



Unit 5

PROCESSING CLAIMS BASED ON THE RIGHT TO FAMILY UNITY



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5.1 The Right to Family Unity

Refugees have a right to family unity. Maintaining and facilitating family unity helps ensure the physical care, protection, emotional well-being and economic support of individual refugees. This may be achieved through various means. Granting derivative refugee status to the family members/dependants of a recognized refugee is one way of doing so in certain cases where the family members/dependants do not qualify for refugee status in their own right.

5.2 Derivative Refugee Status

5.2.1 General Principles

As a general rule, **family members/dependants of a recognized refugee who meet the eligibility criteria for refugee status under UNHCR’s mandate should be recognized as refugees in their own right**, even if they have applied for refugee status as part of a family rather than on an individual basis. In this regard, it is important to note that **accompanying family members/dependants will often have the same international protection needs** as the recognized refugee due to similarities in profile, personal circumstances and the conditions in the country of origin. Furthermore, family members/dependants, regardless of age, may also have a well-founded fear of persecution in their own right as a result of their family link or association with the recognized refugee. For further guidance on assessing the individual refugee claims of children, see § 2.8 – *Children in UNHCR RSD Procedures* and § 3.4.6 – *Child Applicants (under 18) / Unaccompanied and Separated Children*.

Recognition of refugee status in their own right affords family members/dependants better protection as their status will not automatically be affected by a subsequent cancellation, revocation or cessation of the refugee status of the individual from whom they derive refugee status (hereinafter “Refugee Status Applicant”).¹ Such recognition may also facilitate the identification and implementation of a durable solution, including resettlement.

Family members and dependants of a recognized refugee, who are not eligible for refugee status under UNHCR’s mandate in their own right, may be granted derivative refugee status if they meet the relevant criteria.

Family members/dependants seeking reunification with a resettled refugee may also be considered for derivative status to ensure their right to family unity, particularly where the granting of derivative refugee status would facilitate family reunification in the country of resettlement and provided that the Refugee Status Applicant’s status has not ceased (for example as a result of acquiring the nationality of

¹ The term “Refugee Status Applicant” is used *in lieu* of “Principal Applicant” and should be understood as the individual Applicant on whose claim the outcome of an application for derivative refugee status by a family member or dependant is contingent. This change in terminology is intended to reinforce the point that several or all members of a family or of a household may meet the eligibility criteria for refugee status under UNHCR’s mandate and, as such, should be recognized in their own right rather than be granted derivative refugee status. References to “Principal Applicant” in other parts of the RSD Procedural Standards will be progressively replaced with “Refugee Status Applicant”. Until such time the terms are interchangeable.

the country of resettlement). For further guidance on derivative status in the context of resettlement, please refer to the UNHCR Resettlement Handbook.

RSD procedures in every UNHCR Office must ensure that the family members/dependants of Refugee Status Applicants are **fully informed** about the refugee criteria under UNHCR's mandate, in particular that they may, independently (of other family members), be eligible for refugee status in their own right. Family members/dependants who, on the basis of the information provided at registration and following counselling, do not appear to have a claim in their own right or who have been found not to be eligible for refugee status in their own right, must also be advised of the criteria and procedures for obtaining derivative refugee status (see § 3.2.6 – *Registration Interview of Family Members and Dependants*).

If, at any point before or during the determination of derivative refugee status, it becomes apparent that the family member/dependant may have international protection needs in his or her own right, a full consideration of the merits of the claim must be undertaken so that the claim can be assessed on its own merits.

Individuals who are granted derivative refugee status enjoy the **same rights and entitlements as other recognized refugees**, and should retain this status notwithstanding the subsequent dissolution of the family through separation, divorce or death, or the fact that a child reaches the age of majority (for further guidance see § 5.3.5 – *Termination of Derivative Refugee Status*).

