documents the eligibility officer should consider:

- Quality and consistency of the paper of the document
- The numbering and sequence of pages
- Photographs and signatures against those of the Applicant
- Discoloration or smearing around names or dates
- Smudged or irregular stamps
- Separation of the photograph from the page, or blistering of lamination.

Any irregularities in the documents should be raised with the Applicant during the RSD interview, and the Applicant should be given the opportunity to provide an explanation.

5.15.5. Interviewing witnesses and contradictory evidence provided by witnesses and experts

Staff members should permit applicants to bring witnesses to the RSD interview to provide supporting evidence of their claim. The witness should attend only to provide the evidence, and should not be in the interview room for the interview with the principal applicant.

As a general rule, the staff member should ensure that the evidence of witnesses is not given in the presence of the applicant. The evidence of a witness should never be given in the presence of other

witnesses or third parties.

Before receiving the evidence of a witness, the staff member should establish the identity of the witness, and should examine and copy identity documents of the witness which should then be placed on the applicant's RSD file. The staff member should also explain to the witness the confidentiality of RSD procedures and the obligation to tell the truth.

Where a witness/expert provides information that is contradictory to that of the applicant, the staff member should provide the applicant with an opportunity to clarify these aspects of her/his evidence, either in a continuation of the interview, or at a complementary RSD interview. Care should be taken by the staff member in relation to how such contradictory or conflicting information is put to the applicant so as to minimize the possible detrimental effects on the witness, or identification of the witness where the source of the information is not disclosed to the applicant.

When interviewing female witnesses, the staff member should adhere to basic principles laid down in this SOP in relation to interviewing women.

5.15.6. Interviewing techniques concerning female applicants

While conducting interviews with women, staff members conducting RSD should keep in mind that it may be necessary to use a variety of gender sensitive techniques to obtain information during the process.

The staff members should:

- Be aware that gender differences in communication, particularly regarding nonverbal communication, can exist. Intimidating gestures that inhibit responses should be avoided. In assessing the credibility of the female applicant, it is important not to judge her on the basis of cultural specific values such as the ability to maintain eye contact, etc.
- Be patient with female applicants to overcome inhibitions, particularly regarding the sharing of information about their experience of sexual abuse. Questions may need to be asked in a number of different ways before victims of rape and other abuses feel able to tell their stories. Enough time should be allowed during the interviewing process to permit the female applicant to build a trust with the interviewing officer so she is able to recount her experiences. An interviewing officer should not ask for explicit details of sexual abuse.
- Recognize that women who have been sexually assaulted may exhibit a pattern of symptoms which may include persistent fear, a loss of self-confidence and self-esteem, difficulty in concentration, an attitude of self-blame, a pervasive feeling of loss of control, and memory loss or distortion. These symptoms will influence how a woman applicant responds during the interview. If misunderstood, they may be seen wrongly as discrediting her testimony.
- Understand that women in many societies do not have specific information about the activities of the men in their families. Gaps in their knowledge should not be construed as lack of credibility unless there is other evidence of such lack of credibility.
- Provide women the opportunity to be questioned out of the hearing of other members of their family as victims of sexual abuse may not feel comfortable recounting their experiences in front of their fathers, husbands, brothers or children. Women should be informed that they may have a valid claim for refugee status independent of the one of their male family member.
- Where a husband and wife or other family members/dependents are interviewed, the staff member should be careful when trying to clarify contradictory statements made by family members or dependents in order to avoid complicating or having a detrimental effect on family relationships.

This section shall also apply to male victims of sexual violence where relevant.

5.15.7. Victims of torture or other trauma

Victims of torture or other forms of violence may have difficulties in recounting the details because of the sensitive nature of those experiences. It should also be kept in mind that trauma can impact the human memory.

Nevertheless, where an applicant claims to have been tortured or the victim of other forms of serious ill-treatment, it is important that the applicant is asked for detailed information about when, where, how, and by whom the torture was inflicted. Interviewers should phrase their questions carefully, so

as to get as full an account as possible, while taking care not to cause undue distress. The following questions are suggested as a guide:

- the method of torture used;
- any equipment employed;
- the place where the torture took place;
- the duration of the ill-treatment;
- the frequency of abuse;
- the purpose of the torture or abuse;
- the number and sex of the individuals involved;
- which agency of the state (if applicable) carried out the torture;
- the immediate effects of the torture on the individual;
- any ongoing effects of torture.

The applicant should also be asked if he or she received medical or NGO assistance in the country of origin at any point following the torture or other forms of violence, and about any continuing treatment in Armenia for the physical and/or psychological effects. The applicant should be informed that it is open to him to submit medical evidence and asked if he is in the process of obtaining a medical report about the torture.

For victims of rape or other forms of sexual violence, obtaining precise details about the act itself is unnecessary, but it is important that information is obtained regarding the events leading up to, and after, the act, together with the surrounding circumstances at the time it took place, as well as the motivation of the perpetrator, if known.

5.15.8. Interview of family members and dependents

The staff member must conduct a full RSD interview if:

- an adult family member/dependent did not have a registration interview;
- the information provided in the Application/Registration form or during the registration interview of an accompanying family member/dependent, or any other information obtained during the examination of the principal applicant's claim, indicates that a person who is seeking derivative status may have an independent refugee claim, which should be examined through a separate RSD interview.
- When offered, a family member/dependent requests an individual RSD interview

Where a staff member decides that a family member/dependent should have a comprehensive RSD interview, it is desirable that family members or dependents of a principal applicant are interviewed on the same day and by the same staff member.

Where a staff member wishes to conduct an interview with a family member/dependent to verify claims made by the principal applicant, the staff member must ensure that the right to confidentiality of each family member/dependent is upheld. Family members/dependents should not be interviewed in the presence of the principal applicant – but in conducting such interviews, the staff member should have regard to cultural sensitivities and gender considerations. When interviewing female family members or dependents, basic principles laid down in this SOP should be adhered to.

Should contradictory information be obtained during an interview of family members or dependents of an applicant, the staff member should provide the principal applicant with the opportunity to clarify these aspects of her/his evidence in a continuation of the RSD interview or in a complementary RSD interview. Care should be taken by the staff member in putting such adverse information to the principal applicant so as to minimize the possible detrimental effects on family relationships.

All applicants and their dependents are expected to be present at the SMS on the date of the RSD interview unless there is a valid reason that such family members or dependents cannot be present. Such valid reasons include, *inter alia*, that the family member or dependent is

- a child under the age of three
- a woman who has given birth in the past weeks
- a 9 months pregnant spouse
- seriously ill

- in detention.

For such cases, the interview should be rescheduled.

A medical certificate shall be furnished as proof of illness.

5.16. The decision recommendation

5.16.1. The RSD Assessment Form

As soon as possible following the RSD interview, the staff member who conducted the RSD interview should prepare a decision recommendation using the *RSD Assessment Form (Annex 10)*. The staff member should sign and date the RSD Assessment Form before referring the file to the Head of the Division for review and approval.

Staff members should make decision recommendations as soon as is practicably possible following the first instance interview and not later than four weeks after first instance interview. The Head of the Division is to ensure that time guidelines are met by staff members. If a staff member cannot complete a recommendation within this period (e.g. the staff member is waiting for some information or for personal reasons), she/he should immediately notify the Head of the Division when it becomes apparent that the time deadline cannot be met and the reasons why the time guideline cannot be met should be explained. The Head of the Division shall make a decision on extending or not extending the deadline.

5.16.2 Procedures for approving the RSD Assessment

Upon completing a decision recommendation, the staff member should pass the completed RSD file, with the completed decision recommendation to the Head of the Division for review.

Where the Head of the Division agrees with the decision recommendation

If the Head of the Division is satisfied and agrees with the recommendation, he/she should confirm this by putting his/signature on the completed RSD Assessment Form. The Head of the Division should also check the file to ensure that all outstanding actions in relation to it have been completed. After this the Head of the Division shall instruct the staff member to prepare the decision. The staff member shall prepare the decision drawing on the findings in the decision recommendation within one working day after which the decision shall be submitted to the Head of the SMS for signature.

Where the Head of the Division does not agree with the decision recommendation

If the Head of the Division is not satisfied with the decision recommendation, the file should be passed back to the staff member for reconsideration, together with an explanation of the views of the Head of the Division and guidance as to how to improve / strengthen the decision.

These points should be clearly written by the Head of the Division and attached to the RSD file. If necessary the Head of the Division may recommend that an additional RSD interview be undertaken.

Referral of RSD case to alternative staff member by the Head of the Division

In the following circumstances the Head of the Division may refer the file to another staff member:

- The Head of the Division is of the opinion that the RSD decision recommendation is erroneous or unsupported in the RSD Assessment, and the staff member who prepared it is unavailable to revise the RSD Assessment before the deadline for the issuance of the decision;
- 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 staff member who decided the claim is unlikely to restore the fairness, or perceived fairness, of the RSD process.

These points should be clearly file noted by the Head of the Division and attached to the file. If necessary the Head of the Division can recommend to the other staff member that an additional RSD interview be undertaken. Once this has been completed to the satisfaction of the Head of the Division and the decision recommendation has been approved, the procedures laid down in this SOP above should be followed.

Where the staff member does not agree to revise the RSD assessment

Where the staff member is not willing to revise an RSD decision recommendation which, in the opinion of the Head of the Division, is erroneous or unsupported in the RSD Assessment, UNHCR may

be contacted to give advice on the determination of the claim. If after consulting UNHCR, the Head of the Division is still of the opinion that the RSD assessment should be revised and the staff member is still unwilling to do it, the Head of the Division shall refer the case to another staff member.

Structure of the decision

The decision shall follow the structure and wording of the RSD Assessment Form. It shall in particular be composed of the following main parts:

- Summary of the claim
- Applicant's credibility
- Existence of grounds to grant refugee status under Article 6(1)(1) of the Law on Refugees and Asylum
 - Well-founded fear of harm
 - Persecution
 - Reasons for persecution
 - Availability of Internal Flight Alternative
- Existence of grounds to grant refugee status under Article 6(1)(2) of the Law on Refugees and Asylum
- Applicability of exclusion clauses
- Applicability of the non-refoulement principle provided for under Article 9(3) of the Law on Refugees and Asylum

The staff member shall give the draft decision to another staff member for proofreading before submitting it to the Head of the Division.

5.17. Notification of decisions

Within three days following the issuance of the decision, the staff member shall send the decision to the applicant attaching a decision notification letter (*Annex 11*) in a language the applicant understands. Where the applicant requests to provide a written translation of the decision in the language he/she understands, the staff member shall arrange the translation. The translation shall be endorsed by the official seal of the SMS. The translated copy of the decision shall bear a note that only the original Armenian version of the decision has legal effect and may be used to interpret the meaning and contents of the decision.

Counseling to the applicant as regards reasoning behind the negative decision as well as implications for him/her of a positive or negative decision (including the appeal procedures) should be provided to him/her upon request.

5.18. Exclusion

Duty of the Head of the Division in relation to exclusion

The Head of the Division shall ensure that all staff members are properly trained on issues relating to exclusion and on the procedures to be followed in such cases. In addition, the Head of the Division shall appoint at least one focal point for exclusion among the staff members.

Information and evidence relating to exclusion: exclusion interview

Where a staff member considers that an applicant qualifies for refugee status, but there is evidence before him/her suggesting that the Applicant falls within the exclusion clauses set out in Article **11(1)** of the Law of the Republic of Armenia on Refugees and Asylum, or in the opinion of the Head of the Division reviewing a decision recommendation such evidence exists, the exclusion focal point shall be instructed to contact the applicant concerned to inform him/her that he/she must attend the SMS for an additional interview.

The applicant shall be informed of the purpose of the interview and given enough time to prepare for it. Evidence at the disposal of the SMS suggesting that the applicant falls within the exclusion clauses shall be disclosed to the applicant and he/she shall be given an opportunity to comment on it. The source of the evidence may be withheld from the applicant in exceptional cases where this is absolutely necessary to protect the safety of witnesses and the asylum-seeker's ability to challenge the substance of the evidence is not substantially prejudiced.

The Head of the Division may instruct in writing the staff member on what elements (if any) she/he

considers necessary to be investigated in the interview or what elements in particular may need to be assessed in making the recommendation in relation to exclusion of that individual.

The relevant standards provided for under section 5.15 on RSD interview shall be applied in exclusion interviews.

Assessment of exclusion evidence and recommendation

The staff member should carefully consider the information and evidence obtained from the exclusion interview as well as all the evidence available in relation to the applicant. Where, on assessing this evidence/information, the staff member has serious reasons for considering that the applicant should be excluded from the benefits of the refugee status, she/he should state in detail the reasons in writing (in the RSD Assessment Form), recommend the applicant be excluded and submit the RSD file for review to the Head of the Division who shall make a determination on whether the applicant should be excluded. UNHCR's advice with this respect shall be sought and considered.

In the alternative, where the staff member does not recommend exclusion, he/she shall provide reasons and submit the assessment and recommendation to the Head of the Division for review.

Refugee status of family members/dependants of individuals excluded from the benefits of refugee status

The fact that an applicant is excluded from refugee protection does not necessarily extend to the family members or dependents of such a person. The Head of the Division is to ensure that family members and dependents of excluded persons receive proper assessment of any refugee related claims, including those that may arise from the relationship between them and the excluded person. It should be noted that persons excluded from obtaining refugee status are also excluded from obtaining derivative refugee status but the principle of non-refoulement may still apply to them by virtue of Article 9(3) of the Law of Armenia on Refugees and Asylum.

Procedures for notifying the applicant of exclusion

Applicants shall be informed of their exclusion from refugee status in the manner laid down in this SOP for regular RSD interviews. They shall also be informed that their family members will be assessed separately as to whether they meet the definition of a refugee and that exclusion will not necessarily apply to them – however even in the event that her/his family members are found to be refugees according to the appropriate definitions, the excluded applicant will be denied derivative refugee status.

6. CONTROL OVER THE IMPLEMENTATION OF THE PROCEDURES

Control over the actions defined by this procedure is implemented by the Head of SMS and the Head of Asylum Division of SMS in the framework of their authority.

7. CONCLUDING PROVISIONS

7.1 This procedure is provided to the SMS staff members who are working in the area of the standardized procedure.

7.2 This procedure is a subject for a review in the case of organizational, structural and legislative changes.

7.3 In case of absence of relevant staff members, this procedure, as well as any changes to be carried out shall be implemented by the latter's alternates.

7.4 The Head of the Asylum Issues Division and staff members of the Division can make proposals aimed at reviewing this procedure.

7.5 The Head of SMS can review this procedure on his own initiative.

7.6 This procedure shall be implemented as of 1 January 2014.

CASE PLAN PREPARATION CHECKLIST

ISSUES	ISSUE DETAILS	REFERENCES	INTERVIEWER FILE NOTES/QUESTIONS	√
Capacity	Mental competency, child, victim of Post-Traumatic Stress Disorder, etc.	UNHCR Handbook: Paragraphs 206 – 219 UNHCR Guidelines: Best Interests of the Child [2008]		
Identity	Name and Country of nationality or former habitual residence	UNHCR Handbook: Paragraph 197		
Applicant's Claim	Identify <ul style="list-style-type: none"> • The material facts and any special factors about the applicant or his/her family background. • What and who the applicant fears. • Whether the COI discloses other potential risks to the applicant or to similarly situated persons. 	UNHCR Handbook: Paragraphs 66, 67, 196		
Credibility Issues	Is there internal consistency in the Applicant's oral, written & documentary evidence? Is the applicant's evidence externally consistent with statements of witnesses or family members and with COI? If there is delay, what reasons are given for: (i) delay in departure; (ii) not claiming elsewhere; (iii) not claiming earlier?	UNHCR Handbook: Paragraph 199		
Persecution	Who is the agent of persecution (state actors, non-state actors or both)? What is the nature of the feared persecution?			

Reasons for persecution	Race Nationality Religion Membership of a particular social group Political opinion	UNHCR Handbook: Paragraphs 66 – 86; UNHCR Guidelines on Membership of a Particular Social Group; UNHCR Guidelines on Religion based Persecution; UNHCR Gender Guidelines		
Internal Flight Alternative (IFA)	Relevant Identify a proposed relocation area Legally and safely accessible Reasonable to settle and remain	UNHCR Handbook: Paragraph 91; UNHCR Guidelines on IFA		
Expanded refugee definition	Article 6(1)(2) of the Law on Refugees and Asylum			
Serious risk of ill-treatment upon return	Article 9(3) and Article 52(7) of the Law on Refugees and Asylum; Article 3 of the European Convention on Human Rights			
Exclusion	Article 11(1) of the Law on Refugees and Asylum	UNHCR Handbook: paragraphs 140 – 163; UNHCR Guidelines on Exclusion		

**STATE MIGRATION SERVICE OF THE MINISTRY OF TERRITORIAL
ADMINISTRATION OF ARMENIA**

ACQUISITION OF INFORMATION FORM

(To be submitted to the Research Specialist for processing)

Description of the information required	
Specific source(s) to approach for the information	
Purpose, and method for gathering the information	
Timeframe within which the information should be obtained	
Estimated cost, where known	
Requesting staff member	

Comments: _____

Date and signature of the requesting staff member _____

CONSENT TO RELEASE INDIVIDUAL DATA

I, the undersigned, hereby confirm my voluntary and informed consent to the disclosure of _____ [*describe the relevant information*] by _____ [*name of the organization data is sought from*] to the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia as per the information request accompanying this consent form.

Name, surname, signature and passport (or other identification) data of the applicant

**STATE MIGRATION SERVICE OF THE MINISTRY
OF TERRITORIAL ADMINISTRATION OF ARMENIA
AUTHORIZATION TO ACT AS LEGAL COUNSEL**

(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 counsel for all matters relating to my application for refugee status with the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia (SMS).

I hereby authorize SMS to disclose to the above-named individual information or documents that I have provided directly to SMS, and to inform the above-named individual of decisions taken by SMS regarding my application for refugee status. This authorization is valid until a final determination of my refugee claim has been made by SMS, or the date upon which I give notice to SMS that the person named above is no longer authorized to act as my legal counsel.

Applicant's signature: _____

Date: _____

Dear _____

On _____ Ms./Mr. _____ lodged an asylum application with the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia. According to the applicant, he/she is a _____ old citizen of _____ *[State information on any identification documents of the applicant confirming his/her name, age and nationality. If the applicant claims to be stateless, state this fact and state the country of his/her former habitual residence].*

As per Article 35 *[or 36 or 37, depending on the agency the request is addressed to]* of the Law of the Republic of Armenia on Refugees and Asylum we hereby request the _____ *[name the respective agency]* to _____ *[describe in detail the information and/or assistance sought from the agency, including any information in addition to what is stated above which you think will assist the respective agency in processing and replying to the request].*

Name and signature of the Head of the SMS _____

Information contained in this document is protected as strictly confidential under the Laws of the Republic of Armenia on Refugees and Asylum and on Individual Data and thus may not be disclosed to any third parties.

Dear _____

On _____ Ms./Mr. _____ lodged an asylum application with the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia. According to the applicant, he/she is a _____ old citizen of _____ [State information on any identification documents of the applicant confirming his/her name, age and nationality. If the applicant claims to be stateless, state this fact and state the country of his/her former habitual residence].

The applicant has crossed the border of the Republic of Armenia on _____ at [state the state border crossing point]. As per Article 34(1)(3) and 35(1) of the Law of the Republic of Armenia on Refugees and Asylum we hereby request the National Security Service adjunct to the Government of the Republic of Armenia to issue an opinion on whether Ms./Mr. _____ poses any threat to the national security of Armenia. Please provide any non-confidential information which corroborates the potential threat, if any, which we could use in our proceedings in compliance with the due process requirements stipulated under the Law on Refugees and Asylum of the Republic of Armenia. [Add any information in addition to what is stated above which you think will assist the respective agency in processing and replying to the request].

Name and signature of the Head of the SMS _____

Information contained in this document is protected as strictly confidential under the Laws of the Republic of Armenia on Refugees and Asylum and on Individual Data and thus may not be disclosed to any third parties.

**STATE MIGRATION SERVICE OF THE MINISTRY OF
TERRITORIAL ADMINISTRATION OF ARMENIA**
REQUEST FOR AN EXPERT OPINION FORM
(To be submitted to the Research Specialist for processing)

Description of the issue requiring clarification	
Qualifications of the expert	
Preferred methods, if any, to be applied by the expert	
Specific questions to be posed to the expert	
Any recommended expert that may be engaged for the task	
Timeframe within which the opinion should be received	
Estimated cost, where known	
Requesting staff member	

Comments: _____

Date and signature of the requesting staff member _____

RSD INTERVIEW CHECKLIST

ISSUES	SPECIFIC QUESTIONS	INTERVIEWER NOTES	√
<p>GATHER THE FACTS</p> <p>Gather all the relevant evidence before proceeding to an analysis of potential status</p>	<p>Has there been past persecution or serious harm?</p> <p>Are there any personal characteristics of the applicant that might affect his or her susceptibility to persecution or serious harm, ability to seek state protection or relocate to an IFA, or personal characteristics that might affect his/her ability to testify?</p> <p>What is the situation for similarly situated persons?</p> <p>Is there any basis for Exclusion?</p>		
<p>CHECK THE CREDIBILITY</p> <p>Are there any issues which cast doubt on the credibility of the applicant's claim? If so, has he or she been given the opportunity to explain them?</p>	<p>Are there any contradictions, inconsistencies or omissions in the applicant's oral evidence which are central to the claim?</p> <p>Are the applicant's documents consistent with his or her claim?</p> <p>If there is any evidence from family members or witnesses is it consistent with the applicant's claim?</p> <p>Is the COI consistent with the applicant's claim?</p> <p>Has the applicant given reasonable explanations for any apparent contradictions, inconsistencies or omissions?</p>		
<p>PERSECUTION</p> <p>What problems has the applicant faced or fears facing if he or she returns to his or her country?</p>	<p>What is the nature of the feared persecution?</p> <p>From whom does the applicant fear persecution?</p> <p>Is the persecution feared cumulative?</p>		
<p>STATE PROTECTION</p> <p>Can the applicant get state Protection?</p>	<p>If the applicant was persecuted in the past did he or she go to his or her state for help?</p> <p>If the applicant was persecuted in the past and did not seek state protection why not?</p> <p>If the applicant were to go to his or her state for protection does he or she think the state could provide protection?</p>		
<p>REASONS FOR PERSECUTION [NEXUS]</p> <p>For what reason does the applicant fear he or she will be persecuted?</p>	<p>Race</p> <p>Religion</p> <p>Nationality</p> <p>Member of a Particular Social Group</p> <p>Political Opinion</p>		
<p>IFA</p> <p>Can the applicant safely relocate somewhere in his or her country?</p>	<p>Where a staff member has identified a specific IFA as relevant can the applicant get to it safely and legally?</p> <p>If an IFA is relevant can the applicant live there safely?</p> <p>If an IFA is relevant can the applicant live there reasonably?</p>		

<p>EXPANDED REFUGEE DEFINITION</p> <p>Article 6(1)(2) of the Law on Refugees and Asylum</p>	<p>Does the applicant face a “real risk” of “serious harm” due to generalized violence, foreign aggression, internal conflict, massive violations of human rights or other serious events disrupting public order?</p>		
<p>SERIOUS RISK OF ILL TREATMENT UPON RETURN</p> <p>Article 3 of the European Convention on Human Rights; Article 9(3) and Article 52(7) of the Law on Refugees and Asylum</p>	<p>Does the applicant face a “real risk” of “serious harm” due to torture or inhuman or degrading treatment or punishment?</p>		

STATE MIGRATION SERVICE
Refugee Status Determination
Interview Record

A. Applicant's Details	
Name of applicant:	
Case no.:	
Nationality:	
Religion:	
Ethnicity:	
Related file(s):	

B. Interview Details	
Date:	
Interview start time:	
Interview end time:	
Interviewer:	
Name of interpreter:	
Language:	
Other participants:	

C. List of Documents:	
List of documents received in relation to the RSD interview Indicate whether original or photocopy Examples: marriage certificates, education certificates, identity and work-related documents, medical report, court summons, etc.	
1. 2. 3. 4.	

