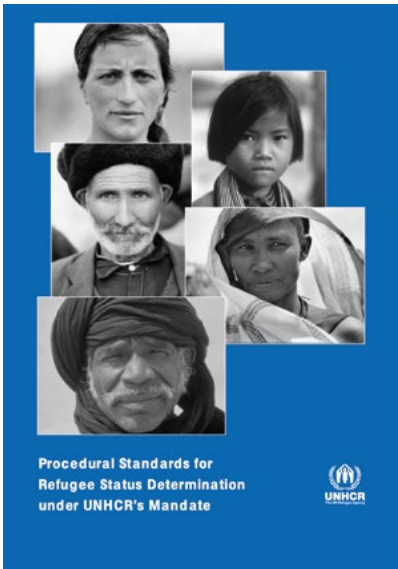




Unit 1

INTRODUCTION



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Table of Contents

UNHCR’s Mandate for Refugee Status Determination (RSD)4

Core principles and standards.....5

Overview of the RSD Procedural Standards6

A Complement to Other UNHCR Documents and Resources.....7

Implementation of the RSD Procedural Standards7

UNHCR's Mandate for Refugee Status Determination (RSD)

Refugee Status Determination is the legal or administrative process by which governments or UNHCR determine whether a person seeking international protection is considered a refugee under international, regional or national law. RSD is a vital process in helping refugees realize their rights under international law. This process can be done on an individual or group basis. Although States have the primary responsibility for determining refugee status, UNHCR may conduct RSD in countries and territories that are not party to the 1951 Convention, or which have not yet established the legal and institutional framework to support an RSD process. RSD pursuant to UNHCR's mandate is a **core protection function**.

The Procedural Standards for RSD under UNHCR's Mandate sets out the **minimum procedural standards for when RSD is conducted by UNHCR under its mandate**. It establishes **core principles and standards** that must be observed to ensure that all asylum-seekers applying for refugee status determination under UNHCR's mandate benefit from accurate, timely and consistent decision-making and to support capacity-development of UNHCR RSD staff and other stakeholders.

In 2003, UNHCR issued the Procedural Standards for Refugee Status Determination under UNHCR's Mandate ("2003 RSD Procedural Standards") to establish minimum procedural standards and harmonize its RSD procedures across UNHCR operations. However, the global rise in refugee numbers, including in mandate RSD operations, and the need to enhance the capacity of UNHCR to respond to the increased number of individual applications, have since resulted in the development of UNHCR's strategic engagement with RSD in 2015. The revised RSD Procedural Standards seek to address these considerations, while they incorporate updates to UNHCR policies, guidance and practices since the release of the 2003 RSD Procedural Standards.

The considerations that follow have been developed to provide guidance on **UNHCR procedures to determine eligibility for mandate refugee status determination on an individual basis**, through the examination of individual claims.

Core principles and standards

Certain core principles and standards must be incorporated into the RSD procedures in every UNHCR Office to ensure that all asylum seekers, regardless of where they apply for RSD by UNHCR, benefit from consistent standards of due process.

CORE STANDARDS FOR DUE PROCESS IN MANDATE RSD

- ▶ RSD applications must be processed on a non-discriminatory basis pursuant to transparent and fair procedures, and in the most timely and efficient manner possible.
- ▶ Applicants undergoing individual RSD procedures must have the opportunity to present their claims in person in an RSD Interview with a qualified Eligibility Officer.
- ▶ Procedures should be in place to identify and assist asylum seekers with specific needs.
- ▶ The best interests of the child must be a primary consideration in deciding whether and how to interview a child Applicant.
- ▶ Applicants who approach UNHCR Offices should have access to UNHCR staff and procedures, and should receive the necessary information to permit them to understand and participate in the RSD process and UNHCR procedures as well as to provide them with the appropriate support.
- ▶ Applicants should have access to interpretation and take part in the procedure in a language that they understand.
- ▶ Confidentiality and data protection extend to all communications with current and former asylum-seekers and refugees, as well as all personal data or information obtained from or about them by UNHCR staff and partners in the course of their activities.
- ▶ Applicants whose RSD decision was negative at first instance have the right to appeal that negative RSD decision.
- ▶ All aspects of the RSD procedures must be consistent with established UNCHR policies relating to standards of treatment, including age, gender and diversity considerations.

In terms of Refugee Status Determination, **differentiated case processing modalities** can be applied, including regular RSD, accelerated RSD, merged registration- RSD and merged RSD- Resettlement; case processing modalities can also be simplified. Operations must evaluate which case processing modalities are most appropriate and consider if different case processing modalities can be introduced for various population groups and profiles. Core principles and key procedural standards applies also when an UNHCR Office applies differentiated case processing methodologies.

Overview of the RSD Procedural Standards

The RSD Procedural Standards provide detailed procedural guidelines for every stage of the process of mandate RSD, from the reception of asylum seekers by UNHCR through to the final determination of the claim.

The issues addressed in the RSD Procedural Standards include:

- ▶ Confidentiality and Data Protection in UNHCR RSD Procedures
- ▶ RSD File Management and Recordkeeping Procedures
- ▶ Physical Facilities of RSD Procedures
- ▶ Office Security
- ▶ Interpretation in UNHCR RSD Procedures
- ▶ Complaint Procedures
- ▶ Legal Representation in UNHCR RSD Procedures
- ▶ Children in UNHCR RSD Procedures
- ▶ Applicants with Mental Health Conditions and Intellectual Disabilities in UNHCR RSD Procedures
- ▶ Reception and Registration in RSD Operations
- ▶ Adjudication of RSD Claims
- ▶ Processing Claims based on the Right to Family Unity
- ▶ Notification of RSD Procedures
- ▶ Appeal of Negative RSD Decisions
- ▶ UNHCR Refugee Certificate
- ▶ Procedures for Case Closure and Re-opening
- ▶ Procedures for Cancellation of Refugee Status
- ▶ Procedures for Cessation of Refugee Status

A selection of **standard forms**, **checklists** and **other RSD tools** have been developed to support the implementation of the RSD Procedural Standards and are included as Annexes to the various Units. The tools have been specifically designed to promote more effective and consistent information gathering and to guide UNHCR personnel in preparing concise and comprehensive referrals and assessments. The tools also include models for individual letters and documentation relating to RSD procedures.

A Complement to Other UNHCR Documents and Resources

The RSD Procedural Standards have been developed as a procedural tool and as such, do not provide guidance on the interpretation of the refugee criteria or address substantive issues relating to RSD. The RSD Procedural Standards incorporate elements of existing UNHCR guidance as well as other external resource material that are relevant in RSD procedures, though it does not provide comprehensive operational and institutional guidance. A list of relevant UNHCR and other external resource material has been included at the end of each Unit of the RSD Procedural Standards as an Annex and will be updated on a regular basis.

The RSD Supervisor or designated Protection personnel is expected to be aware of all relevant UNHCR operational guidelines affecting RSD operations, and should ensure they are reflected in the RSD procedures in each UNHCR Office and that they are understood by personnel who are responsible for their implementation. Overall accountability lies with the Representative or Head of Office.

Implementation of the RSD Procedural Standards

The RSD procedural standards should **be implemented in all operations where UNHCR has responsibility to conduct RSD pursuant to its mandate**, and should apply to all individuals who are requested or engaged by UNHCR to carry out RSD procedures in these operations. Each UNHCR Office should ensure that the RSD Procedural Standards are shared with and fully understood by those who are responsible for their implementation.

Effective implementation requires that the minimum procedural standards be incorporated into **standard operating procedures for RSD** in every UNHCR Office.



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