5.2.2 Criteria for Granting Derivative Refugee Status

The criteria for granting derivative refugee status require that a **relationship of social, emotional or economic dependency** exists between the Refugee Status Applicant and the Applicant for derivative refugee status (hereinafter “Derivative Refugee Status Applicant”). Dependency does not require complete dependence, but can be mutual or partial dependence. The direction of the dependency is also irrelevant. This means that the Derivative Refugee Status Applicant may be dependent on the Refugee Status Applicant or *vice versa*.

A relationship of social, emotional or economic dependency is generally presumed for close members of the Refugee Status Applicant's family (see § 5.2.3 – *Persons Eligible for Derivative Refugee Status*), provided that the close family relationship is established. The presumption can be rebutted if there are serious indications that a relationship of dependency does not, in fact, exist (see § 5.3.1 – *The Family Unity Interview*). For other family members or dependants, such a relationship must be established (see § 5.2.3 – *Persons Eligible for Derivative Refugee Status*).

The existence of a close family or other dependency relationship is a question of fact (i.e. whether the close family relationship or other dependency relationship can, **on balance**, be established) and must be determined on a case-by-case basis, in light of the applicable credibility indicators and taking into account social, emotional or economic factors. The determination requires a detailed examination of all available evidence, including documentary evidence and other relevant information regarding the personal circumstances of the Derivative Refugee Status Applicant and those of the Refugee Status Applicant, including information provided during the Family Unity Interview(s), as well as relevant and reliable information available to UNHCR or gathered at various stages of the RSD process (see § 5.3.1 – *The Family Unity Interview*).

UNHCR Offices must adopt a **flexible approach** when applying the criteria for granting derivative refugee status, and should take into account social and cultural norms or other specific circumstances

that may have affected the composition of the Refugee Status Applicant's family unit or that may have created or contributed to the dependency relationship between the Refugee Status Applicant and the Derivative Refugee Status Applicant.

Determination of eligibility for derivative refugee status by UNHCR Offices should not be based upon the criteria used by resettlement countries.

5.2.3 Persons Eligible for Derivative Refugee Status

The **categories of persons** who should generally be considered to be **eligible for derivative refugee status** under the right to family unity are listed below.

STANDARDS & GUIDELINES

CLOSE FAMILY MEMBERS² (FOR WHOM A RELATIONSHIP OF SOCIAL, EMOTIONAL OR ECONOMIC DEPENDENCY IS PRESUMED)

- ▶ Spouse of the Refugee Status Applicant, including all legally married spouses in cases of polygamy, a person engaged to marry the Refugee Status Applicant, common law spouses or couples involved in an enduring relationship, whether physically living together or not, including same sex couples, and spouses who have entered into a customary marriage. In the case of an underage spouse, a best interest assessment (BIA) would generally be required to determine whether derivative refugee status is in his or her best interests;
- ▶ All unmarried children of the Refugee Status Applicant and all unmarried children of his or her spouse as defined above, who are under 18 years, including children of the Refugee Status Applicant born in the host country/country of asylum provided that derivative refugee status is not incompatible with their personal legal status (see § 5.2.4 – *Persons not Eligible for Derivative Refugee Status*);
- ▶ The parents or primary legal or customary caregivers of a Refugee Status Applicant who is under 18 years, as well as the dependants of the adult parent or caregiver;
- ▶ The minor siblings of a Refugee Status Applicant who is under 18 years.

For the purpose of assessing eligibility for derivative refugee status, the age of the Derivative Refugee Status Applicant should be considered as at the date when the Refugee Status Applicant was recognized as a refugee.

In this context, **children** include the biological or adopted children of the Refugee Status Applicant, as well as children otherwise under the legal or customary care of the Refugee Status Applicant. Unless otherwise specified, reference to children in this Unit should be understood as persons under the age of 18.

Estranged spouses who do not live together as a family unit will normally not be eligible for derivative refugee status in relation to each other, but may be eligible for refugee status in their own right or for derivative refugee status in relation to their children and/or other family members/dependants.

² The term "close" family members is used *in lieu of* "nuclear" family members as it more neutrally and accurately reflects the categories of family members for whom a relationship of social, emotional or economic dependency is presumed and who should, as a consequence, be eligible for derivative refugee status under the right to family unity.