D. Opening the Interview	
Record of introduction and initial comments prior to interview.	
Interviewer introduced him/herself:	
Interpreter introduced/understood:	
Other participants introduced:	
Checked if the applicant is subject of the case file who has been requested to attend an interview:	
Asked if there are any objections to the presence of the participants and or to the sex or otherwise of the interviewer/interpreter:	
Refugee definition /any complementary grounds for protection explained:	
Procedures explained:	

Purpose and process of the interview explained:	
Checked if applicant is fit for interview:	
Information brochure received:	
Asked for relevant supporting documents if any (originals returned):	
Purpose of note-taking explained:	
Rules of communicating through the interpreter and, in particular, the signal of hand raising explained:	
Rights/duties explained:	Right to confidentiality Obligation to tell the truth and to cooperate Consequences of fraud Right to ask for break Right to ask for a female interviewer/interpreter Right and the procedure to raise complaints concerning the interviewer and the interpreter Right to voice out any communication/comprehension problems and to have the question repeated/rephrased Acceptable to state “I do not know” when answer not known Right to request postponement of the interview for valid reasons
How and when the decisions will be notified explained:	
Appeal procedure if refused status explained:	
Legal status in case of positive decision, including documentation and family reunification, explained:	
Importance of informing SMS of any change in contact details:	
The possibility to be supported by legal counsel explained:	
Role and duties of the legal counsel explained:	
Has the applicant understood?	
Comments (if any):	

E. Transcript of Interview

Detailed record of questions asked and applicant’s responses (Using bold/normal)

Do you have any questions before we start?

Do you understand the interpreter?

Where were you born?

Did you live all your life there?

Tell me a little bit about yourself: your family/ education/ profession.

Reasons for leaving country of origin and coming to Armenia

Please explain in detail your reasons for leaving your country of nationality (or former habitual residence).

Specific questions to clarify incomplete or contradictory statements made (if any)

Reasons for not wanting to return to home country

Please explain in detail what you believe may happen to you, or members of your family, if you return to your country of nationality (former habitual residence).

Follow-up questions to address gaps or inconsistencies (if any)

Identity/family members/travel route, applications elsewhere, etc.

Have you/any family member/dependant with you in Armenia ever applied for refugee status in Armenia/in any other country?

Are all your dependants/close family members listed with you on the application form?

Did you fill out the application form yourself? If not, who assisted you?

Is the mentioned name on the application form your full name? (In case no identity document is available)

Have you ever been known by any other name?

Are all these dependants/close family members here today?

Do you have any dependants/close family members in any other country not mentioned on the form?

What was the date you left your country?

When did you arrive in Armenia?

Do you have a valid passport?

Are there any details in this passport which are stated incorrectly?

Did you come directly to Armenia?

Have you ever spent time in any other country? If so, when and for how long?

Where there is doubt as to the identity or nationality of the applicant or evidence that she/he has two nationalities:

Do you have a birth certificate?

What is your place of birth?

Do you have a national passport?

Do you have any national ID cards?

What are your parent's nationalities?

Where were your parents born?

Did they live there all their lives?

Have you lived in another country other than the one for which you claim nationality?

Do you have citizenship in any other country?

Read back a summary of the applicant's claim:

Does this represent the substance of your claims?

Do you feel well and have you understood the questions put to you today?

Have you understood the interpreter/what I have said?

Do you wish to add anything to what you have told me today?

Are there any statements which you would like to change?

Are there any other reasons not previously mentioned why you wish to remain in Armenia? This can include personal circumstances that you wish to be taken into consideration.

Is there anything important that has happened to you that you have NOT mentioned?

Please submit further evidence, as agreed, by [date].

Should any further information be required, we will contact you and will give you time to respond to such a request.

If not, a decision shall be issued within [mention a tentative deadline]. You will receive a detailed accompanying letter in your language explaining the appeal procedures in case of a negative decision and peculiarities of your legal status in case of a positive decision. You may also contact SMS and arrange a meeting for the purpose of further detailed counselling.

Do you have any further questions before we end?

Interviewer's Remarks

A separate interview was conducted with family member(s): Yes No

Does the applicant have any special protection/assistance needs: Yes No

If yes, specify the needs/vulnerability. _____

This is a true and accurate record of the interview.

Interviewer Initials:	
Interviewer Signature:	
Date:	
Applicant Initials:	
Applicant Signature:	
Date:	

STATE MIGRATION SERVICE
RSD ASSESSMENT FORM
(Annotated)

File No.: _____

Interviewer: _____

Date of Interview(s): _____

Interpreter: _____

Language of Interview: _____

Applicant's Basic Bio-data

(Refer to RSD Application Form for Complete Bio Data as Provided by the Applicant)

Full Name: _____

Nationality: _____

If stateless, place of former habitual residence: _____

Date of Birth: _____ Ethnicity: _____

Sex: _____ Religion: _____

Part I- Summary of the Claim

I-1 Please summarize briefly below the reasons provided by the Applicant for leaving the country of nationality or habitual residence and for being unwilling or unable to return.

- Summary of applicant's statements which respond to the "Key RSD Questions" (why applicant left the country of origin and why applicant is unable or unwilling to return) and the related facts and experiences.
- Include statements regarding the treatment applicant would face on return and the reasons why he/she believes this is likely (this is material to issue of well-founded fear).
- Do not use language suggesting a conclusion about whether elements of the refugee criteria are met.

E.g.:

"The Applicant left because of her *well-founded fear* of being forced to marry""The Applicant left because he feared being *persecuted* because of his *membership in a particular social group*."

- In the Summary of the Claim, do not enter into an evaluation of the truth or accuracy of applicant's statements. This comes later in the Credibility Assessment (Part II) and the analysis of well-founded fear (Part III-1).
- Select the facts that are **material** to the refugee definition, expressed **succinctly** as possible! You should not attempt to summarize or include all elements of the RSD Transcript. Many of the details will not be material.

Part II - Credibility Assessment

II-1 Evaluate the credibility of the information provided by the Applicant regarding the material elements of the claim with reference to the relevant credibility indicators and taking into account the reasonableness of any explanations provided by the Applicant for apparent credibility problems.

Credibility Indicators:

- sufficiency of detail & specificity
- internal consistency of oral and written information provided by Applicant, including documents
- consistency of Applicant’s statements with information provided by family members / witnesses
- consistency with COI
- plausibility

[Select and complete the Option below which best reflects your credibility assessment and delete the other two Options].

Option 1: Material Elements of the Claim Accepted as Presented

The Applicant’s account of his/her profile and experiences and the events leading up to his/her flight was generally detailed and consistent. The Applicant has presented a claim which is coherent and plausible, not contradicting generally known facts and therefore is, on balance, capable of being believed. The benefit of the doubt should, therefore, be extended to the Applicant regarding relevant information [he/she] has provided which cannot be established with certainty. The material facts of the claim, as set out in Part I are accepted as true.

[Refer here to any compelling positive credibility indicators relating to material facts of the individual claim, in particular, any key sources of COI relied upon to support the Applicant’s credibility on material elements of the claim. Cite the documents which have been accepted as valid and are considered to support the truth of material elements of the Applicant’s account.]

- Option 1 is appropriate if no significant credibility problems on material points of the claim are identified, even if the account is not perfect” (e.g. minor and isolated credibility problems, primarily on non-material points.)
- If the “Summary of the Claim” is complete, you can avoid repetition in the Credibility Assessment of facts that do not require specific analysis.
- Briefly highlight any compelling positive credibility indicators including key pieces of COI and other documents which helped establish the truth of the statements. Make sure you specify what facts are supported by these indicators.
- **COI references:** Should be linked to specific elements of the claim. Indicate how any specific COI source cited supports the truth of particular statements/facts provided by IC. Avoid cutting and pasting large blocks of COI.
- **Documents:** Refer to any other documents which support applicant’s credibility on material elements of the claim (i.e. passport, ID cards, membership cards, military or detention records etc.) and state which facts you consider to be supported by the document. When referring to supporting documents, briefly indicate, by whom it was issued and when.
- In the Credibility Assessment, you are required to assess only the truthfulness of applicant’s statements. An applicant may be truthful, but may be wrong in his or her understanding of facts. You will assess whether what the applicant believes is accurate and supported by the objective evidence in the analysis of “well-founded fear” in Part III-1 below.
- The wording of Option 1 reflects the conditions under which the **benefit of the doubt** may be relied upon to establish facts for which there is no proof, or regarding which some doubt otherwise exists.

Option 2: Some Credibility Problems but Core Material Elements of Claim Accepted as True

There were credibility problems with respect to the following material elements of the claim:

[Refer to each material element of the claim for which credibility problems were identified. Specify the credibility problems, with reference to the relevant credibility indicators. For each element, consider whether the Applicant has provided a satisfactory explanation for these credibility problems and state whether the facts relating to the material element are accepted as true.]

- (a)
- (b)
- (c)
- (d)

However, the above-mentioned credibility problems are not considered to affect the Applicant's credibility with regard to other elements of the claim. Accordingly, the Applicant has established the remaining material facts of the claim set out in Part I. Specifically, [Briefly summarize the most significant material facts which have been accepted as true]. As the facts which have been established constitute core elements of the Applicant's claim, it is possible to proceed with the assessment of whether these facts bring the Applicant within the eligibility criteria for international protection as a refugee.

- Option 2 is appropriate if you believe some of the material facts provided by the applicant but not all. This is a common scenario when an applicant has exaggerated parts of claim or lied about to hide certain facts.
- The analysis for this Option focuses on **which material facts raise credibility problems and why**.
- It also should be clear from this analysis, read with "Summary of the Claim", which facts you accepted as true. If you feel it is necessary, you may highlight positive credibility indicators for accepted facts that are very material to the claim.
- As a general rule, if you have found that there are some serious credibility problems on material points of the claim, **it will not be appropriate to apply the "benefit of doubt"** to establish these or other facts in the case.
- **Documents:** Documents submitted by the applicant to support a fact that is in question should be considered. If you determine that a document related to a material element of the claim is **not valid or authentic**, explain why you believe this. Refer to any explanations provided by the applicant regarding the document in question and indicate what, if any, implications the problems with the document have for the facts you can or cannot accept as true. Remember, the applicant may submit false documents to support facts which are in fact true.

Option 3: Lack of Credibility on the Material Elements of the Claim

There were serious credibility problems with respect to the following material elements of the Applicant's claim:

[Refer to each material element of the claim for which credibility problems were identified. Specify the credibility problems, with reference to the relevant credibility indicators. For each element, consider whether the Applicant provided a satisfactory explanation and state whether the facts relating to the material element are accepted as true.]

- (a)
- (b)
- (c)
- (d)

The Applicant has been given the opportunity to clarify the relevant facts but has not provided a satisfactory explanation for the significant credibility problems identified. It is not appropriate to apply the benefit of the doubt in assessing the credibility of these material elements of the Applicant's claim, and they cannot therefore be accepted as true.

- The instructions for Option 2 are also relevant for this option.
- In most cases, even if you believe that the applicant is not being truthful about most material elements of the claim, if you accept some core elements relating to the applicant's profile (nationality, age, race, gender, region of origin etc.) you should still proceed to the analysis of **Well-Founded Fear in Part III** to explain whether an individual with this profile would be at risk if returned to the country of origin.
- If the credibility problems are such that it is not possible to determine the basic facts related to the applicant's profile, in particular nationality, it will in most cases be appropriate to end the analysis here.

Part III – Inclusion Assessment - 1951 Convention / 1967 Protocol

[You may proceed to Part IV where the claims raised by the Applicant are clearly and exclusively related to the grounds falling under the expanded refugee definition]

Well-Founded Fear

III-1 Considering the relevant COI, the individual profile and experiences of the Applicant, and the experience of similarly situated individuals in the country of origin, is there a reasonable possibility that the Applicant would experience harm if returned to the country of nationality or habitual residence?

Yes _____ No _____

[You should base your assessment on the facts you have accepted relating to the Applicant's profile and experiences and with reference to the relevant COI. Specify what harm, if any, you have determined would await the Applicant upon return to the country of origin. If the harm identified would be committed by non-state agents consider also whether the State is able and willing to offer effective protection.]

- **Question to be answered:** Is there a “reasonable possibility” that the applicant will suffer harm and, if so, what specific kinds of harm?
- Opening sentence:
 - “On the basis of the accepted facts considered, there is (is not) a reasonable possibility that the Applicant will experience.....”
- **Focus of analysis:** The reasons why the forms of harm identified are (not) reasonably possible and facts supporting these reasons. The facts will relate to:
 - Applicant's profile (age, class, gender, race, ethnic group, political or religious beliefs/affiliations etc.)
 - Applicant's experiences, including any experiences of past persecution
 - Situation of similarly situated persons
 - Situation in country of origin
- **COI:** An important source of information on “objective basis” to consider in light of all evidence regarding the applicant. Cite COI judiciously. It should always be clear what facts you believe are established or refuted by a source of COI cited and how.
- Reference to COI in this section **to indicate whether or not harm is “reasonably possible”**, not to confirm the truth of applicant's statements.
- Well-founded fear & State Protection:
 - Availability of State protection is an integral part of the analysis of the well-founded fear.
 - Examination of whether the State is able or willing to protect an applicant from harm feared is most relevant where the agent of persecution is non-state actor.

(If the answer to question III-1 “Well-Founded Fear” is no, you may proceed to question III-5.)

- As a general rule, if you have determined that it is not reasonably possible that applicant would face harm, you should not proceed to assess whether the harm is persecution or is related to a Convention ground.

Persecution

III-2 If you have determined that the Applicant has a well-founded fear of harm if he/she returns to the country of nationality or habitual residence, does the harm you have identified constitute persecution?

Yes _____ No _____

[Please 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. You should base your assessment here on the harm which you have determined to be reasonably possible in question III-1 above, which may or may not be in all respects the same as the harm claimed by the Applicant. Consider whether the limitations on the rights identified are

permitted (derogable rights) and justified in the circumstances.]

- **Question to be answered** – Do forms of harm or treatment identified constitute persecution?
- **Scope:** Consider only the forms of harm considered to be “reasonably possible”.
 - Do not revisit issue of why fear of this harm is considered to be well-founded.
 - Don’t cite COI to stating again the forms of harm being committed in the Country of Origin
 - Do not address whether harm is because of Convention ground(s).
- Opening sentences:
 - “If the Applicant returns to the country of origin there is a reasonable possibility that she would face (list forms of harm). This treatment has been considered in its entirety and is (is not) considered to constitute persecution.”
- **Focus of analysis** – Reasons why the forms of harm identified would (would not) constitute persecution in light of relevant human rights standards & principles.
- **Issues** – Content of analysis and the principles or doctrine you need to cite will depend upon the persecution issues raised by facts.
 - Does the harm constitute serious violation(s) of human rights?
 - Cumulative persecution?
 - Persecution vs. prosecution?

Reasons for Persecution

III-3 Does the harm you have determined would await the Applicant relate to one or more of the grounds in the *1951 Convention/1967 Protocol*?

Yes _____ No _____

If “Yes”, please select the relevant ground and delete all others. Provide any explanation for the grounds selected.

race _____

religion _____

nationality _____

membership of a particular social group _____

political opinion _____

Availability of Internal Flight or Relocation Alternative

III-4 If you have determined that the Applicant has a well-founded fear of persecution in the country of nationality or habitual residence, does the Applicant have the possibility to return to any part of that country where he or she could reasonably live without fear of persecution or undue hardship?

Please explain with reference to relevant COI

Yes _____ No _____

- Not every claim presents IFA issues and requires detailed IFA analysis. As a general rule, the detailed IFA analysis is required where the agent of the persecution is a non-State actor, or where the State actor does not have effective control over all parts of the country,
- **Well-founded fear & Internal Flight Analysis:** Internal Flight Alternative (IFA) comes at the end of the eligibility analysis, after full assessment of nature and risk of the harm faced by the Applicant in country of origin and reasons why. Only then can we assess whether there is a place in the country of origin where these or other risks would not exist and whether it would be reasonable for the applicant to live there.
- The analysis should be structured around the “**Relevance**” and “**Reasonableness**” tests set out in the UNHCR Guidelines on Internal Flight Alternative. **Both tests must be met.**
- **Scope:** Your analysis of IFA should begin with the “Relevance Test”. In many cases, the analysis will end with the brief finding that there is no relevant IFA. Only if you find that an IFA may exist for the applicant, should you proceed with the analysis of whether the “Reasonableness Test” is met.

- **If both of the tests of Relevance and Reasonableness are met**, the answer to III-4 should be “yes”. In this case, the applicant would not meet the inclusion criteria of the 1951 Convention and the conclusion in III-5 below should be “no”.

Conclusion on Inclusion under 1951 Convention / 1967 Protocol

III-5 Does the Applicant meet the inclusion criteria in the *1951 Convention/1967 Protocol*?

Yes _____ No _____

Part IV – Inclusion Assessment – Other International Protection Needs

(To be completed only if the Applicant does not meet the criteria for inclusion in part iii OR WHERE NO INCLUSION ANALYSIS UNDER THE 1951 CONVENTION HAS BEEN CARRIED OUT SINCE THE CLAIMS RAISED BY THE APPLICANT ARE CLEARLY AND EXCLUSIVELY RELATED TO THE GROUNDS FALLING UNDER THE EXPANDED REFUGEE DEFINITION)

IV-1 Is the Applicant outside his/her country of nationality or habitual residence and unable 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?

Please explain.

Yes _____ No _____

- Your analysis here should be based upon facts you have established in the Credibility Assessment in Part II and in particular, the findings in the **Well-Founded Fear analysis in Part III** (if carried out) regarding whether, and what kinds of, harm are reasonably possible for the applicant in the country of origin.
- For example, if you have determined in Part III that there is a reasonable possibility that the applicant will face extrajudicial execution, this will satisfy the requirement in the extended definition regarding the applicant be facing “threats to life, physical integrity, or freedom”. In the interest of brevity, you can cross reference relevant sections of your analysis from Part III in your answer to this question. Do not repeat the analysis.
- **IFA** - In contexts of generalized violence or events seriously disturbing public order which would trigger the possible application of this extended refugee definition, there will rarely be an IFA, unless the violence and disorder are clearly isolated in one part of the county and there is not a reasonable possibility that they will spread to the identified IFA.

If the Applicant meets the inclusion criteria in either Part III (1951 Convention) or Part IV (Extended Refugee Definition) proceed to Part V.

If the Applicant does not meet the inclusion criteria you may proceed to Part VI

Part V – Application of the Exclusion Clauses

V-1 Is there any indication that the Applicant may have been associated with events that could bring him/her within the application of the exclusion clauses in Article 1F(a), (b) or (c) of the *1951 Convention*?

Yes _____ No _____

If no exclusion clauses are triggered, please proceed to Part VI.

If there are indications that an exclusion clause may apply, please complete and attach the Exclusion Assessment for Part V

Part VI – APPLICATION OF THE PRINCIPLE OF NON-REFOULEMENT STIPULATED UNDER ARTICLE 9(3) OF THE LAW ON REFUGEES AND ASYLUM

Assess whether there is a real risk of ill-treatment contrary to Article 3 of the European Convention on Human Rights awaiting the applicant upon return to the country of origin.

Part VII - Recommendation

In light of the foregoing assessment, it is recommended that:

[*Select the applicable paragraph(s) 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 of Article 6(1)(1) of the Law of Armenia on Refugees and Asylum*, and should be recognized as a refugee.
- the Applicant is outside of his/her country of nationality or habitual residence and is unable 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. The Applicant should be recognized as a refugee pursuant to *Article 6(1)(2) of the Law of Armenia on Refugees and Asylum*.
- the Applicant does not meet the criteria for international refugee protection, 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.
- the Applicant may not be returned to his/her country of origin due to a serious risk of ill-treatment contrary to Article 3 of the European Convention on Human Rights.
- no serious risk of ill-treatment contrary to Article 3 of the European Convention on Human Rights exists and the Applicant may be returned to his/her country of origin.

Name and Signature of Staff member: _____

Date: _____

Name and Co-signature of Head of Division: _____

Date: _____

**STATE MIGRATION SERVICE OF THE MINISTRY OF TERRITORIAL
ADMINISTRATION OF THE REPUBLIC OF ARMENIA
NOTIFICATION OF NEGATIVE RSD DECISION**

We regret to inform you that after a thorough assessment of your refugee claim, and careful consideration of all available information, SMS has determined that you are not eligible for refugee status in the Republic of Armenia.

The decision that you are not eligible for refugee status has been based on the following determinations:

- You are not outside of your country of origin and are therefore not eligible for refugee status.
- You have more than one nationality and have not established that you are unable to obtain effective protection in all of the countries of which you are a national.
- The reasons you have provided for not being willing to return to your country of origin are not related to the criteria for the grant of refugee status.
- The information you provided in support of your application was not sufficiently detailed, and you did not provide a reasonable explanation for failing to provide information that was relevant to your claim.
- The information you provided to SMS was not considered to be reliable on points that are material to your claim, for the following reasons:
 - Substantial inconsistencies were found within the information you provided in relation to your claim.
 - Substantial inconsistencies were found between the information you provided and available sources of information about your country of origin.
 - The information you provided was not plausible
- There is no reasonable possibility that the harm you fear upon return to your country will occur.
- The harm you fear is not of the nature and/or seriousness as to constitute a form of persecution.
- You are able to live in another part of your country without fear of persecution and could reasonably return to live in this area without undue hardship.
- The SMS has determined that you have committed or contributed to committing certain serious acts and are therefore excluded from international refugee protection.

Right to appeal

If you believe that this decision has been reached in error, you may request to have this decision reconsidered on appeal. To request an appeal you must complete an appeal application and lodge it with the Administrative Court of the Republic of Armenia, within 30 days from the date on which you received this notification of decision. The address of the Court is 23 Garegin Nzhdehi, Yerevan, Armenia. The telephone number of the court is (+374) (10) 44-71-21 (ext. 230).

Missing the deadline to appeal

If you do not apply to the Court within this period of time, the decision becomes final. The period for launching an appeal may be renewed only if there are valid reasons for missing it. After the reasons for missing the appeal deadline disappear, you may submit an appeal to the Court within 15 days, but not later than within 3 months starting from the date on which you received this notification of decision.

How to submit an appeal?

The content of the application should meet the requirements of the RA legislation; otherwise the court will not review your application. It is expedient for appealing a negative decision to obtain a counsel, who will prepare the claim and submit it to the court. In order to get free legal services of a counsel, you can contact _____. If you wish to hire a counsel at your own expense, you may consider contacting the RA Chamber of Advocates (address: 3 Zakyan street, 0010, Yerevan Armenia; telephone number: (+374)(10) 54-71-28).

Your legal status pending a final determination of your claim

You are considered to be an asylum-seeker and have the right to legally remain in Armenia until there is a final decision on your asylum application by the Court. The validity of your asylum-seeker ID

card will be extended after expiry to serve as a legal attestation to this fact.

Appeal against the decision of the Administrative Court

The decision of the Administrative Court may be appealed against before the Administrative Court of Appeal. There is also limited possibility to lodge an appeal against the decisions of the Administrative Court of Appeal before the Court of Cassation of the Republic of Armenia.

Any questions regarding this letter may be directed to SMS at the address above.

**STATE MIGRATION SERVICE OF THE MINISTRY OF TERRITORIAL
ADMINISTRATION OF THE REPUBLIC OF ARMENIA
NOTIFICATION OF POSITIVE RSD DECISION**

We are pleased to inform you that after a thorough assessment of your refugee claim, and careful consideration of all available information, SMS has determined that you, and consequently your family members [state the names] are eligible for refugee status in the Republic of Armenia.

Right to legal residence in Armenia

As a refugee, you are granted protection in the Republic of Armenia. This implies the right to legal residence in Armenia without time limitation.

Documentation issued to persons recognized as refugees in Armenia

You will be issued a Convention Travel Document. This Document grants the right of free movement in Armenia and permits traveling outside of Armenia.

The Convention Travel Document is valid for two years and will be renewed each time upon your request.

The right to reunite with your family

You have a right to reunite with your family members. Detailed information and assistance with this respect will be provided by the SMS upon your request.

Right to work

You have a right to work. You are not required to apply for work permit as it is usually the case with other foreigners. You have a right to seek employment and work under the same conditions as Armenian citizens, except for cases when it is obligatory to have Armenian citizenship by law.

