



Overview of Decision-making Process on Individual Asylum Claims

UNHCR Training - Belarus

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OUTLINE OF PRESENTATION

1. Background to individual RSD
2. The Decision-maker – the lynchpin of the RSD system
3. Decision-making in the refugee context

HISTORICAL BACKGROUND

- Before WW2 – recognition on a group basis
- After WW2 – *1951 Convention* – recognition on individual basis
- Creation of refugee status determination procedures – UNHCR and national asylum authorities

THE DECISION-MAKER

- Refugee procedures should be fair
- Two of the main principles of a fair procedure are:
 - The right to an unbiased decision-maker, and
 - The right to have the decision made by the person who heard the evidence

UNBIASED DECISION MAKERS

- Impartial/ objective/ open-minded
- Activities are structured and confined by
 - The refugee definition
 - International standards
 - Domestic law and complementary protection requirements
 - The evidence in each individual case

RESPONSIBILITIES OF A REFUGEE DECISION MAKER

1. Prepares file for interview
2. Conducts effective interview
3. Analyzes information and reaches correct assessment of protection needs
4. Prepares written reasons that will clearly show thorough analysis of relevant facts, a proper consideration of COI and a correct application of legal principles

QUALIFICATIONS

- Knowledge of the law
- Sound judgment
- Analytical skills
- Oral and written communication skills
- Decision- making skills based on evidence
- Cultural sensitivity
- Self-control

SELECTION AND TRAINING

- Merit based selection
 - Does this person have the knowledge, skills and attitude to decide refugee applications correctly?
 - Can this person make good decisions when the information is ambiguous or conflicting?
- Competency based development:
 - Formal training
 - On the job learning
 - Self managed learning

DECISION-MAKING IN THE REFUGEE CONTEXT

- The process of reducing uncertainty and doubt about an applicant's story to allow a reasonable choice to be made as to granting or rejecting the application for protection
 - Therefore, information gathering is very important
 - The goal is to reduce uncertainty but it can rarely be eliminated altogether

REFUGEE DETERMINATION - TWO PART PROCESS

1. Information gathering

- Case Preparation
- RSD Interview

2. Eligibility assessment and Decision

- Analysis of Information (credibility assessment and legal analysis)
- Write decision with reasons

PART 1 – PREPARATION FOR THE INTERVIEW

DEVELOP A PLAN:

- 1) Review the registration form and other documents in the file. Note important facts and dates.
- 2) Consult relevant COI.
- 3) Identify preliminary issues that will be relevant to the determination of the claim.
- 4) Note any missing information that the applicant should be asked.
- 5) Noting inconsistencies that will need to be explored.

PART 1 – RSD INTERVIEW

- To give applicant opportunity to explain the basis of his asylum claim
- To give the Eligibility Officer (EO) an opportunity to probe the information provided in support of the claim
- To clear up any credibility issues
- To get a truthful account so EO can determine if applicant qualifies for refugee protection

PART 2 – ELIGIBILITY ASSESSMENT AND DECISION

- Analysis of Information
 - credibility analysis
 - legal analysis
- Write decision with reasons
 - Use structured approach

INTERRELATIONSHIP BETWEEN ELEMENTS OF RSD DECISION-MAKING

- Case plan prepares decision-maker for the interview and the questions/ areas on which to focus
- Knowledge of COI provides information about credibility and information about elements of the definition (example – state protection)
- An effective interview provides further information and clarifications
- The information collected can be weighed and assessed in a thorough manner
- Assessing credibility of material facts is easier with all the information
- Once credibility is decided, use only those facts that have been found credible .
- Apply legal definition to the facts and decided if the evidence supports a positive or negative decision
- Write assessment - reasons for decision

QUESTIONS? THANK-YOU -- COFFEE TIME