Other **family members** and **certain other individuals may also be eligible** for derivative refugee status under the right to family unity if it is established, on balance, that a **relationship of social, emotional or economic dependency** exists between them and the Refugee Status Applicant (see § 5.2.2 – *Criteria for Granting Derivative Refugee Status*). Individuals who may fall within this category include, but are not limited to:

STANDARDS & GUIDELINES

PERSONS OTHER THAN CLOSE FAMILY MEMBERS WHO MAY BE ELIGIBLE FOR DERIVATIVE REFUGEE STATUS

- ▶ Parents or former caregivers of an adult Refugee Status Applicant, or of his or her spouse, where the parents/caregivers are dependent on the Refugee Status Applicant;
- ▶ Married children (under the age of 18) of the Refugee Status Applicant, or of his or her spouse, who remain dependent on the Refugee Status Applicant, and the spouse of married children where he/she is dependent on the Refugee Status Applicant. In the case of a married child (under the age of 18) or his or her underage spouse, a BIA will generally be required to determine whether or not the granting of derivative refugee status is in their respective best interest;
- ▶ Dependent children of the Refugee Status Applicant who are over 18 and their spouses where the couple is dependent on the Refugee Status Applicant. In the case of an underage spouse, a BIA will generally be required to determine whether or not the granting of derivative refugee status is in his or her best interest;
- ▶ Other dependent relatives, including brothers, sisters, aunts, cousins, who were part of the household of the Refugee Status Applicant in the country of origin, or whose situation has subsequently changed in such a way as to make them dependent upon the Refugee Status Applicant in the host country/country of asylum. Whether such individuals are part of the household of the Refugee Status Applicant in the host country/country of asylum is a relevant factor to consider in determining whether a relationship of dependency exists, but it is not determinative;
- ▶ Other relatives on whom the Refugee Status Applicant was dependent in the country of origin or on whom he/she has, subsequently, become dependent in the host country/country of asylum. Whether such individuals are part of the household of the Refugee Status Applicant in the host country/country of asylum is a relevant factor to consider in determining whether a relationship of dependency exists, but it is not determinative;
- ▶ Any other individuals who, though not related to the Refugee Status Applicant, have a dependency relationship that is similar to the categories of family members described above.

For the purpose of this Unit, the term “household” should be understood as persons living as a family unit under the same roof.

Family members/dependants who are **nationals of (or, if stateless, who have habitually resided in) a third country³** and who are not eligible for refugee status under UNHCR’s mandate in their own right **may be granted derivative refugee status** under the right to family unity if they meet the eligibility criteria for derivative refugee status. Even if the family member/dependant does not have any protection needs vis-à-vis his or her country of nationality or habitual residence, it cannot be assumed that the Refugee Status Applicant

³ A “third country” is a country other than the host country/country of asylum or the country of nationality or of habitual residence of the Derivative Refugee Status Applicant.

and their family members and dependants will be able to enjoy their right to family unity in the country of nationality or habitual residence of the family member/dependant. In such cases, often there is no automatic right of entry or residence for the non-national family members. Sensitivities regarding mixed marriage and/or the nationality of the non-national family members may also, depending on the circumstances of the case, make it unreasonable to expect the family to establish residence in the third country.

5.2.4 Persons not Eligible for Derivative Refugee Status

Family members or other dependants of a Refugee Status Applicant whose claim was **rejected** cannot be granted derivative refugee status. If the Refugee Status Applicant appeals the first instance RSD decision, the Derivative Refugee Status Applicants should be granted the same rights and protection as the Refugee Status Applicant until the Appeal Application has been decided. Family members/dependants of Refugee Status Applicants whose claims have been rejected may, however, apply for refugee status in their own right, including in instances where the fear of persecution is a result of the relationship with a Refugee Status Applicant excluded from refugee status.

Family members or other dependants of the Refugee Status Applicant who are **nationals of the host country/country of asylum** cannot be granted derivative refugee status even where a family/dependency relationship is determined to exist. Refugee status would, in such cases, be incompatible with the personal legal status of the family member or dependant. For instance, a national of the host country/country of asylum who marries a recognized refugee cannot be granted derivative refugee status as he/she is not outside his or her country of origin.