Right to education

Persons recognized as refugees in Armenia have the right to basic general education equal to Armenian citizens. As to higher education and other education related issues, they enjoy all the rights stipulated for foreign citizens legally residing in Armenia.

Right to social security and medical care

You have the same rights to benefit from social services and free medical care as Armenian citizens.

Right to Armenian citizenship (naturalization)

You may apply for Armenian citizenship in case you have been residing on the territory of the Republic of Armenia for the preceding 3 years, are proficient in the Armenian language, and familiar with the Constitution of the Republic of Armenia.

Part or all of these requirements may be waived if you meet the specific conditions provided for by law.

Limitations to some rights

You do not have a right to elect (except for local self-government bodies' elections), cannot join any political party in Armenia, cannot elect or be elected to a position for which Armenian citizenship is required.

Obligations

You are obliged to pay taxes, duties and other compulsory fees in conformity with the procedures prescribed by law. While exercising your rights you should not endanger the legitimate interests, rights and freedoms of others as well as public order and the security of Armenia.

PROCEDURE FOR SUBMITTING AN APPLICATION OF PROVIDING INFORMATION ABOUT THE COUNTRY OF ORIGIN OF ASYLUM SEEKERS IN THE REPUBLIC OF ARMENIA AND OF GETTING RESPONSE

I. THE CONTENT OF THE PROCEDURE

1. THE GOAL

The goal of the present procedure is the standardization of the activities of the preparation of the application of providing information about the country of origin of the asylum seeker by the employee of the State Migration Service of the RA Ministry of Territorial Administration reviewing the asylum application of the foreigner, the transfer to the expert on the information about the country of origin, as well as the preparation of the response to the application by the expert and the provision of the application to the applicant.

2. THE SCOPE

The present procedure is applied by the employees of the Department on Asylum Issues of the SMS and the expert on the information about the country of origin.

3. REFERENCES TO NORMATIVE LEGAL ACTS

RA Law on Refugees and Asylum, November 27, 2008

II. THE DESCRIPTION OF THE PROCEDURE

4. THE PREPARATION AND THE TRANSFER OF THE APPLICATION

4.1. The employee of the Department on Asylum Issues of the SMS in the case of the need to get information about the country of origin during the review of the asylum application submits an application to the expert on information about the country of origin (the form of the application is attached).

4.2. The application shall include:

- The name, surname and position of the employee submitting the application;
- The name, surname and position of the employee receiving the application;
- The name, surname and father's name of the asylum seeker (if available);
- The country of origin of the asylum seeker;
- The serial number of the individual case of the asylum seeker;
- The brief description of the individual case of the asylum seeker;
- The date of submitting the application;
- The number of pages of the application;
- The deadline of the response which shall be possibly long in order to provide an effective examination of the information on the country of origin (at least 10 working days);
- The issues subject to examination for assessing the reliability of the asylum application.

4.3. The issues subject to examination shall be formed simply, clearly and accessibly otherwise the application can be returned to the person who prepared it for rephrasing the queries.

4.4. If the application is submitted after conducting an interview with the asylum seeker the part of the protocol of the interview regarding the issues subject to examination can also be attached.

4.5. The expert on information about the country of origin, if necessary, can request from the applicant to submit other information available in the individual case of the asylum seeker regarding the issues subject to examination.

4.6. The response of the application shall be transferred to the applicant in the same way as the application has been submitted (e. g. if the request on information about the country of origin has been submitted by e-mail the expert's response shall be transferred by email as well).

5. THE PREPARATION AND TRANSFER OF THE RESPONSE TO THE APPLICATION

5.1. A response to the application of providing information about the country of origin is prepared as a result of the examination done by the expert on the information about the country of origin (the form is attached).

5.2. The response to the application shall contain:

- the name, surname and position of the employee receiving the response to the application;
- the name, surname and position of the employee submitting the response to the application;
- the name, surname and father's name (if available) of the asylum seeker;
- the country of origin of the asylum seeker;
- the serial number of the individual case of the asylum seeker;
- the date of the response to the application;
- the number of pages of the response to the application.

5.3. All pages of the response to the application shall be signed by the expert on the information about the country of origin.

5.4. The information acquired as a result of the examination, along with the Armenian translation, are transferred to the applicant.

5.5. The response to the application shall be transferred to the applicant in the same way as the application was submitted (e.g. if the application was submitted by e-mail the expert's response shall be transferred by e-mail as well).

6. THE SUPERVISION ON THE ENFORCEMENT OF THE PROCEDURES

The supervision on the enforcement of the actions stipulated by the present Procedure is done by the Head of the SMS and by the Head of the Department on Asylum Issues of the SMS within their powers.

7. FINAL PROVISIONS

7.1. The present procedure is provided to those SMS employees who are connected with the standardized actions set by the present procedure.

7.2. The present procedure is subject to review in case of organisational, institutional or legislative changes.

7.3. In the period of the absence from the work of the employees applying the present procedures as well as the future changes are subject to application by their substitutes.

7.4. For the review of the application of the procedures proposals can be submitted to the Head of the SMS by the Head and employees of the Department on Asylum Issues of the SMS as well as the expert on the information about the country of origin.

7.5. The Head of the SMS can review the present procedures by his initiation.

7.6. The present procedure is applied from January 1, 2014.

**REQUEST
FOR PROVIDING INFORMATION
ABOUT THE COUNTRY OF ORIGIN OF THE ASYLUM SEEKER**

To whom _____

From whom _____

Asylum seeker _____

Country of origin _____

Serial number of the individual case _____

Brief description of the individual case _____

Day, month, year of submitting the request _____

Number of pages of the request _____

Deadline for the response to the request _____

Queries _____

Requester' _____

name, surname

signature

**RESPONSE
TO THE REQUEST FOR PROVIDING INFORMATION
ABOUT THE COUNTRY OF ORIGIN OF THE ASYLUM SEEKER**

To whom _____

From whom _____

Asylum seeker _____

Country of origin _____

Serial number of the individual case _____

Day, month, year of submitting the request _____

Number of pages of the response to the application _____

Prepared by' _____

name, surname

signature

PROCEDURE ON PROVISION OF SERVICES BY INTERPRETERS DURING ASYLUM PROCEDURES

I. CONTENT OF THE PROCEDURE

1. OBJECTIVE

The State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia heavily relies on interpreters during asylum procedures involving asylum-seekers who do not speak the Armenian language. Interpreters play a key role in ensuring effective communication between asylum-seekers and staff members who conduct interviews with them. Interpreters thus play a key role in conducting fair and efficient asylum procedures. To ensure high quality interpretation as well as fundamental rights of asylum-seekers, such as the right to confidentiality, interpreters need to be managed appropriately and must adhere to certain standards.

The purpose of this Standard Operating Procedure (hereinafter: SOP) is to standardize the relationships connected with the services of interpreters who are engaged in the asylum procedures, as well as to provide detailed explanation to the SMS staff and interpreters involved in asylum procedures on the standards that must be observed to ensure, to the extent possible, the high quality of interpretation during asylum procedures as well as the rights of asylum-seekers as far as the work of interpreters is concerned.

2. SCOPE

This procedure is applied by staff members of the Asylum Issues Division of the State Migration Service as well as by persons providing interpretation services during asylum procedures.

3. REFERENCES

The given procedure has been developed based on the requirements of RA Law on Refugees and Asylum dated November 27, 2008. During the development of the given Procedure international best practice regarding the services of interpreters in asylum procedures and guidance from the self-study module “Interpreting in a refugee context” developed and published by the UNHCR were taken into consideration.

II. DESCRIPTION OF THE PROCEDURE

4. DEFINITIONS

The following words, expressions and abbreviations shall have the following meaning in the present Standard Operating Procedure:

Division – Asylum Issues Division of the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia;

SMS - State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia;

Staff member – Staff member of the Asylum Issues Division of the State Migration Service of the

Ministry of Territorial Administration of the Republic of Armenia;

RSD – refugee status determination;

SMS interpreters – interpreters with whom SMS has made appropriate arrangements for the provision of interpretation/translation services during asylum procedures.

5. DESCRIPTION OF THE PROCEDURE

5.1. Provision of interpreters in asylum procedures

5.1.1. Responsibilities of staff members in ensuring interpretation in asylum procedures

The Head of the Division shall be responsible to ensure that a sufficient number of qualified and trained SMS interpreters of both sexes are available to meet the interpretation needs of the SMS during asylum procedures.

Under the supervision of the Head of the Division, the staff member conducting RSD shall ensure that at all stages of the asylum procedure, including when completing and submitting an asylum application to the SMS, all asylum-seekers have access to suitably trained and qualified interpreters provided by the SMS.

To ensure the overall management and supervision of SMS interpreters, the Head of the Division shall designate an interpreter supervisor/coordinator from among the staff members. This position shall be rotated on a yearly basis.

Only SMS interpreters shall be engaged in asylum procedures, except when the asylum-seeker expresses a wish to use services of an interpreter of his/her own choice at his/her expense.

Persons who have files with SMS should not be allowed to provide interpretation services in asylum procedures.

5.1.2. Identifying the need for an interpreter

RSD interviews shall normally be conducted with the assistance of an interpreter. Where the interview language preference indicated by the applicant is any language other than Armenian, an interpreter in this language should be utilised for the RSD interview, even where the applicant speaks Armenian or another language the relevant staff member understands.

The staff member receiving/registering the asylum application and/or conducting the asylum procedure shall be responsible to identify needs for interpretation (at registration and prior to RSD interviews or appointments) and file a request (*Annex 1*) for an interpreter with the interpreter supervisor/coordinator.

5.1.3. When and how decisions not to use an interpreter are taken

Only if the applicant asserts during the registration of the application, and the staff member conducting the procedure is satisfied that an interpreter is not needed, may the interview be conducted without an interpreter. In this case the applicant shall specifically waive this requirement in writing (see Annex 2 for the *Interpreter Waiver Form*). However, if during the interview it becomes clear that no effective communication with the asylum-seeker is possible without the help of an interpreter, the interview should be postponed and an interpreter booked for the rescheduled interview.

5.2. Interpretation by persons other than SMS interpreters

Where an asylum-seeker wishes to use the services of a professional interpreter of his/her choice hired at his/her expense, he/she shall be permitted to do so. Under the supervision of the Head of the Division, the staff member conducting RSD shall ensure that a non-SMS interpreter is not a current applicant or a person who has been refused refugee status. Family members or close friends of the applicant as well as persons acting as advocate or legal representative to him/her should not be utilized as interpreters and the asylum-seeker should be informed of this at the earliest possible stage during first-time counselling by the SMS.

Where an asylum-seeker wishes to use the services of an interpreter hired by him/her, the Head of the Division shall, in coordination with the staff member conducting RSD, be required to question the proposed interpreter on his/her language background and any interpreting experience/skills and

ascertain the interpreter's relationship with the applicant. To help the Head of the Division to assess the interpreting skills of the proposed interpreter, the interpreter shall submit a *curriculum vitae* to the SMS. The Head of the Division shall also brief the proposed interpreter on the nature and purpose of the interview to be conducted and the type of interpretation that will be expected as well as explain the confidentiality requirements. For this purpose, the Head of the Division shall use a checklist (*Annex 3*). The Head of the Division shall make a written note for the file on these and any other details that may be relevant to the quality or the reliability of the interpretation.

The staff member conducting RSD must also require the asylum-seeker to provide a written confidentiality waiver in respect of utilising a non SMS interpreter (see Annex 4 for the *Confidentiality Waiver Form*). If the proposed interpreter is approved by the Head of the Division, the staff member conducting the interview should assess the skill level of the interpreter after completing the opening stage of the interview and should only proceed if he/she is satisfied that the interpreter can reasonably cope with interpreting requirements. If the interviewing staff member is not satisfied as to the skill of the interpreter, the interview should be stopped, and the matter referred to the Head of the Division and the interview should be postponed until such time as an appropriately qualified interpreter can be provided by the asylum-seeker or the SMS if the asylum-seeker agrees to it.

5.3. Qualifications and Training of SMS interpreters

5.3.1. Qualifications of SMS interpreters

The Head of the Division shall ensure that interpreters who are engaged in asylum procedures have excellent language and interpreting skills and the necessary training for interpreting in a refugee context. The Head of the Division shall, in particular, be responsible for developing official procedures for the recruitment of SMS interpreters which will set out the minimum required qualifications and job description of SMS interpreters. These minimum required qualifications will be added to this Standard Operating Procedure as soon as they are developed and approved by the SMS.

5.3.2. Training of SMS interpreters

The Head of the Division shall also ensure that interpreters receive induction training as soon as possible after joining the panel of SMS interpreters and at the latest within 1 month of being recruited, as well as refresher training at least once a year. For this purpose, the Head of the Division shall, in coordination with the designated interpreter supervisor/coordinator within the SMS, be responsible for developing a training programme for SMS interpreters. The training programme shall be based on the 'Interpreting in a refugee context' self-study module developed and published by UNHCR. No interpreter shall be allowed to interpret a personal interview in the asylum procedure until the completion of the induction training.

Training for SMS interpreters should include, at a minimum, the following:

- The framework of international protection and the purpose of the personal interview
- Essential refugee terminology that is likely to be used in the RSD interview
- The kind of interpretation (i.e. consecutive interpretation and translation of documents at the interview) that will be required for registration and for RSD interviews
- The importance of faithfully interpreting what is said by the asylum-seeker and the interviewer
- Impartial role of the SMS interpreter
- Gender, age and cultural sensitivity in carrying out interpretation responsibilities
- Possible indicators of trauma that could arise during the interview
- Obligation of confidentiality in all SMS procedures
- Interpreter's Code of Conduct.

UNHCR and/or its NGO partners may be asked to assist the SMS in undertaking the trainings for interpreters.

SMS interpreters shall also take part in trainings, if any, for staff members on handling cases involving vulnerable applicants such as unaccompanied asylum-seeking children. For the purpose of interviews with children, interpreters who have specific training on interpreting for children should be engaged. The Head of the Division shall ensure that sufficient number of interpreters receive this specific training.

5.4. Selection and booking of interpreters for a particular interview/appointment

Staff members conducting RSD shall fill out the interpreter request form (*Annex 1*) and submit it to the interpreter supervisor/coordinator, immediately after the case has been allocated to them and before the interview is to take place. When selecting the interpreter, the interpreter supervisor/coordinator shall take into account language needs of the applicant, requests for a particular sex of interpreter, as well as the profile of the particular interpreter to ensure competent interpretation and satisfaction and confidence of the applicant. The interpreter supervisor/coordinator shall book the interpreter by placing his/her name on the special interpreter booking sheet (see Annex 5 for the *Interpreter Booking Sheet Form*) kept in the office of the Division.

Staff members conducting RSD should ensure that all female applicants are informed prior to interviews that they may choose to have a female interpreter for the conduct of the interview. The interpreter supervisor/coordinator shall make every reasonable effort to ensure that this request is complied with. The requests of male asylum-seekers for a same-sex interpreter shall, where possible, be given favourable consideration by the staff member conducting RSD and by the interpreter supervisor/coordinator, particularly given that men may also lodge an asylum claim that involves elements of sexual violence or may also feel inhibited to speak freely if it is culturally inappropriate for him to speak about his particular experiences in the presence of a female interpreter.

Applicants will not be permitted to select their interpreter from among SMS interpreters individually.

Staff members should not book the same interpreter for two consecutive interviews on the same day to permit adequate rotation and to avoid fatigue, unless specific circumstances warrant it (e. g. consecutive interviews with members of one family).

On no account should interpreters be allowed to choose cases for which they will be interpreting and should not be informed of the identity of the applicant prior to the day on which they provide the interpreting services. Information on the language/dialect of the asylum-seeker as well as interview record template and checklists used by the staff members may be shared with the interpreter to help him/her to prepare for the interview.

Where a suitably qualified interpreter cannot be provided by the SMS or the asylum-seeker, the interview should be postponed until such time as an appropriately qualified interpreter can be provided. Under the supervision of the Head of the Division, the interpreter coordinator/supervisor is to ensure that appropriate attempts are made to identify a suitable interpreter to assist in the rescheduled interview. For this purpose, international organisations, diplomatic representations/consular offices of foreign countries in the Republic of Armenia, academics or academic institutions, diplomatic representations/consular offices of the Republic of Armenia in foreign countries and other relevant government and private institutions or individuals in the Republic of Armenia or abroad should be contacted.

If attempts to identify an interpreter for an exotic language in the Republic of Armenia are not successful and the travel to the Republic of Armenia of an interpreter identified abroad is not possible, a telephone or video interpretation shall be arranged with the interpreter abroad.

5.5. Telephone and video interpretation

For the purpose of telephone and video interpretation, the availability of appropriate technical means in the interview room shall be ensured.

In case of telephone or video interpretation, the interpreter must ensure that he/she is alone in the room for the duration of interpretation. This room, in addition, shall offer adequate privacy, ensuring that the interpreter is free of distractions by family members, colleagues, pets, radio, traffic noise, etc. If there is a lot of background noise at either of the ends or the connection is poor, both the interviewer and interpreter must point this out.

In case of telephone interpretation, a land-line telephone shall be used; cellular phones shall only be permitted in exceptional circumstances and only with prior consent by the SMS. Should a cellular phone be used, parties shall make sure that it is fully charged for the duration of the interview.

The parties shall make sure that others who may reside with him/her do not interrupt on the

telephone line. Call-waiting shall be disabled.

In case of video interpretation, the parties must be assured that only the audio will be recorded and not the video image. In order to create eye contact between the interpreter and the speakers, the interpreter should look directly into the camera and not look at the screen.

5.6. Role of interpreters during interviews

5.6.1. Main tasks of the interpreter

The task of the interpreter is to endeavour to provide the most accurate translation possible regarding the applicant's linguistic competency, linguistic style, and word choice. The interpreter has a duty to interpret completely, accurately and neutrally what the interviewer and/or the asylum-seeker has said and means. Interpreters should, as best as possible, translate word for word and not summarise. The interpreter shall not carry on independent conversations with the applicant, but exclusively translate what is said either by the interviewer or the applicant. If the interpreter deviates from his/her task and comments on the statements of the applicant, makes observations, asks questions of his/her own initiative or otherwise loses his/her objectivity, he/she shall be warned by the interviewer about this error, and the warning needs to be included in the interview record.

Interpreters should listen to the question before beginning to interpret. Interpreters should not assume or make any additions/comments on their accord. Should an interpreter have difficulties in keeping up with the speaking pace of the asylum-seeker as well as in any other situation when interpreting becomes difficult or impossible, he/she should hold his/her hand up. [This signal should be explained at the beginning of the interview by the interviewer so that all parties understand its use]

5.6.2. Functions an interpreter is not allowed to perform

Under the supervision of the Head of the Division and the interpreter supervisor/coordinator, staff members conducting RSD shall ensure that interpreters at SMS are utilized merely for the facilitation of communication between themselves and asylum-seekers. On no account should interpreters be given access to asylum-seekers'/refugees' files. More specifically, staff members should not request interpreters to:

- photocopy passports or any documentation related to asylum-seekers or refugees;
- carry files or documentation relating to asylum seekers or refugees;
- collect documents from printers or photocopy machines or from staff offices.

Staff members shall not consult interpreters in relation to individual cases, except as it relates to use of language and dialect by the applicant. When asked for, the interpreter may assist the interviewer in understanding a culturally specific phenomenon.

5.6.3. The role of the interviewer in orienting the interpreter and outlining his/her role

Prior to an interview, the interviewer should explain briefly to the interpreter the purpose of the interview and should explain the respective roles of interviewer and interpreter. Interpreters will be orally briefed by the staff member conducting the RSD interview on their duties and responsibilities, including confidentiality and impartiality. For this purpose a checklist shall be used by the interviewer (*Annex 3*).

The basic rule is that it is the interviewer who controls the interview. The interviewer has a duty to speak in clear language, avoiding the use of jargon and culturally-specific phrases and should maintain eye-contact with the asylum-seeker at all times, referring to the asylum-seeker in the second person rather than the third person, i.e. "you" and not "he/her". The interviewer should speak in short sentences and in a controlled tone of voice.

The staff member conducting the interview should ensure that the interpreter has a paper and a pen to note down information for interpretation when needed. The note paper should be handed to the staff member at the end of interview and kept in the asylum-seeker's individual file. Interviewers shall also remind interpreters of the need to bring dictionaries and glossaries to assist them in interpretation during the interview.

5.7. Supervision of interpreters and objections

All staff members who conduct interviews in asylum procedures should receive induction and

refresher trainings and direction on communicating effectively through interpreters. At least once a year, such trainings shall be conducted with participation of SMS interpreters.

When an interpreter is first hired, he/she will receive the Interpreter Undertaking of Confidentiality and Impartiality Form (Annex 6) as well as a copy of the Interpreter's Code of Conduct (Annex 7) outlining the duties and responsibilities of an interpreter, and will be orally briefed on these duties and responsibilities by the interpreter supervisor/coordinator. He/she will confirm full compliance with the guidelines contained in the *Interpreter Undertaking of Confidentiality and Impartiality Form* and in the *Interpreter's Code of Conduct* by signing them. A copy of the Confidentiality and Impartiality Form as well as of the Code of Conduct shall be given to the interpreter. The interpreter supervisor/coordinator shall ensure that copies of the signed forms are kept in the file concerning interpreters with the originals provided to the Head of the Division, who will file them accordingly.

Staff members are to ensure that interpreters abide by these guidelines and report any breaches to the interpreter supervisor/coordinator by writing a note for the file, who shall refer the matter to the Head of the Division for appropriate action. Staff members shall also report to the interpreter supervisor/coordinator on the poor language and interpreting skills of an interpreter so that remedial action can be taken. Such actions could include intensive additional training to be provided to the interpreter concerned, an official warning, assignment of a probation period or removal from the panel of SMS interpreters, depending on the nature of the misconduct. The final decision on such actions shall be taken by the Head of the SMS. The notes for the file and information on the remedial actions taken shall be kept in the interpreter's file.

Where relevant, staff members shall provide feedback to the interpreters after each interview on any problems with interpretation recorded during the interview, with a view to improve the interpreter's services in the future. For this purpose, staff members conducting RSD interviews shall complete the *Interpreter's Performance Assessment Form* (Annex 8) after each interview and shall file the completed *Form* in the corresponding asylum-seeker's individual file.

In addition, applicants should always be informed of their right to voice any concern on the interpretation provided at any stage of the asylum procedure and of the procedures to do so either at the interview or through the available general complaint procedures.

The Head of the Division shall, in coordination with the interpreters' supervisor/coordinator, be responsible for follow-up on complaints received and reporting to the respective parties on action taken.

In the cases where an asylum-seeker requests not to use the interpreter assigned for the interview for a reason of sex/religion/personal objection, the staff member conducting RSD shall speak sensitively to the applicant inquiring about the reasons for such objection. If the asylum-seeker is hesitant to use the interpreter concerned for raising his/her concerns, the interview shall be postponed and the staff member conducting RSD shall use the services of another interim interpreter to speak to the asylum-seeker about his/her concern. Reasons for objection shall be then communicated to the Head of the Division who should decide on their validity.

If the reasons for objection are found valid, steps should be taken to accommodate the asylum-seeker's request to replace the interpreter. If reasons for objection are found invalid, the staff member conducting RSD shall discuss the issue with the asylum-seeker, explaining the situation and re-asserting the confidentiality, neutrality and professionalism of the SMS interpreters. If the asylum-seeker still refuses to have the interview conducted with the help of the interpreter concerned, a replacement shall be made. The fact of the replacement shall be noted in the asylum-seeker's and interpreter's file. When making the replacement, the concerns of the applicant shall be duly taken into consideration.

5.8. Translation of written documents by SMS interpreters

When a need arises during asylum procedures for the translation of documents submitted by asylum-seekers or drawn up at the SMS, the staff member conducting RSD shall file a request (*Annex 9*) for the translation of the document(s) with the interpreter supervisor/coordinator. The latter shall arrange the translation with an appropriate translator from among SMS interpreters/translators and submit the translation to the requesting staff member.

6. CONTROL OVER THE IMPLEMENTATION OF THE PROCEDURES

Control over the actions defined by this procedure is implemented by the Head of SMS and the Head of Asylum Division of SMS in the framework of their authority.

7. CONCLUDING PROVISIONS

7.1 This procedure is provided to the SMS staff members who are working in the area of the standardized procedure.

7.2 This procedure is a subject for a review in the case of organizational, structural and legislative changes.

7.3 In case of absence of relevant staff members, this procedure, as well as any changes to be carried out shall be implemented by the latter's alternates.

7.4 The Head of the Asylum Issues Division and staff members of the Division can make proposals aimed at reviewing this procedure.

7.5 The Head of SMS can review this procedure on his own initiative.

7.6 This procedure shall be implemented as of 1 January 2014.

INTERPRETER REQUEST FORM

To be submitted to the interpreter supervisor/coordinator as soon as possible after scheduling an appointment/interview

Requesting staff member	
Language pairs and dialect where relevant	
Date service is required on	
Expected duration of service	
Place service requested at (address, including the floor and office number)	
Preference with respect to the sex of interpreter	
Any other preferences as to the background of the interpreter	

Signature of the requesting staff member _____

INTERPRETER WAIVER FORM

I, _____, hereby attest to the fact that, being duly informed of the right to avail myself of the services of an interpreter provided free of charge by the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia as well as of services of an interpreter of my choice at my own expense, I have voluntarily waived this right. I do not need an interpreter during asylum procedures.

Signature of the Asylum-Seeker: _____

Date: _____

Place: _____

This checklist should be kept in the respective asylum-seeker's file after being used by the staff member

INTERPRETER BRIEFING CHECKLIST

The following should be explained to the interpreter before starting the interview:

- The purpose of the interview
- The type of interpretation needed (consecutive interpretation and translation of written documents during the interview)
- The confidentiality requirement
- The respective roles of interviewer and interpreter
- The requirement to stop the speakers – by raising hand – in situations where it is impossible to translate
- The requirement of note-taking and leaving the notes with the interviewer
- The possibility to use dictionaries/glossaries during interviews
- The need to be careful when interpreting dates from different calendars and that dates must be recorded in the interview record in their original form, even if they are converted into another calendar
- The possibility to request breaks: sufficient breaks are needed to ensure a high-quality interpreting service and as such they benefit everyone
- The requirement to avoid changing or summarizing the content or the meaning of what had been said
- The requirement to avoid commenting upon the evidence and, instead, stick to strict interpretation
- The requirement to avoid asking questions to the interviewee on his/her own
- The requirement to avoid showing emotions
- The requirement to use direct speech when interpreting
- The requirement not to interpret any statement or word not understood by the interpreter
- The requirement to report on any mistake made while interpreting
- The requirement to report in a timely manner on any conflict of interest.

CONFIDENTIALITY WAIVER FORM WITH RESPECT TO UTILISING A NON SMS INTERPRETER

I, _____, hereby declare that I understand that the State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia (SMS) shall not be responsible in any manner whatsoever for the disclosure of information by a non SMS interpreter of oral or written information obtained during his/her assignments within the framework of asylum procedures.

Signature of the Asylum-Seeker: _____

Date: _____

Place: _____

INTERPRETER UNDERTAKING OF CONFIDENTIALITY AND IMPARTIALITY

Name of Interpreter: _____

In addition to my agreement to abide by the principles set out in the Interpreter's *Code of Conduct*, I make the following undertakings in respect of performance of my role as an interpreter recruited by State Migration Service of the Ministry of Territorial Administration of the Republic of Armenia (SMS):

Obligation of Confidentiality

I undertake not to disclose or discuss any information about asylum-seekers, refugees, colleagues or other work-related matters that come to my knowledge as a result of my role as an interpreter. I understand and accept that my obligation to maintain the confidentiality of information I have received during my assignments continues beyond the termination of my assignment with SMS.

Obligation of Impartiality

I undertake to carry out my responsibilities and to conduct myself at all times, both during and upon the termination of my assignment with SMS, in a manner that is fully consistent with my obligation of impartiality as an SMS 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-judgmental manner;
- I will refrain from engaging in advocacy on behalf of asylum-seekers and refugees;
- I will not accept payment or favour from or on behalf of asylum-seekers and refugees;
- I will not engage in contact or exchanges with asylum-seekers and refugees or other third parties that could undermine, or be perceived to undermine, either my impartiality as an interpreter or the fairness and integrity of procedures;
- I will carry out my responsibilities in a manner that is consistent with standards for cultural, gender and age sensitivity.

Duty to Report

I undertake to inform the SMS staff member for whom I am providing interpretation services and to report to designated interpreter supervisor/coordinator within the SMS 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 an asylum-seeker 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 an interpreter;
- Any other factors that could adversely affect my competence to provide interpretation services that have been assigned to me.

Consequences of Breach of Interpreter Undertakings

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 my removal from the panel of SMS interpreters and/or legal action.

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

Signature of Interpreter: _____

Date: _____

Place: _____

CODE OF CONDUCT FOR STATE MIGRATION SERVICE REGISTERED INTERPRETERS

Please note that although you are not an employee of the State Migration Service, whilst you are on our premises and undertaking freelance work commissioned by the Service there are certain standards that will be expected.

Failure to adhere to any of the following requirements may result in your removal from the Service's Panel of Interpreters.

1. Introduction

Whenever asylum-seekers do not speak or do not have a good command of the Armenian language, the task of the interpreter is to enable them to communicate with officials as if they spoke the same language.

This Code of Conduct is meant to guide interpreters in maintaining professional behavior at work, and outside the workplace, and take ethical decisions after carefully evaluating the situation, obstacle, or dilemma they are facing. It does not and cannot include reference to every possible situation, obstacle, or dilemma interpreters may face.

2. Impartiality

An SMS interpreter has a duty to be impartial and to be seen by others to be impartial at all times. Even though you may not feel that you have bias or partiality, if other people perceive that you are biased or partial your role as an interpreter is compromised. Therefore, you must strive to avoid any situation in which it might appear that you have favoured one side or another in a case. Whether an interpreter agrees or disagrees with what is being said during the meeting, he/she shall suspend judgment and strive to interpret accurately. He/she shall not speak on behalf of, advocate for, or try to influence either party.

An SMS interpreter should not:

- offer opinion, comment or declare any personal observations on truthfulness or ethnic veracity of an applicant even if requested to do so. You must decline the request and state that it is outside your remit as a professional interpreter;
- indulge in general conversation with an applicant before (other than to establish you both speak the same language and/or dialect), during or after an assignment. A seemingly innocent conversation can lead to a perception of bias. If you are approached by an applicant or legal representative, outside the assignment, you must explain that you cannot discuss the case and politely walk away without getting involved in any conversation. You must also report any such approaches to a responsible staff member as soon as it is practical;
- be acquainted with or related to the interviewee or anyone associated with their case. If this circumstance arises you **must not accept** the assignment and must explain why. To accept would call into question your professionalism and that of the SMS. If after you have accepted an assignment you become aware of a conflict of interest you **must immediately** inform the interviewing officer of the circumstances, who will decide whether it would be appropriate for you to interpret on this occasion;
- have any personal interest in the outcome of an assignment;
- engage in advocacy, counseling or intervene with SMS on behalf of asylum-seekers;
- accept requests to meet with asylum-seekers outside the Office, or engage in any other exchange that could affect his/her impartiality or perceived impartiality in SMS procedures.

3. Confidentiality

Under no circumstances shall the interpreter disclose or repeat oral and/or written information obtained in the course of his/her assignments.

An SMS interpreter should treat everything heard or seen, whilst on an assignment as confidential. You should not disclose any communications discussed between parties (any individual present during an interview) outside the Service. Any breach of this requirement may result in criminal or civil proceedings and in immediate removal of your name from the Service's Panel of Interpreters.

There may be times when an SMS interpreter is assigned to a case, which, because of its very nature or because of the subject(s) involved, may be considered what is commonly known as a 'high profile case'. These types of cases may attract media attention. If you are contacted by the media you should not under any circumstances provide them with information.

4. Accurate, Precise and Neutral Interpretation

An SMS interpreter has a duty to ensure that what was stated in another language, by a non-Armenian speaker, is precisely and accurately interpreted. It is important to remember that the interviewing officer will be relying entirely on the interpreted version of the account given by the interviewee and may draw conclusions about the interviewee's credibility. An inaccurate interpretation may have serious implications. For example a legitimate asylum-seeker may be unjustly denied the right to live in this country and returned to his/her country of origin because you have not performed your job professionally and with integrity.

You are not responsible for the content of the speaker's words. You are responsible for accurately translating the speaker's words and meanings into a target language without adding to or omitting from them. In doing so, you must be capable of replacing syntactic and semantic elements in the source language with equivalent patterns in the target language. By no means are you allowed to guess if you do not know or do not understand a word or the meaning of the speaker's words.

Idiomatic or culturally/historically/sociologically/anthropologically-related language must be handled with care. The interpreter should tentatively paraphrase the language and signal that confirmation of its meaning is needed. Should any of the parties be unable to explain cultural beliefs and/or practices expressed by such language, the interpreter may tentatively provide basic *to-the-best-of-my-knowledge* information on it as long as both parties agree. This information should temporarily be put on record, double-checked at any stage, during or after the interview, with a fourth party, and be discussed again with the interviewee at any stage, during the current or next interview. In addition, the interpreter will inform the parties of any potential misunderstandings that may arise as a result of any implication in the languages used, whether stereotyping or cultural expectations.

You must:

- retain every single element of information that was contained in the original message, and interpret in as close verbatim form as Armenian style, syntax and grammar will allow;
- be in a fit state to interpret effectively throughout the interview and ask the interviewing officer for a break whenever you feel that fatigue is beginning to interfere with your accuracy;
- speak slowly and clearly;
- spell out any foreign name or place said by the interviewing officer and/or interviewee;
- inform the interviewing officer immediately if you have any difficulty in interpreting by raising your hand and seek clarification whenever needed, even if this turns out to be time-consuming;
- remain calm, especially if you hear unpleasant or controversial evidence. Your duty is to remain detached from the evidence you are interpreting;
- use direct speech when interpreting. You should not say, "he said he....." this should be interpreted as, "I.....";
- interpret language which may be offensive. For cultural reasons, obscenities may be difficult to translate. In this case you should look for the closest equivalent;
- report on any mistake made while interpreting. This must be done as soon as possible during

the meeting.

You must not:

- interrupt the progress of the interview other than to make a correction to the interpretation, request clarification, to resolve a misunderstanding or to draw attention to any distractions;
- embellish what is being said. Your function as an SMS interpreter is to interpret
- accurately;
- omit any part of the interviewee's account. It is not within your role to determine what information is or is not relevant. Your duty is to interpret **everything** that is said;
- ask the interviewee what they mean by a particular answer. If you are unable to interpret a statement, you must ask the interviewing officer if the information may be repeated by the party concerned;
- try to anticipate what the interviewer or interviewee is trying to say or give an answer other than what is being said;
- let your own experience or views get in the way of how you interpret the evidence;
- show your emotions. The only reactions you should express are those of the interviewee. This may be difficult at times if the account given by the interviewee is upsetting or it is clear that the interviewee is lying. However, body language such as the 'rolling of the eyes' or 'tutting' when an account does not appear plausible is not acceptable. The interviewing officer will judge an interviewee's credibility; this is not the role of an interpreter.

5. Personal Advantage

SMS interpreters should never accept gratuities, gifts, favours or any other form of advantage of any kind from anyone for whom you have interpreted, for whom you are likely to interpret, or from anyone acting as an agent for such a person. If such a gift is offered, explain politely that you are paid by the SMS for your services and are not allowed to accept gifts from any parties involved in the case. You should also refer the matter to the designated interpreter supervisor/coordinator within the SMS who will inform the Head of the Division so that he/she can take appropriate action.

6. Professional Conduct

It is imperative in the interest of justice and professional services that the SMS maintains a panel of interpreters who are of the highest professional standard.

You must inform the SMS immediately if you are:

- charged, convicted or cautioned for any offence, or if you become subject to any professional disciplinary proceedings, whilst registered on the Service's panel of interpreters;
- removed from any list held by any other public organisation.

You should not:

- engage in any behaviour likely to discredit the SMS, including impairment through drugs, alcohol, sexual misconduct, violence, intimidation, political activity or abusive behaviour.

7. Bookings

It is your responsibility when accepting assignments from the SMS to ensure that you have recorded the full details relating to the assignment. For example where the interview is to take place, the time you are required to attend, the length of time you will be required, the name and contact number of the officer who booked your services.

You **must** only accept assignments you know you are able to keep.

Once you have accepted an assignment you should:

- give a realistic time of arrival;
- make sure you are punctual. If you are unavoidably delayed you should telephone your relevant contact as soon as you know you will be late and give an approximate time of arrival;

- if you need to cancel a booking then please notify the relevant contact - **do not** delegate your work to another interpreter.

8. Payment

Once you have completed your assignment you should complete your claim form and pass it to the interviewing officer for authorisation.

Any interpreter who is found to have made a fraudulent claim will be removed from the Service's panel of interpreters.

9. Dress Code

Interpreters are expected to dress appropriately for their assignment. For example, if the assignment is at the office of the SMS or in a detention facility, the interpreter is expected to dress smartly to reflect the professionalism of the Service.

However, some assignments may involve field work and interpreters may be asked to accompany staff members on visits to asylum-seekers' houses, hospitals, etc. In these circumstances casual clothing and comfortable footwear may be more appropriate.

Interpreters must check with their booking officer if they are in any doubt about the dress code required for the assignment. Any interpreter who arrives for an assignment and is considered to be inappropriately dressed will have their booking cancelled immediately and will not be paid.

Interpreters should not chew gum, or any other substance at any time, whilst on an assignment for the SMS.

10. Mobile Telephones

Interpreters **must** turn off all mobile phones, beepers, watches and other devices which may otherwise cause a distraction in the interview whilst in interview rooms.

11. Enforcement

An SMS interpreter must read, sign, and is bound to comply with this Code of Conduct. He/she understands that he/she shall withdraw immediately from encounters that threaten his/her capacity to apply this Code of Conduct. He/she also understands that violation of this Code of Conduct may result in his/her withdrawal from the SMS panel of interpreters.

Interpreter:

Name: _____

Signature: _____

Date: _____

Place: _____

INTERPRETER'S PERFORMANCE ASSESSMENT FORM

CASE NUMBER		SPECIFIC NEEDS/VULNERABLE APPLICANT	
INTERVIEWER		INTERPRETER	
INTERVIEW DATE		LANGUAGE SPOKEN	
START TIME		SEX OF CLAIMANT	
END TIME		SEX OF INTERVIEWER	
VENUE		SEX OF INTERPRETER	
ESTABLISHED NATIONALITY OF CLAIMANT		FEEDBACK PROVIDED	

	CRITERIA TO BE ASSESSED	YES	NO	N/A	COMMENTS
1	Did the interpreter speak slowly and clearly?				
2	Where applicable: Did the interpreter stop the speakers in situations where it was impossible to translate?				
3	Did the interpreter avoid changing or summarizing the content or the meaning of what had been said?				
4	Did the interpreter avoid commenting upon the evidence and, instead, stick to strict interpretation?				
5	Did the interpreter avoid asking questions to the interviewee on his/her own?				
6	Did the interpreter avoid showing emotions?				
7	Did the interpreter use direct speech when interpreting?				
8	Where applicable: Did the interpreter report on any mistake made while interpreting?				

TRANSLATION REQUEST FORM

To be submitted to the interpreter supervisor/coordinator as soon as possible after identifying the need for translation

Requesting staff member	
Language pairs	
Deadline for the submission of translation	

Signature of the requesting staff member _____

INSTRUCTION ON EVIDENCE ASSESSMENT DURING EXAMINATION OF ASYLUM APPLICATIONS

I. CONTENT OF THE PROCEDURE

1. OBJECTIVE

The purpose of this Instruction is to set out common standards on evidence assessment in asylum procedures to be applied by the SMS staff examining asylum applications.

2. SCOPE

This Instruction shall be applied by the staff members of the Asylum Issues Division of the SMS when assessing evidence in asylum procedures..

3. REFERENCES

This Instruction is issued taking into account the requirements of the Law of the Republic of Armenia of 27 November 2008 on Refugees and Asylum and of the Law of the Republic of Armenia of 18 February 2004 on the Fundamentals of Administrative Action and Administrative Proceedings. This Instruction also reflects the standards contained in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, in UNHCR Note on Burden and Standard of Proof in Refugee Claims and in Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

II. DESCRIPTION OF THE PROCEDURE

4. TYPES OF EVIDENCE

4.1. In asylum procedures in particular, evidence may include, but is not limited to:

- Applicant's statement on the reasons for making an asylum claim
- Applicant's identity and travel documents including passports, if available (those should be checked for entry/exit stamps, visas, evidence of return to country of origin etc., both in order to confirm the applicant's immigration status and immigration history, and to compare this with his account of events)
- All documentation at the applicant's disposal regarding the person's age, background (including background details of relevant relatives), identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes
- Interview records
- Country of origin information (this may be submitted by *inter alia* the applicant, the applicant's legal representative, UNHCR, as well as researched by the SMS, see below at section 12)
- Other evidence submitted by the applicant in support of the claim, e.g. written statements, newspaper or internet articles, letters from relevant organisations, friends or family, police

- reports, medical or other expert reports
- Any other documents on file, e.g. political party membership cards
- Files relating to previous applications by the applicant or his/her relatives
- Witness evidence.

5. DUTY OF THE APPLICANT TO SUBSTANTIATE HIS/HER CLAIM

5.1. The applicant bears the responsibility to furnish evidence to substantiate the circumstances underlying his/her claim. If information concerning the applicant may be obtained exclusively from the applicant, the burden of proof lies on the applicant with respect to that information.

5.2. The applicant does not have to prove each material fact with documentary or other evidence. What the applicant presents in writing and verbally at the asylum interview may be the primary evidence in support of the claim.

5.3. The duty to produce evidence in order affirmatively to prove the alleged facts is termed “burden of proof”. The burden of proof is discharged by the applicant who renders a truthful account of facts relevant to the claim so that, based on the facts, a proper decision may be reached. It is possible to substantiate a claim and satisfy the burden of proof when unable to provide independent, corroborative evidence about past and present events, where a coherent and plausible account, not contradicted by available objective information relevant to the claim is provided. For example, an applicant does not have to provide medical or other evidence of past torture for a claim that torture took place to be accepted.

5.4. Examples of situations where the applicant may be considered as not having discharged the burden of proof may include the following:

- failure without reasonable explanation to produce evidence that may be reasonably expected to be at the applicant’s disposal;
- failure without reasonable explanation to answer a question asked by the staff member;

5.5. Although the onus is on the applicant to provide a reasonable explanation for failing to produce evidence (including oral testimony), the staff member conducting the asylum interview and assessment will have to assess whether any explanation given is reasonable in all the circumstances of the case. If the applicant gives a reasonable explanation, the applicant will be considered as having discharged the burden of proof. A reasonable explanation must itself be believable.

5.6. The question of what constitutes a reasonable explanation is not one to which it is possible to give an exhaustive answer. What is reasonable in one case may not be reasonable in another, but the following may be reasonable explanations for failing to present documentary evidence or oral testimony:

- Cases where an adult is traumatised or where cultural norms may make it difficult for a person to answer questions at interview.
- Cases where the applicant’s age, medical condition or a disability may affect his/her capacity to provide a detailed explanation
- Situations where a person explains that a document was destroyed or left in the country of origin or somewhere else for valid reasons.
- Where the document has been lost or stolen and the individual can substantiate such a claim.

5.7. An applicant who fails to co-operate should be reminded that non-compliance may affect the assessment of the claim. This includes, for example, a failure to address the question asked as well as a refusal to speak at all. But care should be taken to ensure that the failure did not arise from a misunderstanding or a failure by the official to ask appropriate questions. Reasonable steps must be taken to ensure that the applicant understands what is required. Staff members are expected also to follow and be trained on the SOPs related to working with interpreters in the asylum procedure.

5.8. According to Article 43 of the Law of the Republic of Armenia on the Fundamentals of Administrative Action and Administrative Proceedings, the applicant bears the burden of proof only with respect to circumstances favourable for his/her claim. With respect to circumstances unfavourable

for the applicant, the burden of proof rests on the administrative body, unless the nature of the factual circumstances is such that the administrative body has no other avenues but the applicant to learn about them. Thus, if the staff member conducting RSD wishes to rely on this provision of the Law as a ground for shifting the burden of proof, the decision must explicitly state why the SMS was not or would not be able to learn about or check the relevant information from other sources but the applicant.

5.9 Staff members should undertake to explain these elements of the instruction pertaining to the burden of proof to the applicant. This should be done during initial counselling about the asylum procedure, at the start of an asylum interview and it may be repeated again during the interview.

6. DUTY OF THE DECISION-MAKER TO VERIFY AND EVALUATE THE EVIDENCE

6.1. Article 37 of the Law of the Republic of Armenia on Fundamentals of Administrative Action and Administrative Proceedings of 18 February 2004, explicitly provides that it is the duty of administrative bodies to conduct comprehensive, full and objective examination of the facts of a case by revealing all the circumstances of the case, including those favourable to the applicant.

6.2. The duty to ascertain and evaluate evidence to establish a claim is shared between the applicant and decision maker. It is for the staff member conducting RSD to test available evidence. This is achieved, to a large extent, by the adjudicator being familiar with the objective situation in the country of origin concerned and guiding the applicant in providing the relevant information and adequately verifying facts alleged which can be substantiated. Staff members should therefore endeavour to be well-prepared prior to undertaking the interview and assessment – see further para 12.4 below.

6.3. Article 10 of the Law of the Republic of Armenia on Fundamentals of Administrative Action and Administrative Proceedings particularly provides that if an administrative body has reasonable doubts as to the truthfulness of the information presented by the applicant, it shall be obliged to take steps on its own and at its own expense to verify the truthfulness of such information.

6.4 It is prohibited for a staff member to share information about the asylum seeker in an exchange of information from the authorities of the asylum-seeker's country of citizenship or previous habitual residence aimed to verify and assess the evidence. For instance, it is prohibited to request information from the asylum seeker's country of origin or diplomatic or consular office of the country of asylum-seeker's citizenship in the Republic of Armenia in order to verify the asylum seeker's identity, political affiliation, etc.

7. IDENTIFYING THE FACTS OF A CLAIM

7.1. A key element of the asylum decision-making process is to assess the validity of any evidence and the credibility of the applicant's statements about the applicant's profile and events past and present. Assessing credibility is not about making negative credibility findings and focusing on refusal. It is an objective assessment of material facts that go to the core of the claim.

7.2. In determining if an applicant is in need of protection, decision makers are required to consider which aspects of the account they accept and which they reject. By doing this, decision makers are assessing the credibility of an applicant's claim about past and present events. It should be a neutral assessment of the material facts that go to the core of the claim in which subjectivity should be kept to a minimum.

7.3. Evaluating whether an applicant is in need of international protection often requires decision-makers to decide whether they believe the applicant's evidence about these past and present events and how much weight to attach to that evidence bearing in mind the lower standard of proof required by asylum proceedings.

7.4. The decision-maker must first establish the facts of the claim before deciding whether an asylum claim is well-founded. Decision-makers need to take into account the following points in particular:

- i) all relevant past and current material facts as they relate to the country of origin or country of return at the time of taking a decision, including laws and regulations of the country of origin or country of return and the manner in which they are applied;

- ii) relevant statements and documentation presented by the person including information on whether the person has been in the past or may be subject in the future to persecution or serious harm;
- iii) the individual position and personal circumstances of the person, including factors such as background, gender and age, so as to assess whether, on the basis of the person's personal circumstances, the acts to which the person has been or could be exposed would amount to persecution or serious harm.

7.5. Staff members should understand what is a material fact in an asylum claim and be able to identify them in each case. A material fact goes to the core of a claim and is fundamental as to why an individual fears persecution. It is central to the decision. Examples of material facts may include an applicant's nationality, membership of a political party, religion or a particular social group, incidences of arrests and periods of detention, locations or episodes of violence at the hands of non-state agents. This list is not exhaustive and the material facts will depend on the nature of the claim for asylum. Decision-makers should note that what is important to the applicant, and what the applicant may emphasise during his/her interview, may not necessarily be material to the assessment of the claim. It is for the decision-maker to first identify all the claimed facts and to distinguish which facts are material to the claim and which are not.