However, for the purposes of the determination of derivative refugee status, the **children of the Refugee Status Applicant who are born in the host country/country of asylum** will be presumed to have the same nationality or country of former habitual residence as the Refugee Status Applicant unless they **automatically obtain the citizenship of the host country/country of asylum**, either by virtue of being born on its territory or as a result of their relationship with one of their parents who is a national of the host country/country of asylum, in which case they would not be eligible for derivative refugee status. Whether a child born in the host country/country of asylum possesses the nationality of that country should be assessed on a case-by-case basis in light of the existing legal framework and practices, as well as any other relevant factors. Where an administrative discretion and/or practical obstacles to recognition as a national of the host country/country of asylum exist, the citizenship should not be considered as automatically afforded. The statelessness focal point in the UNHCR Office should be consulted on questions relating to the determination of nationality of children born in the host country/country of asylum.

Resettlement submissions may, nevertheless, preserve family unity even in cases where the eligibility for derivative refugee status would be limited as described above. The Resettlement Unit in the UNHCR Office will determine whether resettlement or other immigration channels should be pursued in such cases.

As a general rule, **a person cannot acquire derivative refugee status solely on the basis of a family/dependency relationship with a person who has derivative refugee status**. For instance, the spouse of a person who has derivative refugee status will not be able to be granted derivative refugee status as a result of the marriage unless he or she forms a direct dependency relationship with the Refugee Status Applicant. It must be noted, however, that a derivative refugee status holder may himself or herself become eligible for refugee status in his or her own right as a result of his or her own actions or changes in the country of origin since departure (*sur place* claims). In such cases, it may be appropriate to review

and revise the basis for eligibility to reflect recognition of refugee status in his or her own right, and then examine the application of derivative refugee status of the family member/dependant.

5.2.5 Persons Excluded from Derivative Refugee Status

Refugee Status Applicants who have been excluded from obtaining refugee status pursuant to Article 1F of the 1951 Convention are also excluded from obtaining derivative refugee status. Derivative Refugee Status Applicants who fall under the scope of the exclusion clauses in Article 1F of the 1951 Convention must also be excluded from obtaining derivative refugee status.

Concerns regarding the involvement of a close family member or dependant in an excludable act should be fully examined and assessed as and when exclusion concerns arise during the derivative refugee status determination. The principles and procedures to assess the application of the exclusion clauses set out in § 4.7 – *The Application of the Exclusion Clauses in Article 1F* should guide the determination of whether the exclusion clauses apply to Derivative Refugee Status Applicants (see also § 4.7.7 – *Implications of Exclusion Decisions for Family Members/Dependants*).

5.2.6 Derivative Refugee Status Applications Involving Separated or Newly Formed Families

The criteria and procedures set out in this sub-Unit also apply to assess whether derivative refugee status may be granted to Applicants **who arrived, or were registered by UNHCR, in the host country/country of asylum after the Refugee Status Applicant was recognized as a refugee**. This includes Applicants whose family/dependency relationship with the Refugee Status Applicant was formed after the Refugee Status Applicant's departure from his or her country of origin as a result of:

- ▶ marriage (e.g. marriages in the host country/country of asylum);
- ▶ birth or adoption of children;
- ▶ caring for sick, disabled or elderly relatives;
- ▶ the formation of a new household following the death of parents or siblings, etc.

The criteria for granting derivative refugee status set out above apply equally in the examination of **applications by family members or other dependants of a Refugee Status Applicant who is in another country of asylum**. Where the Refugee Status Applicant has an RSD file with another UNHCR Office, the UNHCR Offices involved should coordinate to gather and share the information required to determine the composition of the family unit and the nature of the dependency relationship between the Refugee Status Applicant and the Derivative Refugee Status Applicants. In exceptional cases, where an individual who resides in a third country has been recognized under the asylum procedures of that country, UNHCR Offices may make the necessary inquiries with the asylum authorities of that country to assess whether it would be appropriate to determine the application for derivative refugee status of a family member or dependant with a view to facilitating family reunification.