7.6. Answers to the following questions will normally constitute material elements of the claim:

- Who – Key figures involved
- What – Key events
- Why – Reasons for the key events
- Where - locations and or context for key events
- When – timing of key events.

7.7. Nationality is always a material fact and will therefore need to be fully assessed. Furthermore, considering past events is an important aspect of assessing the claim because if an applicant has already been subjected to persecution or serious harm, or to direct threats of persecution or serious harm, decision makers should regard this as a serious indication of future harm, unless there are good reasons to suggest that such treatment will not be repeated.

8. MAKING FINDINGS OF FACT

8.1. When considering what to accept or reject, decision makers will have to consider facts supported by evidence which will inspire *varying degrees of confidence*.

8.2. The requirement of evidence should not be too strictly applied in view of the difficulty of proof inherent in the special situation in which an applicant for refugee status finds himself. It is hardly possible for a refugee to "prove" every part of his/her case.

8.3. Decision makers should not ignore facts which were in doubt (or uncertain) but rather consider that each fact should be assessed and attached the degree of confidence it deserves. Facts of the case should be looked at in the round and the attributed varying degrees of weight.

9. ASSESSMENT OF CREDIBILITY

9.1. Decision makers must consider the credibility of a claim in light of all available evidence relating to the claim. Assessing the credibility of a claim inevitably involves an element of subjectivity on the decision-maker's part. The danger is that a decision maker's subjective interpretation of a claim can lead to unfounded assumptions based not on objective information but on the individual decision maker's own experiences and beliefs, undermining the balance and fairness of an assessment.

9.2. Such subjective decision-making may be minimised by breaking down the assessment of each material claimed fact by considering internal credibility, external credibility and the benefit of the doubt⁴. Findings should be based on the facts of the case and clear reasons provided for deciding which facts to accept or reject based on whether a fact is plausible, coherent and consistent with the available evidence.

4 Staff members can ask for advice from supervisor and UNHCR to see sample assessments.

9.3. Decision-makers should never use speculation to reject a material fact. Decision-makers must avoid conclusions based on how they believe the applicant or a third party ought to have behaved since after all this is a matter of personal opinion, which is heavily influenced by different backgrounds and cultures. Decision-makers should base their findings on the facts of the case and decide which facts to accept or reject based on the internal and external credibility of the claim. The subsequent decision should set out the decision maker's reasoning behind the conclusions.

9.4. Credibility assessment, as a first stage of the two staged process of deciding a refugee claim (assessment of well-foundedness of the fear being the second stage) must be carried out in a structured manner where each material element of the claim is assessed based on the following indicators:

- sufficiency of detail and specificity
- internal consistency of oral and written information provided by the applicant, including documents
- consistency of the applicant's statements with information provided by family members / witnesses
- consistency with COI
- plausibility.

Sufficiency of detail

9.5. The level of detail with which an applicant sets out a claim about the past and present is a factor which may influence a decision maker when assessing internal credibility. It is reasonable to expect, subject to mitigating circumstances, that an applicant will, with respect to an experience that occurred to him/her, be more expressive and include sensory details such as what they saw, heard, felt or thought about an event, than someone who has not had this experience. Notwithstanding any mitigating circumstances, it is a reasonable expectation for an applicant to recount an event to the level of detail that can be reasonably expected of an individual who has experienced the claimed event.

Inconsistencies and mitigating circumstances

9.6. It is reasonable to expect that an applicant who has experienced an event will be able to recount the central elements in a broadly consistent manner. An applicant's inability to remain consistent throughout both written and oral accounts of past and current events may lead the decision maker not to believe the claim. It is important that any inconsistencies in the claim are put to the applicant during the interview so they have an opportunity to explain.

9.7. Decision-makers must be aware of and take into account, the profile of the applicant. This is relevant both in assessing the level of knowledge they can reasonably be expected to have and the effect other factors such as age, gender, social background and underlying medical or psychological factors will have on the applicant's ability to recall certain facts. For example, the more active the applicant claimed to be in a political party the greater the expectation that they would be able to provide more detailed information.

9.8. Any explanation given should then be acknowledged and considered in the overall assessment of internal credibility.

9.9. In assessing the internal credibility of a claim, decision-makers should be aware of any mitigating reasons why an applicant is incoherent, inconsistent and unable to provide detail, or delays in providing details of material facts. These reasons should be taken into account when considering the credibility of a claim and must be included in the reasoning given in the subsequent decision. Factors may include the following (the list is not exhaustive): age; gender; mental health issues; mental or emotional trauma; fear and/or mistrust of authorities; feelings of shame; painful memories particularly those of a sexual nature and cultural implications. It is also important to consider whether a particular line of questioning by the interviewer was reasonable. Interpretation issues should also be taken into account if relevant.

9.10. In making a credibility assessment, decision-makers must not be influenced by subjective factors, for example if the applicant appears nervous or fearful at the interview, or entirely calm and rational. Instead they should be sensitive to the gender and cultural norms which may affect an applicant's demeanour.

Consistency of the material facts with objective evidence

9.11. Material facts should be consistent with generally known facts and country of origin information. The decision maker is required to conduct research into the applicant's country of origin to assess whether claims about past and present events are consistent with objective country information.

9.12. At this stage the research is not to assess the likelihood of future persecution but to consider whether the material facts are consistent with reality in the country of origin. Although the same evidence may be used at a later point to assess any future risk, consideration at this stage should be confined to the assessment of past and present events. The greater the correlation between the external evidence and aspects of the applicant's account, the greater the weight decision-makers should attribute to those aspects.

9.13. Where there is objective country information to support the applicant's account of a past or present event, and the applicant's account is internally consistent, the material fact may be accepted by the decision maker. However where there is *objective* and *balanced* country information that *clearly* contradicts the material facts, this is likely to result in a negative credibility finding.

9.14. There may be instances where a lack of objective country information results in the decision-maker being unable to make a finding on whether a past or present event described by the applicant occurred as claimed. The absence of objective country information to support a material fact does not necessarily mean that an incident did not occur. Much will depend on the scale of the incident, the country situation and the ability of the media or other organisations to report the incident. If the past or present event is material to the claim, a decision will have to be made as to whether the applicant should be given the benefit of the doubt on this aspect of his/her claim.

Consistency of the applicant's statements with information provided by family members / witnesses

9.15. Any inconsistency of the applicant's statements with that of other persons should be put to the applicant on a neutral, non-judgmental manner and an explanation shall be sought. The decision-maker will then have to assess the reasonableness of the explanations provided.

Plausibility

9.16. The plausibility of a fact is assessed on the basis of its apparent likelihood or truthfulness in the context of the general country information relevant to the applicant's country of origin and/or their own evidence. A negative credibility finding may not be based solely on the basis of implausibility. In order for a particular material claimed fact to be rejected because it is not plausible, it is not enough to simply say that the event could not have happened.

9.17. Claims made by an applicant that appear implausible to a decision maker may nonetheless be true, and may be plausible when seen in the context of the attitudes and conditions of the applicant's country of origin.

9.18. It is therefore important that where the decision maker finds any material fact implausible, the details are clarified at the interview.

General credibility and benefit of the doubt

10.1. A decision must be made whether to give the applicant the benefit of the doubt on each uncertain or unsubstantiated fact – this means that the decision-maker must come to a clear finding as to whether the fact can be accepted or rejected. The benefit of the doubt needs to be considered and applied appropriately to these uncertain facts when considering all the evidence in the round at the end of the credibility assessment. This means that the benefit of the doubt can only be considered after a finding on each and every of the material facts that are to be accepted or rejected has been made.

10.2. This is set out also in Article 10 of the Law of the Republic of Armenia on the Fundamentals of Administrative Proceedings and Administrative Action which states that evidence submitted by the person on the factual circumstances examined by the administrative body shall be considered as reliable unless otherwise proven by the administrative body.

10.3. Where aspects of the applicant's statements are not supported by documentary or other

evidence, those aspects will not need confirmation when all of the following conditions are met:

- (i) the person has made a genuine effort to substantiate his/her asylum claim;
- (ii) all material factors at the person's disposal have been submitted, and a satisfactory explanation regarding any lack of material has been given;
- (iii) the person's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the person's case.

10.4. The above-stated principles of adjudicating asylum claims are reflected also in Article 52(4) of the Law of the Republic of Armenia on Refugees and Asylum which particularly states that *insufficiency of evidence may not serve as a ground for not making a decision or for making a negative decision.*

11. STANDARD OF PROOF IN ESTABLISHING WELL-FOUNDEDNESS OF THE FEAR OF PERSECUTION

The threshold

11.1. An applicant's fear of persecution should be considered well-founded if he/she can establish, to a reasonable degree, that his/her continued stay in his/her country of origin has become intolerable.

11.2. There is no requirement to prove well-foundedness of the fear conclusively beyond doubt, or even that persecution is more probable than not. **To establish "well-foundedness", persecution must be proved to be reasonably possible.**

Indicators for assessing well-foundedness of fear

11.3. While by nature, an evaluation of risk of persecution is forward-looking and therefore inherently somewhat speculative, such an evaluation should be made based on factual considerations which take into account the personal circumstances of the applicant as well as the elements relating to the situation in the country of origin.

11.4. The applicant's personal circumstances would include his/her background, experiences, personality and any other personal factors which could expose him/her to persecution. In particular, whether the applicant has previously suffered persecution or other forms of mistreatment and the experiences of relatives and friends of the applicant as well as those persons in the same situation as the applicant are relevant factors to be taken into account.

11.5. Relevant elements concerning the situation in the country of origin would include general social and political conditions, the country's human rights situation and record; the country's legislation; the persecuting agent's policies or practices, in particular towards persons who are in similar situation as the applicant, etc. While past persecution or mistreatment would weigh heavily in favour of a positive assessment of risk of future persecution, its absence is not a decisive factor. By the same token, the fact of past persecution is not necessarily conclusive of the possibility of renewed persecution, particularly where there has been an important change in the conditions in the country of origin.

12. USING COUNTRY OF ORIGIN INFORMATION

12.1. Using country information effectively is vital in ensuring that decisions are supported by up-to-date, accurate information, relevant to the individual claim. It is important to consider all the available evidence, avoiding selective or inappropriate use of COI, to reach an informed and well-reasoned decision.

12.2. Country information is sometimes the only other evidence (in addition to the applicant's statements) available in asylum cases. The Law of the Republic of Armenia on Refugees and Asylum (Article 52(3)) also requires the use of country information in decisions on asylum claims. However, even though useful country information is now widely available due to the development of information technology and the growing attention to this issue, it also has strong limitations. It should be kept in mind by the decision makers that:

- COI cannot reflect the entire reality in countries of origin: the vast majority of events and facts remain unreported even today;
- All sources of COI have an inherent bias, therefore while there are a number of sources considered

- as objective, 100% objectivity does not exist in reality;
- Even the most precise and detailed country information report is somewhat general, as compared to the usually highly individual character of an asylum claim;
 - COI is not a lie detector: it provides the wider context for the assessment of an asylum claim, yet it cannot tell conclusively whether the applicant is truthful, neither can it decide whether the claim is well-founded.

12.3. The role of COI is to corroborate, question or put into context the applicant's statements and other evidence.

12.4. The key to using COI effectively is good preparation. In the decisions on asylum claims, COI needs to be focused and case specific. It should not be used selectively and decision-makers must not draw adverse inferences from it. Decision makers must ensure that the relevance of the COI used is clearly explained by looking at the information in the round. Due consideration must be given and appropriate weight applied to the evidence as it relates to the claim and the overall credibility of the claim and it is unnecessary to quote large amounts of general COI to illustrate „background". Only COI which is relevant to the case being considered should be used. It must not be used out of context. For example, quotations must not be taken at face value but must be considered in light of the background information pertaining to the case.

12.5. Decision makers shall use a checklist (*Annex 1*) to satisfy themselves that the COI as used in the RSD assessment and decision meets all the applicable quality standards.

12.6 While it is recommended to have in place a dedicated unit or staff member responsible for undertaking COI research, all staff members involved in RSD must be trained in research and evaluation of COI. Refresher COI training sessions should be organised at least once per year. Staff members should also have access to and be familiar with the ACCORD manual⁵.

13. ASSESSING DOCUMENTARY EVIDENCE

13.1. When considering what weight it would be appropriate to attach to documents submitted in support of the claim, decision-makers must bear in mind that the burden of proof is upon the applicant to show that documentary evidence submitted can be relied upon. However, it is for the decision-maker to consider whether a document is one on which reliance should properly be placed after looking at all the evidence in the round. In practice, this means that documentation submitted as evidence should not be considered in isolation from other pieces of evidence that go towards establishing the particular material fact to which it is intended to support as well as other elements of the credibility assessment.

13.2. Therefore a decision-maker should not consider documents in a separate paragraph from the material fact to which the document relates. They should be assessed in the same way as any other piece of evidence, including taking into account the credibility of other material aspects of the account and the general credibility of the applicant. It is not appropriate for a decision-maker to attach no weight to a document submitted in support of a claim without giving clear reasons for reaching this finding based on the available evidence – i.e. either sourced objective country information regarding authenticity or findings made regarding the applicant's general credibility.

13.3. If it is not possible to determine the authenticity of a document, the general credibility of the claim and any information in the relevant country of origin information report about the standards of documentation in that country should be taken into account. COI reports often contain guidance and advice about the prevalence and accessibility of forged documents.

13.4 Where the decision-maker concludes that a document is not authentic, the decision-maker should confront the applicant with this assessment and request an explanation (see above under section 9 for further guidance).

⁵ Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), *Researching Country of Origin Information: Training Manual*, October 2013, available at: <http://www.refworld.org/docid/5273a56b4.html>

14. MEDICAL EVIDENCE SUBMITTED IN SUPPORT OF THE CLAIM

14.1. Reports by professionally qualified clinicians and submitted by an applicant or their representative (providing details of their qualifications, experience and relevant training have been provided) that support a claim to have been tortured or subjected to serious harm, should be given appropriate weight in the decision. It should be noted that medical evidence cannot conclude that the applicant has been tortured. The limitation of medical evidence means that such expertise may be able to conclude only that the trauma/injuries suffered are consistent with the account of torture. It is not the role of decision-makers to make clinical judgments of their own about medical evidence or on medical matters generally. For example, it would be inappropriate to dismiss a claim regarding a medical condition simply because the applicant was unable to recall the name of their medication at interview.

15. CONTROL OVER THE IMPLEMENTATION OF THE PROCEDURES

Control over the actions defined by this procedure is implemented by the Head of SMS and the Head of Asylum Division of SMS in the framework of their authority.

16. CONCLUDING PROVISIONS

16.1 This procedure is provided to the SMS staff members who are working in the area of the standardized procedure.

16.2 This procedure is a subject for a review in the case of organizational, structural and legislative changes.

16.3 In case of absence of relevant staff members, this procedure, as well as any changes to be carried out shall be implemented by the latter's alternates.

16.4 The Head of the Asylum Issues Division and staff members of the Division can make proposals aimed at reviewing this procedure.

16.5 The Head of SMS can review this procedure on his own initiative.

16.6 This procedure shall be implemented as of 1 January 2014.

COUNTRY OF ORIGIN INFORMATION CHECKLIST

RELEVANCE AND ADEQUACY OF THE INFORMATION

- How relevant is the COI to the case in hand?
- Does the COI source adequately cover the relevant issue(s)?
- How current or temporally relevant is the COI?

SOURCE OF THE INFORMATION

- Is the COI material satisfactorily sourced?
- Is the COI based on publicly available and accessible sources?
- Has the COI been prepared on an empirical basis using sound methodology?

NATURE / TYPE OF THE INFORMATION

- Does the COI exhibit impartiality and independence?
- Is the COI balanced and not overly selective?

PRIOR JUDICIAL SCRUTINY

- Has there been judicial scrutiny by national courts of the COI in question?

For further guidance, see Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), *Researching Country of Origin Information: Training Manual*, October 2013, available at: <http://www.refworld.org/docid/5273a56b4.html>

STANDARD OPERATING PROCEDURE ON MANAGEMENT OF INDIVIDUAL FILES RELATED TO THE ADMINISTRATIVE PROCEDURES OF GRANTING (CEASING, CANCELLING) REFUGEE STATUS

1. OBJECTIVE

The purpose of this Standard Operating Procedure (SOP) is to standardize the process of managing files related to the administrative procedures of granting (ceasing, cancelling) refugee status (hereafter referred to as 'individual RSD files' or 'files') by the Asylum Issues Division of the State Migration Service (SMS). This SOP is particularly issued to achieve the following objectives:

- Rational and internal organization of individual RSD files
- Efficient filing and retrieval of individual RSD files and information
- Regulated access to individual RSD files and respect for confidentiality of information
- Secure physical storage of individual RSD files to prevent loss or damage
- Efficiency and integrity in RSD procedures conducted by SMS.

2. SCOPE

This SOP shall be applied by the staff members of the Asylum Issues Division and Legal Division of SMS as well as any other person authorized by law to have access to individual RSD files maintained by SMS.

3. REFERENCES

This SOP is issued taking into account the requirements of the 2008 Law of the Republic of Armenia on Refugees and Asylum, the 2004 Law of the Republic of Armenia on Fundamentals of Administrative Action and Administrative Proceedings as well as the Decree of the Government of the Republic of Armenia No. 975-N of 25 June 2004 on approving the model procedure setting out the manner and conditions for managing files related to administrative procedures, their logbooks and logbooks of administrative acts. This SOP also reflects the standards relating to RSD file management contained in UNHCR Procedural Standards for Refugee Status Determination under UNHCR's Mandate.

4. GENERAL REQUIREMENTS

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

4.2. All documents should be filed in **chronological order**, based on the date they were generated or received in the SMS, with the most recent pages being added to the top of the file. All pages should be numbered as they are added to the file.

5. PROCEDURES FOR OPENING INDIVIDUAL RSD FILES

5.1. An individual RSD file should be opened for each Principal Applicant for RSD as soon as an administrative procedure is initiated, to ensure that all documents and developments relating to the Principal Applicant are duly recorded and retained on the individual RSD file. Where more than one member of the same household apply for refugee status as Principal Applicants, a separate linked individual RSD file should be opened for each Principal Applicant.

5.2. As a general rule, documents and developments relating to individuals who are applying for derivative refugee status as family members/dependants of a Principal Applicant should be recorded and retained on the individual RSD file of the Principal Applicant. Where there is more than one

Principal Applicant in a family unit, clear linkage of files will avoid unnecessary duplication of documents on individual RSD files. A separate linked individual RSD file may be opened for family members/dependants of the Principal Applicant, at any time in the RSD processing, where this would serve to promote efficiency, confidentiality or other protection standards in processing the Applicants' claims, for example if family members present a claim of their own or if exclusion considerations are triggered with regard to one family member only. Such separation of files shall be undertaken should (i) the Principal Applicant depart from Armenia leaving other family members behind; (ii) the family be separated; or (iii) spouses be divorced.

5.3. The individual RSD files opened and maintained by the Asylum Unit shall be divided into two main groups:

- a) files relating to administrative procedures initiated upon an application by an individual
- b) files relating to administrative procedures initiated at the initiative of SMS.

Different file numbering systems, as described below, shall be applied to these two types of files and they shall be stored separately.

5.4. An individual RSD file should contain a copy of all records, in chronological order, received or produced by SMS regarding Applicants, including Applicants for derivative status.

The individual RSD File (non-exhaustive list)

- The Application Form of the Principal Applicant
- The Application Form of each accompanying adult family member/dependant who is applying for derivative refugee status
- Photographs of the Principal Applicant and each accompanying Applicant for derivative status
- Copies of all identity documents and other supporting documents
- All notes/records by staff members regarding the Applicant(s), including records of conversations/meetings/counseling with the Applicant(s) or third parties
- Records of any referrals made and follow-up actions taken
- All correspondence relating to the Applicant(s)
- Relevant medical information
- Accounts of all formal decisions taken in the processing of the claim
- Copies of documents issued by SMS to the Applicant(s)
- Copies of notifications issued to the Applicant
- All evidence obtained by SMS or provided by the Applicant
- Contact information for the Applicant (if different from the one indicated in the Application Form)
- RSD assessment form
- All checklists and forms used/completed during the procedure as provided for by SOPs approved by the Head of SMS
- Appeals filed by the Applicant against acts/inaction of SMS
- Judicial acts issued with respect to the Applicant

5.5. An individual RSD file shall also contain a note indicating whether the responsible staff member has seen the originals of ID documents or if copies of ID documents were all the Applicant presented.

The note on the ID document(s)

- Example 1: *'Copy of birth certificate on file; original examined and returned to the Applicant.'*
- Example 2: *'Copy of birth certificate on file; original not available.'*
- Example 3: *'Copy of birth certificate on file; Applicant attempting to get original sent to him/her.'*

If the ID document presented by the Applicant is fraudulent and has been confiscated, the note on the ID document(s) should also note that the copy of the ID on file relates to a document that is not genuine and has been confiscated.

5.6. Each file should also include a File Action Sheet (*Form 1*), which should be used by SMS staff to

record a brief description of any activity relating to the processing of the claim, the date of the action, and the staff member involved.

The File Action Sheet should record:

- Interviews and appointments with, or relating to, the Applicant(s)
- All decisions taken by SMS regarding the status or entitlements of the Applicant(s)
- Documents issued by SMS to the Applicant(s), including the date and manner of issuance
- The date of filing of appeal applications by the Applicant
- Date/time of telephone calls or other communications, including copies of emails and responses, sent or received in relation to the Applicant

6. INDIVIDUAL RSD FILE NUMBERING AND ORGANIZATION

6.1. Each individual RSD file shall be given a consecutive number by increasing integers, for a given year, encompassing files relating to administrative procedures initiated from 1 January till 31 December of the given year.

File number shall be comprised of the following:

- a letter conditionally indicating the source of initiation of the procedure (upon application or at the initiative), with the letter 'D' assigned to files relating to procedures initiated upon application and letter 'N' assigned to files relating to procedures initiated at the SMS initiative;
- letter 'A' which is to indicate that the file relates to administrative procedures with respect to asylum;
- the year the file is opened;
- the consecutive number with Arabic figures.

Elements of a file number shall be separated by hyphens.

- Example 1: D-A-15-1
- Example 2: N-A-15-2

6.2. Individual RSD files shall have a cover page which shall contain the following data:

State Migration Service of the Ministry of Territorial Administration and Emergency Situations
Asylum Issues Division
[Year the procedure was initiated]
Administrative procedure: file N [file number]
[Brief title of the administrative act to be adopted:] (e.g. 'decision to grant or to refuse refugee status')
Related file(s):

6.3. At the right bottom corner of the cover page of the file, the name of the staff member in charge of the file, his/her position as well as the date of opening and closing the file shall be recorded.⁶

6.4. All individual RSD files as well as administrative acts adopted as a result of administrative

6 An administrative procedure is deemed initiated on the basis of an application by a person from the moment the application is received in the administrative body, while an administrative procedure at the initiative of the administrative body is deemed initiated from the moment the body starts the actions aimed at the adoption of an administrative act. (Article 30 of the Law of RA on Fundamentals of Administrative Action and Administrative Proceedings).

The date of closing the file shall be the date when a decision on substance of the claim was adopted or the procedure was terminated (Articles 50 and 58 of the RA on Fundamentals of Administrative Action and Administrative Proceedings).

procedures shall be registered in respective registries pursuant to the model and procedures set out in sections III and IV of the Decree of the Government of the Republic of Armenia No. 975-N of 25 June 2004 on approving the model procedure setting out the manner and conditions for managing files related to administrative procedures, their logbooks and logbooks of administrative acts.

6.5. Administrative acts adopted as a result of RSD procedures shall be assigned a number by increasing integers, for a given year, encompassing decisions adopted from 1 January till 31 December of the given year.

Number of an administrative act shall be comprised of the following:

- a letter (combination of letters) conditionally indicating the type of the adopted decision, with the letter 'B' assigned to decisions granting asylum, letter 'M' assigned to decisions refusing to grant asylum, letter 'D' assigned to decisions terminating refugee status, letter 'Ch' assigned to decisions canceling refugee status, letters 'Ks' assigned to decisions suspending asylum procedures and letters 'Kch' assigned to decisions terminating asylum procedures;
- letter 'A' which is to indicate that the decision was adopted as a result of administrative procedures with respect to asylum;
- the year the decision is issued;
- the consecutive number with Arabic figures.

Elements of the number shall be separated by hyphens.

- Example 1: B-A-15-1
- Example 2: M-A-15-2
- Example 3: D-A-15-3
- Example 4: Ch-A-15-4
- Example 5: Ks-A-15-5
- Example 6: Kch-A-15-6

7. STORAGE OF AND ACCESS TO INDIVIDUAL RSD FILES

7.1. All individual RSD files shall be kept in a locked filing cabinet located in the office of the Asylum Issues Division with the key of the cabinet being available with the Head of the Asylum Unit and with the staff member of the Unit designated by the Head to oversee the implementation of individual RSD file management procedures (see below section 9). These keys should be stored in a secure location by the responsible staff member and access to it is to be strictly limited.

7.2. Files with respect to which an appeal has been lodged shall be stored separately from the ones with respect to which no appeal has been lodged. To facilitate retrieval, files shall be stored by grouping them as per the applicants' countries of origin.

7.3. All staff members of the Asylum Issues Division registering and/or examining asylum claims as well as staff members of the Legal Unit of SMS engaged in appeal procedures shall have access to individual RSD files. Other staff members of SMS temporarily assigned tasks in the Asylum Unit as well as staff members undergoing training under the direct supervision of the SMS Asylum Unit may be given access to individual RSD files upon the authorization of the Head of SMS. Access to files, under no circumstances, shall be granted to any person other than the relevant and properly authorized staff member. The Applicants (their duly authorized representative/counsel) shall have the right to request and study their own files in the office of the Asylum Unit as well as make copies from it, unless any restrictions set out by the legislation of the Republic of Armenia apply.⁷ UNHCR regular and affiliated staff shall, in the exercise of their supervisory functions under Article 35 of the 1951 Convention relating to the Status of Refugees, enjoy access to the SMS individual RSD files. UNHCR Partner staff engaged in procedural and legal counseling of individual cases and having been explicitly authorized by UNHCR shall have access to SMS individual RSD files, should the asylum-seeker not have explicitly

7 See, in particular, 2003 Law of the Republic of Armenia on Freedom of Information.

objected to such access (see *Form 2* to be completed by the asylum-seeker at the initial registration/profiling interview). .

7.4. A sheet (*Form 3*) recording movement of individual RSD files out of the filing cabinet shall be posted on the cabinet and kept up-to-date. The name of every staff member who removes a file must be recorded in the sheet, together with the date the file is removed and returned. Transfers of files between staff members should also be noted in the sheet.

7.5. To avoid loss, misfiling of documents or breach of the principle of confidentiality, staff should, as a general rule, not remove documents or sections of documents from individual RSD files.

7.6. Where a properly authorized staff member has removed a file from the filing cabinet, he/she shall ensure that the file is properly maintained and stored securely and that it is duly returned to the filing cabinet when the action in relation to the file has been completed.

7.7. Under no circumstances are staff members to take files, parts of files, or photocopies of files from the office of SMS for any reason whatsoever, unless the transmission of files or copies of files is required for the purposes of properly authorized processing in relation to that file by the staff members of the Asylum and/or Legal Units of SMS and the advance permission of the Head of the SMS has been obtained.

8. STORING AND ARCHIVING CLOSED INDIVIDUAL RSD FILES

8.1. Three months following entry into force of a final decision with respect to a claim, the individual RSD file shall be archived after being bound and stamped with the SMS stamp. The bound part shall bear the signature of the staff member responsible for the file as well as the date.

8.2. The archived individual RSD files shall be kept in a secure and safe area, under lock at all times, with the key available with the Head of the 'Computer Centre' State Non-Commercial Organization. Requirements set out in section 7 above shall apply to management of archived files as well.

9. SUPERVISION AND OVERSIGHT OF INDIVIDUAL RSD FILE MANAGEMENT

9.1. The Head of the Asylum Issues Division shall designate a staff member of the Unit who should oversee the implementation of file management procedures.

Oversight responsibilities for individual RSD file management include:

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

9.2. The staff member responsible to oversee the management of individual RSD files shall undertake regular checks to ensure that files held by staff members in their offices are properly stored in a closed cabinet and/or a closed and secure place, and maintained according to the standards laid down in this SOP. Files should, under no circumstances, be kept in an open area. Access to files, under no circumstances, shall be granted to any person other than the relevant and properly authorized staff member.

9.3. The staff member who is responsible to oversee individual RSD file management should regularly report to the Head of the Unit any problems with management of individual RSD files that may affect the fairness or efficiency of RSD, who should be responsible to direct and monitor the effectiveness of measures to address the problem.

9.4. The Head of the Asylum Unit shall, following the end of each year, by March of the following year, verify the condition of observance of the procedures for management of individual RSD files, their registry and registry of administrative acts, shall study and analyze the reasons for any shortcomings/ omissions, take relevant measures aimed at remedying the shortcomings and submit a report to the Head of SMS on such measures taken.

10. CONCLUDING PROVISIONS

10.1 This procedure is provided to the SMS staff members who are working in the area of the standardized procedure.

10.2 This procedure is a subject for a review in the case of organizational, structural and legislative changes.

10.3 In case of absence of relevant staff members, this procedure, as well as any changes to be carried out shall be implemented by the latter's alternates.

10.4 The Head of the Asylum Issues Division and staff members of the Division can make proposals aimed at reviewing this procedure.

10.5 The Head of SMS can review this procedure on his own initiative.

10.6 This procedure shall be implemented as of 1 January 2014.

CONSENT FORM

Do you agree to the participation of a representative of UNHCR in interviews conducted with you by a staff member of the State Migration Service of the Ministry of Territorial Administration and Emergency Situations of the Republic of Armenia as well as to the provision of the copies of the documents in your individual file to UNHCR?

Yes _____ No _____

Signature

Name, patronymic, surname

Date

INSTRUCTION ON EXAMINING RELIGION-BASED ASYLUM CLAIMS

1. OBJECTIVE

The purpose of this Instruction is to set out common basic standards applicable in examination of religion-based asylum claims by the State Migration Service (SMS). This Instruction is particularly issued to promote consistency, coherence and fairness in the treatment of religion-based refugee claims. While this Instruction does not purport to offer a definitive definition of “religion”, and may in no cases be considered conclusive as to the merits of any particular claim to refugee status, it provides decision-makers with guiding parameters to facilitate refugee status determination in such cases. Each claim requires examination on its merits on the basis of the individual’s situation.

2. SCOPE

This Instruction shall be applied by the staff members of the Asylum Issues Division of the SMS as well as by any other official when examining refugee claims based on religion. Decision-makers shall be obliged to follow the standards set herein as far as the particular circumstances of each individual case allow. Staff members shall not attempt to decide a religion-based asylum application until they have read and understood the guidelines contained in this Instruction. Training on the contents of the instruction will be offered to staff members on an annual basis or more often if required.

3. REFERENCES

This Instruction is issued taking into account the requirements of the 1951 Convention relating to the Status of Refugees, 1948 Universal Declaration of Human Rights, 1966 International Covenant on Civil and Political Rights and the Law of the Republic of Armenia of 27 November 2008 on Refugees and Asylum. This Instruction also reflects the standards contained in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and in UNHCR Guidelines on International Protection No.6 on Religion-Based Refugee Claims under Article 1(A)(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees.

In determining religion-based claims, it is therefore useful, inter alia, to draw on Article 18 of the 1948 Universal Declaration of Human Rights and Articles 18 and 27 of the 1966 International Covenant on Civil and Political Rights. Also relevant are the General Comments issued by the UN Human Rights Committee⁸ as well as the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, and the body of reports by U.N. Special Rapporteurs.

4. BASIC CONSIDERATIONS TO BE TAKEN INTO ACCOUNT DURING EXAMINATION OF RELIGION-BASED CLAIMS

Defining ‘religion’

4.1. No universally accepted definition of “religion” exists, but the instruments mentioned in section 3 above inform the interpretation of the term “religion” in the international refugee law context.

⁸ See, in particular, Human Rights Committee, General Comment No. 22 on Article 18 ICCPR, adopted 20 July 1993, UN doc. CCPR/C/21/Rev.1/ADD.4, 27 September 1993

4.2. As with the other Convention grounds, it is the perception of the agents of persecution that is key. An applicant can be persecuted on the basis of imputed as well as actual religious beliefs.

4.3. The use of the term 'religion' in the 1951 Convention can be taken to encompass freedom of thought, conscience or belief. 'Religion' is not limited to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. It also broadly covers acts of failing or refusing to observe a religion or to hold any particular religious belief.

4.4. Claims based on religion may involve one or more of the following elements:

- a) religion as belief (including non-belief);
- b) religion as identity;
- c) religion as a way of life.

4.5. "Belief", in this context, should be interpreted so as to include theistic, nontheistic and atheistic beliefs. Beliefs may take the form of convictions or values about the divine or ultimate reality or the spiritual destiny of humankind. Claimants may also be considered heretics, apostates, schismatic, pagans or superstitious, even by other adherents of their religious tradition and be persecuted for that reason.

4.6. "Identity" is less a matter of theological beliefs than membership of a community that observes or is bound together by common beliefs, rituals, traditions, ethnicity, nationality, or ancestry. A claimant may identify with, or have a sense of belonging to, or be identified by others as belonging to, a particular group or community.

4.7. For some individuals, "religion" is a vital aspect of their "way of life" and how they relate, either completely or partially, to the world. Their religion may manifest itself in such activities as the wearing of distinctive clothing or observance of particular religious practices, including observing religious holidays or dietary.

Well-founded fear of persecution: general considerations

4.8. Applying the same standard as for other Convention grounds, religious belief, identity, or way of life can be seen as so fundamental to human identity that one should not be compelled to hide, change or renounce this in order to avoid persecution.

4.9. The right to freedom of religion includes the freedom to manifest one's religion or belief, either individually or in community with others and in public or private in worship, observance, practice and teaching.

4.10. Well-founded fear need not necessarily be based on the applicant's own personal experience. While personal experience of any form of persecution based on religion is a strong indicator of the well-foundedness of the fear, establishment of such personal experience is not a necessary precondition to establish well-foundedness of the fear, in particular if patterns of persecution are observed. What happened to the claimant's friends and relatives, other members of the same religious group, that is to say to other similarly situated individuals, may well show that his/her fear that sooner or later he/she also will become a victim of persecution is well-founded.

Well-founded fear of persecution: restrictions on the exercise of religious freedom

4.11. The only circumstances under which the freedom of religion may be restricted are set out in Article 18(3) of the International Covenant on Civil and Political Rights (ICCPR). It permits restrictions on the freedom to manifest one's religion or beliefs if these limits 'are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.' Thus restrictions considered lawful under Article 18(3) of ICCPR do not constitute persecution.

4.12. Permissible restrictions or limitations could include measures to prevent criminal activities (for example, ritual killings), or harmful traditional practices and/or limitations on religious practices injurious to the best interests of the child, as judged by international law standards. Another justifiable restriction could involve the criminalisation of hate speech, including when committed in the name of religion. Thus prosecution for religiously motivated crimes does not constitute persecution unless the strict threshold of persecution by way of prosecution is passed (e.g. due to disproportionate sanctions).⁹

4.13. In determining whether restrictions or limitations rise to the level of persecution, the decision-

⁹ For more guidance on this, see UNHCR Handbook, paragraphs 56-60.

maker must not only take into account international human rights standards, including lawful limitations on the exercise of religious freedom, but also evaluate the breadth of the restriction and the severity of any punishment for noncompliance. The fact that a restriction on the exercise of a religious freedom finds the support of the majority of the population in the claimant's country of origin and/or is limited to the manifestation of the religion in public is irrelevant. Prohibition of a religion by a State enforced by serious sanctions constitutes persecution. Measures (violence, arbitrary arrest, denial of access to livelihood or other serious human rights violations etc.) exercised by a State with a view to force an individual denounce, renounce or change his/her religion are also persecutory in nature. So is violence or threat of violence exercised by non-State actors to 'sanction' membership in a certain religion or to force an individual to denounce, renounce or change his/her religion, where no effective protection is offered by the State against such measures.

4.14. The importance or centrality of the practice within the religion and/or to the individual personally is also relevant. The decision-maker should proceed cautiously with such inquiries, taking into account the fact that what may seem trivial to an outsider may be central to the claimant's beliefs.

4.15. Where the restricted practice is not important to the individual, but important to the religion, then it is unlikely to rise to the level of persecution without additional factors. By contrast, the restricted religious practice may not be so significant to the religion, but may be particularly important to the individual, and could therefore still constitute persecution on the basis of his or her conscience or belief. The more central the act, or the more important to the individual, the more likely that limitations or restrictions upon it rise to the level of persecution.

Well-founded fear of persecution: discrimination

4.16. Religion-based claims often involve discrimination. Examples of discrimination amounting to persecution would include, but are not limited to, discrimination with consequences of a substantially prejudicial nature for the person concerned, such as serious restrictions on the right to earn a livelihood, or to access normally available educational institutions and/or health services. This may also be so where economic measures imposed "destroy the economic existence" of a particular religious group.

4.17. An additional factor that should be considered is whether the discriminatory measures have the effect of seriously limiting the individual from fulfilling his or her human potential (i.e., where an individual is able to earn a livelihood, but does so in a situation of being consigned to menial work regardless of higher qualifications).

Well-founded fear of persecution: conscientious objection

4.18. A number of religions or sects within particular religions have abstention from military service as a central tenet and a significant number of religion-based claimants seek protection on the basis of refusal to serve in the military. In countries where military service is compulsory, failure to perform this duty is frequently punishable by law. Moreover, whether military service is compulsory or not, desertion is invariably a criminal offence.

4.19. Where military service is compulsory, refugee status may be established if the refusal to serve is based on genuine political, religious, or moral convictions, or valid reasons of conscience. Such claims raise the distinction between prosecution and persecution.¹⁰

Procedural issues: credibility

4.20. Decision-makers need to be objective and not arrive at conclusions based solely upon their own experiences, even where they may belong to the same religion as the claimant. General assumptions about a particular religion or its adherents should be avoided.

4.21. In assessing religion-based claims, decision-makers need to appreciate the frequent interplay between religion and gender, race, ethnicity, cultural norms, identity, way of life and other factors.

4.22. Detailed knowledge by the applicant of his/her religion does not necessarily correlate to the risk of persecution. Notwithstanding a lack of detailed knowledge, persecutors in the home country may consider the applicant to be an adherent of the disfavored or persecuted religion, and persecute

¹⁰ For more guidance on this see UNHCR Guidelines on International Protection No 10: Claims to Refugee Status related to Military Service within the context of Article 1(A)(2) of the 1951 Convention and or the 1967 Protocol relating to the Status of Refugees.

them as such.

4.23. Thus establishing sincerity of belief, identity and/or a certain way of life may not necessarily be relevant in every case. It may not be necessary, for instance, for an individual (or a group) to declare that he or she belongs to a religion, is of a particular religious faith, or adheres to religious practices, where the persecutor imputes or attributes this religion, faith or practice to the individual or group.

4.24. Thus examination or testing of the tenets or knowledge of the claimant's religion may not always be necessary or useful and should never be the only avenue of assessing a religion-based asylum claim. It can be the persecutor's perception about an individual's religion, which may not necessarily be identical to his/her beliefs, which triggers the persecutory measures and thus makes the fears to be of well-founded nature. In any case, knowledge tests need to take account of individual circumstances, particularly since knowledge of a religion may vary considerably depending on the individual's social, economic or educational background and/or his or her age or sex. For example, the individual may not be able to list the Ten Commandments or name the Twelve Imams, but may be able to indicate an understanding of the religion's basic tenets more generally.

4.25. A lack of knowledge may be explained by further research into the particular practices of that religion in the area in question or by an understanding of the subjective and personal aspects of the claimant's case. For instance, the level of repression against a religious group in a society may severely restrict the ability of an individual to study or practise his or her religion. Even when the individual is able to receive religious education in a repressive environment, it may not be from qualified leaders. Women, in particular, are often denied access to religious education. Individuals in geographically remote communities may espouse adherence to a particular religion and face persecution as a result, yet have little knowledge of its formal practices.

4.26. Eliciting information regarding the individual's religious identity or way of life will often be more appropriate and useful.

4.27. It should also be noted that a claimant's detailed knowledge of his or her religion does not necessarily correlate with sincerity of belief.

4.28. Greater knowledge may be expected, however, of individuals asserting they are religious leaders or who have undergone substantial religious instruction. It is not necessary for such teaching or training to conform fully to objectively tested standards, as these may vary from region to region and country to country, but some clarification of their role and the significance of certain practices or rites to the religion would be relevant. Even claimants with a high level of education or schooling in their religion may not have knowledge of teachings and practices of a more complex, formal or obscure nature.

Conversion post departure

4.29. Where individuals convert after their departure from the country of origin, this may have the effect of creating a *sur place* claim. The fact that a conversion is post-departure should not give rise to a presumption that the claim is fabricated. The decision-maker should make an inquiry into the applicant's past and present circumstances and carefully assess the genuineness of conversion, its underlying motives and whether the conversion has or may become known to the authorities of the country of origin or potential non-State persecutory actors. Under all circumstances consideration must be given as to the consequences of return to the country of origin and any potential harm that might justify refugee status or a complementary form of protection. In the event that the claim is found to be self-serving but the claimant nonetheless has a well-founded fear of persecution on return, international protection is required.

5. PREPARING FOR AN INTERVIEW OF A RELIGION-BASED CLAIM

5.1. In preparation of RSD interviews, the interviewer must familiarize himself/herself with relevant country of origin information about the claimant's religion in the country of origin. This includes information about the religion, how it is viewed by the state and society in general, any laws restricting the religion, any harms that result from restrictive laws or attitudes and actions of people in society as well as what protection, if any, is available. The interviewer should develop an understanding of what

triggers harm. For example, in some countries a religion may be banned outright. In others, people may practice their religion so long as they do not proselytize.

5.2. In light of the cultural and sociological complexities which inhere in defining a practice as a religion, or determining whether persecutors consider it as such, a decision-maker is encouraged to seek out the assistance of professionals with relevant expertise on the issue.

5.3. If the claimant claims that he/she is engaged in religious activity in Armenia, interviewers could consider the possibility of verifying such activities through leaders or members of the same faith community.

6. ISSUES TO BE EXPLORED DURING EXAMINATION OF RELIGION-BASED CLAIMS

6.1 A narrative form of questioning is recommended as it best focuses on the claimant's personal experience. Rather than questions on abstract beliefs, the claimant is asked about his concrete activities and experiences. The aim is to get the claimant to provide a detailed and coherent account of actions that have triggered past persecution or which will risk persecution in the future.

6.2. Open questions are recommended as they will allow the applicant to explain in a spontaneous manner what has happened to him and why he fears persecution if he returns to his country of origin. Open questions should be followed by closed questions so that once the claimant has referred to an experience through an open question, the examiner can extract the details of the claimant's experience that are relevant to refugee determination.

6.3. Questions to test the claimant's belief system or knowledge about his religion are not recommended as a reliable method to determine credibility. However, questions about the claimant's religious knowledge can be helpful as supplementary questions when factors cited by the claimant through narrative questioning make them relevant. For example, the claimant states that he attended Bible study at his church for many years. It would be appropriate to ask what was studied and what he/she learned.

6.4. The test remains whether he or she would have a well-founded fear of persecution on a Convention ground if returned. Regard should therefore be had as to whether the conversion/adoption (and concrete actions/inaction by the applicant in particular) may come to the notice of the authorities of the person's country of origin and how this is likely to be viewed by those authorities.

6.5. Relevant areas of enquiry include, but are not limited to, the following:

- Individual profile and personal experiences of the claimant, his or her religious belief, identity and/or way of life
- How he or she adopted/converted to the religion
- Motivation for adoption/conversion
- Any disaffection with the religion held previously, for instance, because of its position on gender issues or sexual orientation
- Place and manner of worship
- Rituals engaged in
- Impact of adoption/conversion on the individual's life
- Significance of the religion to the person
- Values he or she believes the religion espouses
- What effect the restrictions have on the individual
- Nature of his or her role and activities within the religion
- Religious activities outside the country of origin, including in Armenia
- Existence of corroborating evidence regarding involvement in and membership of the new religion
- Whether these activities have been or could be brought to the attention of the persecutor
- Whether they could result in treatment rising to the level of persecution (includes collecting information on the treatment of similarly situated persons).

7. CONTROL OVER THE IMPLEMENTATION OF THE PROCEDURES

Control over the actions defined by this procedure is implemented by the Head of SMS and the Head of Asylum Division of SMS in the framework of their authority.

8. CONCLUDING PROVISIONS

8.1 This procedure is provided to the SMS staff members who are working in the area of the standardized procedure.

8.2 This procedure is a subject for a review in the case of organizational, structural and legislative changes.

8.3 In case of absence of relevant staff members, this procedure, as well as any changes to be carried out shall be implemented by the latter's alternates.

8.4 The Head of the Asylum Issues Division and staff members of the Division can make proposals aimed at reviewing this procedure.

8.5 The Head of SMS can review this procedure on his own initiative.

8.6 This procedure shall be implemented as of 1 January 2014.

PROCEDURE ON ACTIONS ARISING FROM JUDICIAL ACTS OF THE REPUBLIC OF ARMENIA ADOPTED WITH REGARD TO ADMINISTRATIVE CASES

1. OBJECTIVE

Within the meaning of the RA Law “On Fundamentals of Administrative Action and Administrative Procedure” (LFAAAP) the RA State Migration SMS (SMS) is a national administrative body implementing administrative action in the whole territory of the Republic of Armenia. Granting of asylum and recognition as refugee as well as related administrative procedures (cessation, cancellation of asylum, etc.) implemented by the SMS are regulated both by the rules of general administrative law – LFAAAP, and rules of special administrative law – RA Law “On Refugees and Asylum” (LRA). In the implementation of administrative action the SMS is guided by the RA Constitution, rules of international law and other applicable rules.

Article 34 of the LRA lists nine key legal powers of the SMS. Pursuant to the second thereof, the SMS shall implement procedures with regard to asylum claim stipulated by the LRA and shall have an exclusive competence to take relevant decisions with regard to those procedures. Upon refusal, cessation and cancellation of refugee status and asylum, the SMS implements administrative procedure taking interfering administrative acts ensuing thereof. Administrative acts of the SMS based on the administrative claim lodged in the Administrative Court (AC) by the addressee of the mentioned administrative acts are subject to judicial control.

This guide is intended to clarify the actions of the SMS in cases when based on the claim filed in court by the foreigner the competent court of the RA has taken a judicial act against the SMS’s administrative act, action or inaction.

2. SCOPE

This procedure shall be applied by the staff members of the Asylum and Legal Units of the SMS.

3. REFERENCES

This procedure has been developed taking into consideration the requirements of the 2008 law of the RA on Refugees and Asylum and 2004 Law of RA on FAAAP as well as of the 2013 Administrative Procedure Code of RA.

4. JUDICIAL ACTS OF THE ADMINISTRATIVE COURT AND THEIR CONSEQUENCES

Persons seeking asylum from the SMS can file in the Administrative Court one or several types of claims stipulated by the Administrative Procedure Code (APC) against the SMS. These are claims of dispute¹¹, claims of obligation¹², claims of action¹³ and claims of recognition¹⁴. Satisfaction of each of the mentioned claims by the AC gives rise to consequences for the SMS as prescribed by law as a result of which the SMS performs certain actions or abstains from their performance.

11 Art. 66

12 Art. 67

13 Art. 68

14 Art. 69

Pursuant to Point 1 of Article 125 of the APC, when meeting the administrative claim filed against the SMS the Administrative Court passes a judgment, which, among others, contains a decision on:

- 4.1. Declaring the administrative act of the SMS invalid in whole or in part;
- 4.2. Declaring the decision on refusal to adopt the claimed administrative act invalid and obliging the SMS to adopt that administrative act;
- 4.3. Binding the SMS to perform certain actions or abstain from their performance;
- 4.4. Declaring the presence or absence of legal relations or the administrative act null and void in whole or in part.

In case of appealing the administrative act of the AC in appeal or cassation courts, the below-mentioned actions of the SMS shall be performed upon entry into legal force of the judicial acts adopted by the administrative court of appeals or cassation court.

4.1. Actions arising from judicial acts adopted with regard to claim of dispute

Written decisions adopted by the SMS as a result of execution of asylum-related procedures are mainly contested by their addressees through lodging a claim of dispute in the AC. The claimant with the claim of dispute can demand from the AC to revoke the SMS's interfering administrative act (including interfering provisions of the associated administrative act) in whole or in part. In case of meeting the claim of dispute lodged against the interfering or associated administrative act of the SMS, the AC eliminates the interfering administrative act in whole, or the interfering provisions of the associated administrative act are eliminated.¹⁵

Following satisfaction of the claim of dispute by the AC, with the purpose of clarifying its actions, the SMS shall:

1. Identify whether the administrative procedure which ensued adoption of the eliminated administrative act by the SMS, had been lodged based on the person's application or on the SMS's initiative. For instance, as a result of administrative procedure of asylum which had been filed based on the application of a foreign citizen the SMS made a decision on refusing granting asylum to the foreign citizen in the RA, but the AC eliminated that decision. In this case, the administrative procedure of asylum had been lodged on the basis of the person's application. Previously, the SMS's decisions on termination or cancellation of asylum granted to a foreign citizen were adopted as a result of administrative procedure initiated by the SMS. Differentiation between administrative procedures initiated by the person or the SMS is essential in determining further actions of the SMS.

2. In cases when the administrative act eliminated by the AC had been adopted as a result of administrative procedure filed **on the basis of the person's application** the SMS adopts the following approach:

- Within three days after the judicial act invalidating the administrative act adopted by the SMS

¹⁵ '1. An administrative act is the decision, executive order, order or other individual legal act having an external effect that administrative body adopted for the purpose of settlement of a concrete matter in the field of public law, and is directed to the prescription, amendment, elimination or recognition of rights and obligations for persons.

An administrative act may also be directed to a group of persons classified according to a certain individual criteria.

2. Within the meaning of this Law:

(a) favourable administrative act is the administrative act through which administrative bodies confer rights upon persons or create for them any other condition that improves the legal or factual situation of those persons;

(b) interfering administrative act is the administrative act through which administrative bodies refuse, interfere, or right up to restrict the enjoyment of the rights of persons, impose any obligation on them or in any other way aggravate their legal or factual situation;

(c) combined administrative act is the administrative act which contains provisions laid down both in favourable and interfering administrative acts for a person.' Article 53 of LFAAAP.

legally enters into force,¹⁶ and based on the asylum claim previously submitted by the addressee of that act, the SMS shall continue administrative procedure initiated previously and shall notify the claimant of it in writing within three days. The foreigner shall not present a new (repeat claim) since the process is continued based on the application filed previously, however is not limited by the scope of that application.

- The SMS shall not open a new case in the registry and continues the case opened previously by making relevant notes in the registry.¹⁷
- The SMS shall continue the process from the stage of deliberation unless there are grounds to finish the process with the concluding part only.¹⁸
- As a result of a continued administrative procedure, the SMS shall adopt a new administrative act on the basis of the legal positions stipulated in the judicial act invalidating the former administrative act adopted by the SMS. During the administrative procedure, the claimant shall have the right to amend the claim presented previously, insist on the evidences presented previously as well as to present additional evidences and information, which prove the conditions necessary for the provision of asylum and recognition as a refugee.

As a result of a new procedure, the SMS shall not adopt the same administrative act invalidated by the Administrative Court on the same grounds; nevertheless, the SMS can adopt the same administrative act (e.g. on the refusal to provide asylum) on the basis of other legal grounds if it is feasible taking into consideration the circumstances confirmed during the administrative procedure and the legal positions stipulated by the respective judicial act (court decision).

3. In cases when an administrative act invalidated by the Administrative Court was adopted as a result of an administrative procedure lodged **at the initiative of the SMS**, the latter shall adopt the following approach: if, based on a claim of dispute, the Administrative Court has invalidated a decision made by the SMS with regards to the Claimant on the cessation or cancellation of asylum, then the decision on cessation or cancellation of asylum is eliminated from the moment the AC judicial act enters into legal force, while the asylum formerly provided to the person remains valid without a new (repeated) claim submitted by that person.

16 Judicial acts of the Administrative Court and the Administrative Court of Appeals enter into force one month after the publication of the decision, while decisions of the Court of Cassation enter into force from the moment of publication.

17 '1. From the date of initiating the administrative proceedings, the administrative body shall compile a separate file in which all documents of the proceedings shall be kept, including the administrative act (certified copy thereof) adopted as a result of the administrative proceedings. At the same time the administrative body shall maintain chronological and subject-matter recordkeeping registers of administrative cases, as well as a separate register for recordkeeping of administrative acts adopted as a result of administrative proceedings.
2. The procedure and conditions for maintaining register of files related to administrative proceedings, their recordkeeping registers as well as recordkeeping register of administrative acts shall be established by the administrative body based on the model rules approved by the Government of the Republic of Armenia.
3. The files related to administrative proceedings shall be maintained according to the rules for maintaining public documents set forth by law and shall be archived as prescribed by law.
4. Unless otherwise required by law, record management and recordkeeping with regard to administrative acts adopted orally or in other form shall not be maintained.' Article 28 of LFAAAP. See also the decree of the Government of RA of 25 June 2004.

18 '5. In order to prevent an imminent danger or eliminate the consequences of the danger that has already occurred, as well as in other cases prescribed by law, administrative proceedings may be limited to the final stage.' Article 20(5) of LFAAAP.

See also Article 36 of LFAAAP: '1. Administrative proceedings shall be conducted in the shortest possible time period.

2. The administrative body shall conduct administrative proceedings without complicating it, such as additional hearings, additional expert examinations or inspections, if there are no reasons necessary for clarification of the factual circumstances of the case.

3. If after initiation of administrative proceedings the documents necessary for adoption of the administrative act are at the disposal of the administrative body, the factual circumstances of the case are sufficiently clarified and verified, the administrative body, shall, within reasonable time period after the aforementioned conditions are met, adopt an administrative act, without waiting for the expiration of general or special deadlines.'

If in such cases the SMS possesses other legal/ factual grounds for the cessation or cancellation of that particular person's asylum (or for the adoption of any other interfering decision), then it can lodge a new administrative procedure and adopt a new interfering administrative act indicating the new grounds. This new administrative act can also be challenged by the addressee in the Administrative Court.

4.2. Actions arising from judicial acts adopted with regard to claims of obligation

By filing a claim of obligation, the claimant may demand the adoption of the favorable administrative act the adoption of which was rejected by the administrative body. The actions of the SMS in case the AC decides to satisfy a claim of obligation are the following: to adopt the administrative act that SMS had previously refused to adopt and the adoption of which was obligated by the Administrative Court in the concluding part of its judicial act.

For the adoption of the above mentioned administrative act the person who has applied to the SMS is not required to submit a repeated claim. The SMS shall adopt the administrative act indicated by the Administrative Court within the period after the AC decision enters into legal force as stipulated by the Law for conducting administrative procedure by the SMS and adopting an administrative act. Since the RA Law "On Refugees and Asylum" does not define any time period for the asylum procedure, the general period assigned by Article 46 of the LFAAAP, 30 days, shall be considered as the period for the procedure. Within this period, in case the SMS does not adopt an administrative act obligated by the Administrative Court, provisions of LFAAAP Article 48 apply, which stipulate that the administrative is considered as adopted, and the claimant can embark on the realization of relevant rights.

A court decision made by the AC as a result of satisfaction of an obligation claim lodged against the SMS predetermines the type and content of the administrative act to be adopted. After such a decision enters into force, the SMS adopts a favorable administrative act with a content that shall not be determined by the SMS; rather, it shall correspond to the legal positions reflected in the decision made by the Administrative Court.

4.3. Actions arising from judicial acts adopted with regard to claims of action

With the claim of action the Claimant can demand performance of certain actions or demand abstention from actions which are not directed towards adoption of an administrative act.

With the claim of action the Claimant can also demand issuance of the relevant document as prescribed by law in case the administrative act has been deemed adopted by virtue of law due to a failure to adopt one within the time frame stipulated by law.

A claim of action against the SMS can be lodged in the AC if the SMS does not adopt any administrative act within a 30-day period stipulated by Article 46 of the LFAAAP as a result of the administrative procedure of asylum lodged in the SMS based on the person's application.¹⁹ In that case the person shall demand from the AC, with a claim of action, to bind the SMS to provide him/her the document (decision) certifying granting of asylum and recognition as refugee. When such a judgment is passed by the AC the SMS shall provide the mentioned document in a three-day period as stipulated by law.

If after provision of the above-mentioned document the SMS considers that grounds for recognizing the person concerned as refugee are actually missing, it can lodge an administrative procedure for invalidation of the status and adopt a relevant interfering administrative act stating all the essential legal and factual grounds as prescribed by law with regard to its competence which served as a basis for such a decision.

By lodging a claim of action with AC, the claimant may also require, by way of example, initiation of an administrative procedure, issuance of an asylum-seeker ID card or of a referral letter for being accommodated at the Reception Center.

4.4. Actions arising from judicial acts adopted with regard to claims of recognition

With the claim of recognition a foreign person can demand from the AC to declare the administrative

¹⁹ An administrative procedure is deemed initiated on the basis of an application by a person from the moment the application is received in the administrative body, while an administrative procedure at the initiative of the administrative body is deemed initiated from the moment the body starts the actions that aimed at the adoption of an administrative act.

act adopted by the SMS as null and void. Article 62 of the LFAAAP provides an exhaustive list of grounds for declaring an administrative act null and void. Those are:

- a) it is not explicit from the act or it is not expressly clear which administrative body has adopted it;
- b) the act has been adopted by a non-competent administrative body;
- c) it is not clear from the act whom exactly it is addressed to, or it is unknown what issue it regulates;
- d) by the act an apparent unlawful obligation is imposed on the addressee thereof or he/she is granted apparent unlawful right.

As a result of declaring the administrative act adopted by the AC null and void the SMS shall display the same position displayed as a result of administrative acts declared invalid by the AC based on a claim of dispute. That is, if the administrative procedure had been lodged **on the basis of a person's application**, then in case of declaring the administrative act null and void by the AC, the SMS shall restore the administrative procedure on the basis of the previously submitted application and shall adopt a lawful administrative act with the time limit set by law (30 day period set out by LFAAAP if no other time limit is set out by LRA). If the administrative procedure had been lodged **at the initiative of the SMS**, then in case of declaring the administrative act null and void by the AC, the SMS shall exercise the powers reserved to it by the LRA with regard to lodging or not lodging a new administrative procedure.

5. CONTROL OVER THE IMPLEMENTATION OF THE PROCEDURES

Control over the actions defined by this procedure is implemented by the Head of SMS and the Head of Asylum Division of SMS in the framework of their authority.

6. CONCLUDING PROVISIONS

6.1 This procedure is provided to the SMS staff members who are working in the area of the standardized procedure.

6.2 This procedure is a subject for a review in the case of organizational, structural and legislative changes.

6.3 In case of absence of relevant staff members, this procedure, as well as any changes to be carried out shall be implemented by the latter's alternates.

6.4 The Head of the Asylum Issues Division and staff members of the Division can make proposals aimed at reviewing this procedure.

6.5 The Head of SMS can review this procedure on his own initiative.

6.6 This procedure shall be implemented as of 1 January 2014.

STANDARD OPERATING PROCEDURE ON QUALITY ASSURANCE IN ASYLUM PROCEDURES

1. OBJECTIVE

The purpose of this Standard Operating Procedure (SOP) is to establish a mechanism aimed at ensuring -- in accordance with uniform standards -- conformity of the asylum procedures conducted by the State Migration Service (SMS) to the established quality standards.

2. SCOPE

This (SOP) shall be applied by the staff of the Legal and Asylum Units of the SMS. Training on the contents of the SOP will be offered to staff members on an annual basis or more often if required.

3. REFERENCES

This SOP is issued taking into account the requirements the 1951 Convention relating to the Status of Refugees, Law of the Republic of Armenia of 27 November 2008 on Refugees and Asylum as well as of the Standard Operating Procedures as approved by the Head of SMS in the field of asylum procedures.

4. REGULAR AUDITS OF THE QUALITY OF INTERVIEWS, DECISIONS AND OBSERVANCE OF PROCEDURAL STANDARDS

4.1. The Legal Unit of the SMS shall be responsible for auditing the quality of RSD interviews and decisions on substance taken with respect to asylum applications. Observance of general procedural requirements applicable to the examination of asylum applications as set out in the Law of the Republic of Armenia of 2008 on Refugees and Asylum, the Law of the Republic of Armenia of 2004 on Fundamentals of Administrative Action and Administrative Proceedings as well as in the Standard Operating Procedures approved by the Head of SMS in the field of asylum procedures shall also be subject to audit. This task shall be referred to as 'quality assurance audit' throughout this SOP.

4.2. Quality assurance audits shall be carried out biannually – in January and July.

4.3. Quality assurance audits shall typically be carried out through post- examination, on the basis of documentation/file. However, if there are RSD interviews scheduled in the months of January and July, the interviewers shall notify the Head of the Legal Unit on the date of the interview, and the assigned auditor from the Legal Unit shall attend the interviews personally. It shall also be the responsibility of the Head of the Legal Unit to check with staff members of the Asylum Unit on whether any RSD interviews have been scheduled in the months of January and July. Interviews attended personally shall be assessed in addition to the interview records referred to in 4.4 below.

4.4. For the purpose of each audit ten RSD files shall be selected. When selecting, the Legal Unit shall seek to have an equal representation of the staff members, including Head of the Asylum Unit, and types of cases by applying a proportionate and randomised selection method. When making a selection, focus should be made on cases which resulted in rejection as well as on more recent cases. It shall not be the decision of the Asylum Unit staff members which cases shall be subject to audit.

4.5. Quality assurance audits shall be conducted using the assessment forms attached to this SOP as annex 1. The forms shall be filled out electronically and filed in a special folder opened on the INTRANET for this purpose. The folder shall be named 'Quality assurance audits' and folders filed

therein shall have the respective month and year in their name, e.g. 'January 2015'. The Excel files of the assessment forms shall have the number of the file assessed in their name.

4.6. The criteria for evaluation are listed in the column 'ASSESSMENT CRITERIA' in the forms in annex 1. In the column 'OUTCOMES' the auditor indicates whether the criterion has been complied with by checking columns 'Yes' or 'No', respectively, using the symbol '√'. In case a criterion is not relevant, the column 'N/A' shall be checked.

4.7. Where appropriate, the auditor shall also provide a short justification/explanation for each assessment in the column 'COMMENTS'. At the end of the assessment form, there is an opportunity to provide further comments/justification. The main strengths and weaknesses of the interview/decision/procedure shall be pointed out here, as well as any other important elements not touched upon by any of the criteria.

4.8. In the header of the assessment forms some basic statistical data shall be entered concerning the nationality of the applicant, the name of the interviewer, the file number etc. In the header of the assessment form for decisions submission date of the application and the date of the decision are relevant in order to establish whether the decision was made before the deadline set by law.

4.9. Following completion of the assessment of a given file, the auditor shall share the completed assessment forms with the respective case worker as well as with the Heads of the Legal (in case the auditor is not the Head of the Legal Unit) and Asylum Units. Following this, a consultation shall be scheduled by the auditor with the case worker to discuss the results of the assessment. The main purpose of the consultation is to provide constructive feedback to the case worker on the main strengths and weaknesses identified as a result of assessment as well as to find out the reasons for non-compliance with any fundamental standards with a view to making relevant recommendations in the report of the assessment to be submitted to the Head of SMS.

4.10. If the case worker disagrees with the assessment of any particular criterion, he/she shall indicate this to the auditor. As a result of the consultation, the auditor may modify his/her assessment, if that is justified by the explanation of the case worker. The auditor prepares a short summary of the consultation and its result(s) (modification of the assessment, or its leaving unchanged) which s/he submits to the interviewer/decision-maker for his/her opinion. The thus jointly prepared summary is also sent to the Heads of Legal and Asylum Units together with the finalized assessment forms.

4.11. If the auditor identifies serious shortcomings in the processing of a case, interpretation of international and/or national law which in his/her opinion may have had an impact on the outcome of the case, then s/he shall bring the issue to the attention of the Head of SMS with a view to initiating the invalidation of the decision. If this is the case, applicable norms of the legislation of the Republic of Armenia²⁰ and of SOPs approved by the Head of SMS shall govern the process of invalidation and ensuing consequences.

4.12. Upon completion of the audit, the Legal Unit shall prepare a consolidated report (as per the sample format attached to this SOP as annex 2) where the main strengths and deficiencies identified shall be analysed, as well as possible ways to overcome the deficiencies and further strengthen quality shall be recommended. The main strengths and deficiencies shall be grouped in the report as per the categories listed in the column 'Category' in the assessment forms. For the purpose of the quality assurance audit reports, the Legal Unit shall also study common shortcomings in the processing of cases as identified in judicial acts issued during the reporting period and shall reflect such shortcomings in the report.

4.13. The consolidated reports shall be prepared anonymously, that is, the interviewers/decision-makers shall not be disclosed. The primary aims of these reports are as follows:

- Identification of trends and systemic shortcomings in the processing of cases;
- Identification of educational/training/coaching/mentoring needs of the staff members conducting refugee status determination procedures (this includes refresher trainings on the SOPs approved in the field of asylum procedures);

20 See, in particular, Article 63 of the Law of the Republic of Armenia on Fundamentals of Administrative Action and Administrative Proceedings.

- Identification of areas where staff meetings aimed at reaffirming the core quality standards are desirable;
- Identification of needs to develop/approve new SOPs/guidelines/instructions;
- Identification of needs for revision of the existing SOPs/guidelines/instructions.

4.14. Reports on the results of the audit shall be submitted to the Head of SMS for his consideration and action by 15th of February and August respectively. As per the instructions issued by the Head of SMS, the Head of the Asylum Unit shall develop a plan of action (including timeframes) to remedy the deficiencies in the procedures as identified in the quality audit report and shall report to the Head of SMS on the progress of implementation of the recommendations.

4.15. From those decisions which were outstandingly good, a “good practice” database shall be developed on the INTRANET. These decisions shall be shared with all staff members of the Asylum Unit and used as training and discussion materials during formal trainings as well as monthly professional development sessions of the Asylum Unit.

4.16. On the basis of an agreement reached between SMS and UNHCR Representation in Armenia, quality assurance audits shall be conducted jointly by UNHCR and the Legal Unit of SMS in order to ensure a uniform and appropriate institutional system of quality assurance and an audit process complying with international standards.

5. QUALITY ASSURANCE THROUGH MUTUAL COACHING BY STAFF MEMBERS CONDUCTING RSD

5.1. For the purpose of enhancing quality in asylum procedures through sharing of experience and expertise, each of the staff members conducting RSD (including Head of the Asylum Unit) shall, once in three months, attend an asylum interview conducted by his/her colleague. The Head of the Asylum Unit shall ensure that this is done in a manner so that all staff members benefit from this exercise (i.e. have an interview attended by a colleague).

5.2. The staff member having attended an asylum interview conducted by his/her colleague shall fill out the interview assessment form attached to this SOP as annex 1. Following this, a consultation shall be scheduled between the two staff members where the staff member having conducted the interview shall be provided constructive feedback on the main strengths and weaknesses of the interview. The results of such assessments shall also be discussed during professional development sessions following such assessments.

5.3. In addition, at least three cases a year shall be examined by a group of eligibility officers comprising all staff members of the Asylum Unit, including the Head of the Unit. The group shall appoint a group leader who will distribute tasks among the members of the group. The group shall meet regularly to discuss issues related to the examination of the case as well as use the forum of the professional development sessions for such discussions.

6. CONTROL OVER THE IMPLEMENTATION OF THE PROCEDURES

Control over the actions defined by this procedure is implemented by the Head of SMS and the Head of Asylum Division of SMS in the framework of their authority.

7. CONCLUDING PROVISIONS

7.1 This procedure is provided to the SMS staff members who are working in the area of the standardized procedure.

7.2 This procedure is a subject for a review in the case of organizational, structural and legislative changes.

7.3 In case of absence of relevant staff members, this procedure, as well as any changes to be carried out shall be implemented by the latter's alternates.

7.4 The Head of the Asylum Issues Division and staff members of the Division can make proposals aimed at reviewing this procedure.

7.5 The Head of SMS can review this procedure on his own initiative.

7.6 This procedure shall be implemented as of 1 January 2014.

QUALITY ASSURANCE AUDIT CONSOLIDATED REPORT

Time frame of the audit	
Number of files reviewed	
Number of RSD interviews attended	
Number of eligibility officers covered	
Types of cases reviewed, including nationality of applicants, nature of the decision (negative/positive), vulnerability of applicants etc.	
Name and position of staff members having conducted the audit	
Name, date and signature of the staff member having prepared the consolidated report	

Main strengths of asylum procedures identified _____

Main problems in asylum procedures identified _____

Recommendations to address the problems identified _____

INTERVIEW

Case number: _____

Specific needs: _____

Vulnerable applicant: _____

Interviewer: _____

Representative/course: _____

Unhcr: _____

Reviewer: _____

Interpreter: _____

Application date: _____

Language spoken: _____

Interview date: _____

Sex of claimant: _____

Start time (actual): _____

Sex of interviewer: _____

End time: _____

Sex of interpreter: _____

Established nationality of claimant: _____

Type of recording: _____

Feedback provided: _____

N	ASSESSMENT CRITERIA		OUTCOMES			COMMENTS
	Category	Interview	Yes	No	N/A	
1.1	Treatment/ Interaction	The officer welcomes the applicant and introduces all participants of the interview (by name, function and tasks).				
1.2	Due process	The officer asks the applicant if there are any objections to the sex or otherwise of the interviewer/interpreter.				
1.3	Due process	The officer checks that the applicant is the subject of the case file.				
1.4	Due process	The officer confirms that the applicant agrees to be interviewed in the particular language.				
1.5	Due process	The officer confirms that the applicant and the interpreter understand each other.				
1.6	Treatment/ Interaction	The officer explains the respective roles of interviewer and interpreter.				
1.7	Issue of law	The officer explains the refugee definition in simple terms as well as the purpose and process of the interview.				

1.8	Due process	The officer explains to the applicant his/her rights and obligations (e.g. duty to cooperate, obligation to tell the truth) and the consequences of a violation.				
1.9	Due process	The officer explains the principle of confidentiality to the applicant.				
1.10	Treatment/Interaction	The officer confirms that the applicant feels well and is prepared for the interview.				
1.11	Treatment/Interaction	The officer advises the applicant about the possibility of having a break during the interview.				
1.12	Treatment/Interaction	The officer establishes a good contact with the applicant (addressing the applicant directly, applying respectful intonation and appropriate body language, starting with a warm-up etc).				
1.13	Treatment/Interaction	The officer is considerate of and reacts appropriately and with specific sensitivity to the specific state of the applicant (fear, effects of psychological trauma, aggression, confusion, fatigue etc).				
1.14	Due process	The officer explains the role/rights/obligations of the representative/counsel.				
1.15	Treatment/Interaction	The presence of a a third party to provide medical or emotional support is allowed in well-justified cases.				
1.16	Due process	The officer obtained the express written and signed consent of the applicant (placed on file) for a third party to be present before commencement of the interview				
1.17	Treatment/Interaction	The officer takes into account the applicant's gender and cultural aspects and specific needs.				
1.18	Interview technique	The officer allows the applicant to relate his/her story as freely as possible (free narrative).				
1.19	Interview technique	The officer avoids posing two or more questions at the same time.				
1.20	Interview technique	The officer keeps his/her questions short and easy, adjusted to the applicant's education level.				
1.21	Interview technique	The officer uses open questions as far as possible.				
1.22	Interview technique	The officer does a proper follow-up on all relevant issues raised by the applicant by posing subsequent questions for establishing specific details.				
1.23	Due process	The officer explains unclear/legal terms to the applicant.				
1.24	Interview technique	Questions aimed at establishing the causes of identified contradictions are asked in a neutral manner, avoiding intonations of mistrust or reproach and only after the applicant had an opportunity to freely talk about the reasons for his/her fear.				
1.25	Treatment/Interaction	The officer does not criticize or disapprove the applicant's statements.				
1.26	Due process	The officer has conducted relevant research for the interview, e.g. COI or evidence submitted by the applicant				

1.27	Issue of law	All key elements of the case (who, what, why, when and where) are clearly established in the course of the interview.				
1.28	Issue of law	The applicant's fears of persecution or serious harm, which the applicant may face upon return to the country of his/her nationality or former habitual residence, are sufficiently investigated.				
1.29	Issue of law	The applicant is sufficiently asked about any relations of his/her fears of persecution to the Convention grounds (race, religion, nationality, membership of a particular social group, political opinion).				
1.30	Issue of law	The applicant is sufficiently questioned about grounds for application of the expanded refugee definition (article 6(1)(2) of the RA Law on Refugees and Asylum) and of the non-refoulement clause under articles 9(3) and 52(7) of the RA Law on Refugees and Asylum.				
1.31	Issue of law	The question whether the applicant applied for protection in the country of his/her nationality or former habitual residence (state protection) is sufficiently investigated.				
1.32	Issue of law	The question whether internal flight alternative was relevant and reasonable for the applicant is sufficiently investigated.				
1.33	Due process	The interviewer allows the applicant to submit additional relevant evidence during and following the interview.				
1.34	Due process	The applicant is given the opportunity to explain contradictions and incompatibilities between his/her arguments and existing facts or reasons for lacking material.				
1.35	Due process	If applicable, any adverse evidence was put to the applicant and he or she was given the opportunity to respond.				
1.36	Due process	The interpreter has an adequate knowledge of Armenian.				
1.37	Due process	When there are doubts that the information provided by the applicant was not interpreted in full and/or accurately, the officer requests explanation from the interpreter.				
1.38	Due process	The interpreter stopped the speakers in situations where it was not possible to translate. If not, the interviewer did so.				
1.39	Due process	The interpreter avoids entering into an independent conversation with the applicant without the interviewer's permission.				
1.40	Due process	The interpreter is warned by the interviewer if he/she enters into an independent conversation with the applicant without interviewer's consent.				
1.41	Treatment/Interaction	The interpreter avoids making personal comments on the applicant's statements or other evidence and avoids changing or summarizing the content or the meaning of what had been said.				

1.42	Treatment/ Interaction	If the interpreter makes personal comments on the applicant's statements or other evidence and/or changes or summarizes the content or the meaning of what had been said, the interviewer warns him/her against this (the warning is recorded in the transcript).				
1.43	Due process	Where applicable, the interviewer has provided feedback to the interpreter with a view to improving his/her services in the future, by using the interpreter performance evaluation form annexed to the SOP on the services of interpreters in asylum procedures.				
1.44	Due process	The officer confirms that the applicant has nothing to add to the previous statements.				
1.45	Due process	The interviewer summarizes the applicant's statements/main reasons for fear and gives the applicant the opportunity to exercise his/her right to be heard and to comment.				
1.46	Due process	The applicant's representative/lawyer was given the opportunity to exercise his/her rights (questions, comments, applications, etc).				
1.47	Treatment/ Interaction	The officer explains the next steps in the procedure to the applicant				
1.48	Due process	Conditions for the interview confidentially are established.				
1.49	Due process	The interview has been audio recorded and a CD with audio recording is available on the file.				
1.50	Treatment/ Interaction	There are no persons unrelated to the interview in the room.				
1.51	Treatment/ Interaction	There are no external factors interfering with the interview process (noise, access for third persons, telephone calls etc.)				
Other comments or observations						

PROCEDURAL STANDARDS

Case number: _____

Established nationality of claimant: _____

Decision-maker: _____

Nature of determination: _____

Application date: _____

Reviewer: _____

Interview date: _____

Assessment date: _____

Feedback provided: _____

N	ASSESSMENT CRITERIA		OUTCOMES			COMMENTS
	Category	Procedure	Yes	No	N/A	
2.1	Administrative procedure	A pre-screen interview has been conducted.				
2.2	Administrative procedure	An identity card for the applicant has been issued within three days of registration of the application.				
2.3	Due process	Family members/dependants of principal applicant have been informed of their right to file a separate claim and have given a written consent to the principal applicant filing a claim on their behalf which is placed on the file.				
2.4	Administrative procedure	The request for relevant country of origin information has been lodged using the standard form.				
2.5	Due process	The need for interpretation has been identified and a qualified interpreter provided free of charge by filing a relevant request with the interpreters' supervisor-coordinator (a copy of the request is on the file).				
2.6	Administrative procedure	The request for an interpreter has been recorded in the interpreters' record sheet.				
2.7	Due process	The interpreter involved in the case is not a family member, friend of the applicant, his/her representative or counsel as well as a person having an individual file with SMS.				
2.8	Due process	If the applicant has refused to avail himself/herself of the services of an interpreter, the expressed written waiver as per the standard form is placed on the file.				
2.9	Administrative procedure	The interpreter has received briefing in accordance with the interpreter briefing checklist which is placed on the file.				

2.10	Administrative procedure	A newly recruited interpreter has received introductory training before being allowed to interpret during RSD procedures.				
2.11	Administrative procedure	When selecting an interpreter, the applicant's preference as to sex as well as his/her dialect have been taken into consideration.				
2.12	Administrative procedure	Asylum-seeker was scheduled for an RSD interview within three days of the registration of the application.				
2.13	Due process	Disclosure of information to the applicant was done in accordance with the applicable standards. In particular, the applicant was aware of all the steps aimed at collecting information on the case, including engaging witnesses. COI was provided to the applicant before the interview. The applicant was provided a possibility to provide comments/make suggestions throughout the information collection process (see sections 5.7.3 and 5.7.4) of the SOP on adjudicating asylum claims. .				
2.14	Due process	The information (evidence) was collected by filing standard form requests with the Researcher, by providing a copy of such requests to the applicant and placing a copy of such requests on the file.				
2.15	Administrative procedure	The Researcher has filed information requests with state agencies using the standard forms.				
2.16	Administrative procedure	The staff member has prepared a case plan using the standard checklist which has been placed on the file.				
2.17	Administrative procedure	UNHCR representative was informed of the RSD interview five working days prior to the interview and given full access to the RSD interview upon the written consent of the applicant (placed on the file).				
2.18	Administrative procedure	The interviewer has used the interview checklist during the interview and has placed it on the file.				
2.19	Administrative procedure	The interview transcript was prepared using the standard format.				
2.20	Due process	The interviewer provided a copy of the interview transcript to the applicant who signed the original copy of the transcript to confirm receipt of a copy				
2.21	Due process	The interview transcript was read back to the applicant with the help of an interpreter where necessary.				
2.22	Due process	The requirement to read back transcript was waived since the applicant consented to sign the interview transcript without a read-over and the interview was audio recorded.				

2.23	Due process	Amendments and additions requested by the applicant which the interviewer did not agree with was mentioned in brackets in the relevant parts of the transcript and initialed by the applicant.				
2.24	Due process	The principal applicant's family members/dependants have been interviewed not in the principal applicant's presence.				
2.25	Administrative procedure	An RSD assessment form as per the standard format has been prepared not later than within four weeks following the interview and is placed on the file.				
2.26	Administrative procedure	Comments, if any, on the RSD assessment from the Head of the Unit were received in written form and are placed on the file.				
2.27	Administrative procedure	In case of an exclusion assessment, opinion from UNHCR has been requested and obtained.				
2.28	Administrative procedure	The decision has been issued within the deadline set by law.				
2.29	Administrative procedure	The case file is in good order (containing all relevant documentations/materials).				
2.30	Due process	A copy of the authorization to the representative/counsel from the applicant to act is placed on the applicant's file prior to the beginning of the interview.				
2.31	Due process	The applicant has been notified of the decision within three days of issuing the decision, by attaching the notification letter of the standard form, in the language the applicant understands (a copy is placed on the file).				
Other comments or observations						

DECISION

Case number: _____

Established nationality of claimant: _____

Decision-maker: _____

Nature of determination: _____

Application date: _____

Reviewer: _____

Decision date: _____

Assessment date: _____

Feedback provided: _____

N	ASSESSMENT CRITERIA		OUTCOMES			COMMENTS
	Category	Decision	Yes	No	N/A	
3.1	Language and structure	The decision clearly sets out all the core/material facts of the claim.				
3.2	Issue of fact	The decision gives due consideration to all core/material facts of the claim.				
3.3	Issue of fact	The decision states clearly and gives sound reasons as to which core/material facts of the claim are accepted and why, or if not, why not.				
3.4	Issue of fact	Credibility assessment starts with the material fact of the applicant's nationality.				
3.5	Issue of fact	In relation to credibility assessment, the decision-maker appropriately uses objective information (precise and up to date) such as COI.				
3.6	Issue of fact	The benefit of doubt has been given where appropriate.				
3.7	Issue of law	The decision-maker has reached an objectively reasoned conclusion as to whether the applicant has been in the past subject to harm or to direct threats of harm.				
3.8	Issue of law	The decision-maker has reached an objectively reasoned conclusion as to whether the applicant has a well-founded fear of harm which must be proved to be reasonably possible.				
3.9	Issue of law	The decision-maker has correctly identified the agent(s) inflicting harm.				
3.10	Issue of law	The decision-maker has objectively reasoned whether state protection is available.				
3.11	Issue of law	The decision-maker has objectively reasoned whether the harm awaiting the applicant constitutes 'persecution'.				

3.12	Issue of law	The decision-maker has taken into account the applicant's personal circumstances when evaluating the existence of reasonable possibility of harm, whether this harm constitutes persecution and availability of state protection.				
3.13	Issue of law	The decision-maker has correctly and thoroughly assessed whether a Convention reason(s) applies in the case (either as explicitly stated by the applicant or as identified by the decision-maker).				
3.14	Issue of law	The decision-maker has objectively reasoned whether the applicant is eligible for refugee status under the expanded refugee definition in article 6(1)(2) of the Law on Refugees and Asylum.				
3.15	Issue of law	The decision-maker has objectively reasoned whether the applicant is eligible for protection against refoulement, deportation or extradition under Article 9(3) and 52(7) of the Law on Refugees and Asylum.				
3.16	Issue of law	The decision-maker has objectively reasoned whether IFA is applicable (safe, reasonable, practical and taking into account the personal circumstances of the applicant).				
3.17	Issue of law	The burden of proof has been applied correctly (e.g. in inclusion, internal flight alternative, exclusion assessments).				
3.18	Issue of law	Any indications that an exclusion clause may apply have been considered appropriately.				
3.19	Language and structure	The decision contains appropriate references to the legislation of the Republic of Armenia.				
3.20	Language and structure	The decision contains appropriate references to sources of country of origin information.				
3.21	Issue of fact	The country of origin information, as used in the decision, is up to date.				
3.22	Issue of fact	The country of origin information, as used in the decision, is relevant.				
3.23	Issue of fact	The country of origin information sources are reliable and impartial.				
3.24	Language and structure	The structure of the decision corresponds to the structure set out under section 5.16.2 of the SOP on adjudicating asylum claims.				
3.25	Language and structure	The text of the decision is grammatically correct.				
3.26	Language and structure	The decision is written in a clear and understandable language.				
3.27	Due process	The decision contains information as regards review and appeal rights.				
Other comments or observations						

PROCEDURE ON ACCOMMODATING ASYLUM SEEKERS IN THE REPUBLIC OF ARMENIA AT THE TEMPORARY RECEPTION CENTER AND LIVELIHOOD SUPPORT

I. CONTENT OF PROCEDURE

1. THE OBJECTIVE

The objective of this procedure is to standardize the works related to accommodating asylum seekers in the Temporary Reception Center (hereinafter RC), providing livelihood support, organizing medical examination, vacating the allocated room, keeping the registry on RC residents.

2. THE SCOPE (ORGANIZATION IMPLEMENTING THE PROCEDURE)

This procedure is implemented by the “Reception Center” state non-profit organization run under the supervision of the State Migration Service of RA (SMS).

3. REFERENCES TO NORMATIVE LEGAL ACTS

3.1. RA Law on Refugees and Asylum, November 27, 2008

3.2. The Decision of the Government of the Republic of Armenia No. 1441-N (November 9, 2009) on activity and maintenance rules of the RC, on making changes in the Decision of the Government of the Republic of Armenia No. 407 (April 3, 2003).

3.3. The Decision of the Government of the Republic of Armenia No. 1440-N (November 19, 2009) on confirming the order on accommodating asylum seekers in the Temporary Reception Center and providing conditions favourable to livelihood.

3.4. The Order of the Head of State Migration Service of RA Ministry of Territorial Administration 41-A (April 27, 2010) on confirming the charter of the “Reception Center”, a non-profit organization.

3.5. The Order of the RA Minister of Territorial Administration N 06-P (May 6, 2010) on “Referral letter to accommodate asylum seekers in the Temporary Reception Center and confirming the registry forms on asylum seekers accommodated in that Center”.

II. DESCRIPTIONS OF THE PROCEDURE

4. PROCEDURE OF ACCOMODATION IN THE CENTER

4.1. The rooms of the Center are used for temporarily accomodating asylum seekers and their families in RA.

4.2. The referral for accommodation at the Reception Center given by State Migration Service to the asylum seeker is a ground for accommodation in the room.

4.3. It is prohibited to accomodate any asylum seeker without referral. On exceptional basis, accomodating in a room without referral, as well as the continuation of staying in the room by the asylum seeker for a certain time in the event of repealed referral is possible in the case of permission by SMS.

4.4. On an exceptional basis, accommodating in a room without referral, as well as in the event of extended stay in the allocated room by the asylum seeker in case of existence of a repealed referral, the substantiated written note by the Head of SMS to the Director of the Reception Center is a ground for permission.

4.5. Asylum seeker approaches the RC with the referral. Entrance to the RC territory by asylum seeker with a referral can't be prohibited, excluding the cases when there are obvious grounds for prohibiting asylum seeker's entrance to the RC. In this case the RC Director immediately reports this to the Head of SMS.

4.6. After entering the RC, asylum seeker is accompanied to the office of the RC Director by the employee of the RC.

4.7. The Director welcomes the asylum seeker, has a conversation with him in order to find out the number, age, sex of the asylum seeker's family members, and other circumstances which can be decisive for accommodating the asylum seeker and his or her family members in appropriate room.

4.8. The RC Director informs the asylum seeker about the RC internal code of conduct confirmed by the Head of SMS. The Code of Conduct must be translated to a language understandable for the asylum seeker. Asylum seeker certifies with his or her signature that he or she got acquainted with the internal code of conduct. The asylum seeker by his or her signature in the register also certifies the receipt of the furniture and other items for accommodation.

4.9. When necessary, the RC Director approaches SMS with a request to provide an interpreter to ensure proper conversation with the asylum seeker.

4.10. The asylum seeker gives his or her passport and the identity certificate of asylum seeker in the RA issued by SMS which are copied and placed in the personal file of the asylum seeker by an employee of the RC.

4.11. The Director accompanies the asylum seeker to the room allocated for him. The room must be furnished with necessary items for living: bed, table, chair, drawer and etc.

4.12. When accommodating in the room, the level of occupation of the RC, number of rooms, country of origin of asylum seeker, his or her age, sex, number of family members, number of minors, their age, sex, asylum seeker's religion and other circumstances are taken into account. Priority is given to the asylum seeker with children, taking into account the best interest of the child, as well as the minor who is applying for asylum on her own and doesn't have adopters or trustees.

4.14. Asylum seeker with disability is accommodated in a room for people with disabilities.

4.15. Asylum seeker is allowed to stay in the room allocated for him or her until the final decision is made on asylum application, including the end of court appeal of the decision of rejection, excluding the cases, when the referral given to the asylum seeker is recognized invalid by SMS in the cases prescribed by RA legislation.

5. LIVELIHOOD SUPPORT PROCEDURE

5.1. The asylum seeker living in the Reception Center is provided with food and personal hygienic items, and clothing and shoes for free in case of necessity. Asylum seeker is provided with bed, bed items and linen, kitchenware (plate cup, spoon, etc.). Depending on the number of asylum seekers accommodated in the room, each room is provided with table, benches or chairs, clothes hangers, closets for keeping clothes and household items, garbage bin, cleaning items and other items. Asylum seeker with a minor or minor asylum seeker receive necessary items for child care.

5.2. On exceptional basis, accommodated in the room without referral, as well as in the case of repealed referral, asylum seeker who continues to stay in the allocated room will not be provided with food and personal hygienic items.

5.3. Provision of food is implemented by a panel made by the order of the Reception director.

5.4. Food is provided 3 times per month, on 3rd, 13th and 23rd day of each month, regardless of whether these days are weekends, holidays or commemoration days.

5.5. The daily amount of food and bed linens provided to asylum seeker are calculated according to

the minimum standards set by respectively the NN 2 and 4 addendum of the decision of the Government of Republic of Armenia No. 730-N (May 31, 2007) on "Confirming minimum standards of social service and care of elderly and people with disabilities".

5.6. Food is provided in the food distribution room. A separate invoice (form is attached) is made on types and amount of food for each asylum seeker.

5.7. The invoice is filled in Armenian and in a language understandable to the RC resident.

5.8. Asylum seeker receives the food and personal hygienic items allocated to his or her, compares the types and amount to the ones mentioned in the invoice and signs the invoice.

5.9. The invoice is signed by all members of the panel and is presented to the confirmation of the Director.

5.10. The invoice is confirmed by the Director of the Reception Center and is kept at the accountant's office of the Reception Center, and the copy is kept in the personal case of asylum seeker.

5.11. The director of the Center takes measures in organizing asylum seeker's free time in a targeted way. Trainings on Armenian language, culture and history may be organized pursuant to general educational programs for children. Representatives from NGOs and international organizations, as well as representatives of state other bodies can be involved in organizing trainings.

5.12. Asylum seeker is guaranteed with freedom of thought, conscience and religion. Performance of rituals is allowed only to the ones which don't violate the requirements of the legislation of Republic of Armenia or rights of other people. In case of possibility asylum seeker can perform religious rituals or take part in them in the places designated for such purposes. Asylum seeker is allowed to have with him, receive, acquire and keep with him religious literature, items for religious worship, in the exception of items having piercing and cutting form, items of historical or cultural value, and use them.

6. PROCEDURE TO ORGANIZE MEDICAL EXAMINATION

6.1. Director of the Reception Center suggests asylum seeker pass medical examination. If asylum seeker is willing, he or she applies to the Director of the Center in a written form.

6.2. A referral for medical examination at polyclinic is given to the asylum seeker (referral is attached). In case of necessity the Director of the Reception Center organizes asylum seeker's visit to polyclinic.

6.3. Conclusion in the result of the examination is presented to the Director by the asylum seeker. The medical opinion is attached to the personal file of asylum seeker. In case of carrying virus or in similar other situations resident's entrance to the Center can be prohibited. For example, if it is obvious that the asylum seeker is a carrier of a virus, then the Director of the Reception Center immediately applies for the ambulance service in order to take the asylum seeker to a relevant medical institution.

7. PROCEDURE ON VACATING THE ROOM IN THE RECEPTION CENTER

7.1. Asylum seeker vacates the occupied room, if recognized as a refugee in the RA by the decision of SMS, or if his or her asylum application is finally rejected by the decision of SMS, or if the referral of accommodation in the Reception Center granted by SMS is repealed. SMS writes a note to inform about it to the Director of the Reception Center.

7.2. If the asylum seeker is recognized as a refugee and granted an asylum by the decision of SMS, then he or she leaves the room occupied by him during 2 days after being informed about the decision.

7.3. If the asylum seeker's application is rejected by the decision of SMS and the decision of rejection hasn't been appealed in court, then the asylum seeker has the right to continue living in the occupied room 30 days after receiving the rejection decision. In this case asylum seeker is not provided with food and hygienic items. He or she leaves the room after completion of 30 days during 2 days.

7.4. If the application of asylum seeker is rejected by the decision of SMS and the decision of rejection is appealed in the court, then he or she leaves the room occupied by him or her after getting into force of the final decision on his or her asylum application, during 2 days.

7.5. If the asylum seeker violates Reception Center's internal code of conduct, the director of the

Reception Center immediately informs the Police, as well as the Head of SMS about it.

7.6. If the asylum seeker violates Reception Center's internal code of conduct, as well as if the asylum seeker is absent from the Reception Center for 7 days systematically without excused justification, the director of the Reception Center writes a note to the Head of SMS with the suggestion to repeal the granted referral, substantiating the circumstances for such suggestion.

7.7. The asylum seeker can't continue occupying the room allocated to him or her, if the referral granted by SMS for room occupation is repealed.

7.8. As soon as receiving the written note from SMS about repealing the referral, the director of the Reception Center informs about it to the asylum seeker and orders him or her to vacate the room.

7.9. The room is subject to be vacated by the asylum seeker starting from the next day of being informed about the repealation of the referral.

7.10. While vacating the room the asylum seeker hands the property handed to him to the directorate. The director of the Reception Center notes about it in the registry.

7.11. The director of the Reception Center informs the SMS about the existence of vacant room/rooms.

8. REGISTRATION AND MAINTAINING DOCUMENTS

8.1. A separate personal case is filed for each asylum seeker.

8.2. If the asylum seeker lives with the members of his or her family, a family personal case is opened.

8.3. The original copies of referrals issued by SMS, medical examination opinions, received official notes on residents and other documents are kept in the accounting of the Reception Center, in a separate folder, and the copies of these are kept in the personal file of asylum seeker.

8.4. A register on asylum seekers is kept in the Reception Center. In the register there should be name, surname, middle name (if available), date of birth, country of citizenship, number of referral for accommodation at the Center, date of issue, date of being accommodated in the Center, date of the decision on asylum application by the authorized body, number of the decision, date of vacating the occupied territory.

8.5. The director of the Reception Center presents the monthly list of asylum seekers residing at the Center to SMS. List of each month is presented during the first week of the next month.

9. MONITORING ON THE IMPLEMENTATION OF THE PROCEDURES

9.1. Head of SMS, Head of asylum affairs division of SMS, Reception Center director implement monitoring in frames of their powers on execution of actions set by this procedure.

10. FINAL PROVISIONS

10.1 This procedure is given to those workers of the Reception Center who implement the actions standardized through this procedure, or are related to the actions standardized through this procedure.

10.2. This procedure is subject to review in the event of organizational, institutional, or legislative changes.

10.3. This procedure, as well as the designated changes are subject to implementation by employees replacing the staff in the period of the absence of the staff.

10.4. With the objective to review the implementation of the procedures, Head of asylum division of SMS, division staff, Reception Center director and Reception Center staff can come up with suggestions to the Head of SMS.

10.5. The head of SMS can review this procedure with his own initiative.

10.6. This procedure is implemented starting from January 1, 2014.

FOOD EXIT INVOICE

Asylum-seeker _____ " _____ " _____ 2014

Number	Անվանումը Name	Name	Չափ. մավոր Dose(gr)	Քանակ Amount	Օր Days	Ընդամենը Sum total
	Հաց ցորենի	White bread	gr	300	10	
	Հաց ցորենի 2-րդ տեսակ	Rye bread	gr	200		
	Թթվասեր	Sour cream	gr	30		
	Կաթնաշոռ	Curds	gr	50		
	Կարտոֆիլ	Potato	gr	200		
	Բանջարեղեն	Vegetables	gr	300		
	Սոխ	Onion	gr	50		
	Պանիր	Cheese	gr	30		
	Մսամթերք	Meat products	gr	140		
	Ձկներէն	Fish	gr	60		
	Միրգ	Fruit	gr	200		
	Շաքարավազ	Sugar	gr	60		
	Թեյ	Tea	gr	2		
	Սուրճ	Coffee	gr	4		
	Մակարոնեղեն	Macaroni	gr	30		
	Ձավարեղեն	Grains	gr	50		
	Ձու	Egg	Unit	0.5		
	Կարագ	Butter	gr	20		
	Մուրաբա կամ ջեմ	Preserves, jam	gr	20		
	Տոմատի մածուկ	Tomato paste	gr	5		
	Ձեթ	Vegetable oil	ml	40		
	Կաթի փոշի	Milk powder	gr	20		
	Աղ	Sault	gr	15		

Head _____

Committee Members _____

Received _____

“RECEPTION CENTER” STATE NON-PROFIT ORGANIZATION

_____ 2014.

N _____

“Surb Grigor Lusavorich” Medical Center

Adult Outpatient Clinic

Referral

Please _____

(Surname, name, second name)

Subject to medical examination (general)

Executive Director _____ Name/Surname

/signature/