5.3 Family Unity Procedures

5.3.1 The Family Unity Interview

Eligibility for derivative refugee status must be determined through **Family Unity Interviews** with the Refugee Status Applicant and the Derivative Refugee Status Applicant(s). The examination of the eligibility of family members/dependants for derivative refugee status may be conducted with the Refugee Status Applicant during his or her RSD interview(s), or in a separate Family Unity Interview with the Refugee Status Applicant following recognition of his or her refugee status (see § 4.3.14 – *Interview of Family Members or other Dependants*). All persons identified by the Refugee Status Applicant as accompanying family members/dependants, including those who arrived in the host country/country of asylum after the registration or recognition of the Refugee Status Applicant’s refugee claim, should, unless otherwise provided in this Unit also have a Family Unity Interview.

Family Unity Interviews with the Refugee Status Applicant and the Derivative Refugee Status Applicants should be conducted separately unless there are compelling reasons to indicate that this would not be appropriate or constructive (see, for instance, § 2.8.2 – *Best Interests Procedures and the RSD process* and § 5.3.2 – *Derivative Refugee Status Applications Involving Children*).

Wherever possible, the Family Unity Interviews should be conducted **by the Eligibility Officer who is or was responsible for determining the refugee claim of the Refugee Status Applicant**. At a minimum, the Eligibility Officer who conducts the Family Unity Interviews with the family members/dependants should be familiar with the information provided by the Refugee Status Applicant in the RSD Application Form and other relevant information gathered in the context of the Refugee Status Applicant’s UNHCR procedures.

Scheduling of Family Unity Interviews must be conducted in accordance with the provisions in § 3.5 – *Scheduling of RSD Interviews and Appointments*.

The **purpose** of the Family Unity Interview is to obtain sufficient information to **assess the existence and nature of a family or other dependency relationship** between the Refugee Status Applicant and the Derivative Refugee Status Applicants.

When conducting the Family Unity Interviews, the Eligibility Officer must respect the **right to confidentiality** of the Refugee Status Applicant and Derivative Refugee Status Applicants in accordance with UNHCR’s policies (see also § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures* and § 2.8.4 (f) *Confidentiality and data protection*). Should new evidence or inconsistencies that are material to the determination of whether a family/dependency relationship exists arise during the Family Unity Interviews with the Refugee Status Applicant or other family members/dependants, the Derivative Refugee Status Applicant should be given the opportunity to clarify these aspects of evidence, if necessary, in a complementary Family Unity Interview. In assessing the reliability of the evidence, the Eligibility Officer should be mindful of potential protection concerns and respect the obligation to preserve the confidentiality of the interview with the Refugee Status Applicant or other family members/dependants (see also § 4.3 – *The RSD Interview*).

Derivative Refugee Status Applicants must be advised to bring originals or, if unavailable, best available copies of all **documents** in their possession to support the existence of the family relationship or other dependency relationship between the Refugee Status Applicant and Derivative Refugee Status Applicants (e.g. marriage or birth certificates, financial or medical records, etc.).

Where the Derivative Refugee Status Applicants are **claiming to be close family members**, the Eligibility Officer should examine documents and other reliable evidence supporting the existence of the family relationship, including birth certificates and marriage certificates. If the documents are accepted as valid, and are consistent with the information already provided by the Applicants, including at registration, it would generally not be necessary to conduct a Family Unity Interview, unless the **family relationship was formed after the Refugee Status Applicant's departure from the country of origin** or if there are **credibility issues** regarding the existence of the relationship or the composition of the family unit. In such cases, the Eligibility Officer should examine the genuineness of the family relationship during Family Unity Interviews with the Refugee Status Applicant and the Derivative Refugee Status Applicant.

The fact that a Derivative Refugee Status Applicant had his or her claim for refugee status rejected is a relevant consideration in the determination of the genuineness of the family or dependency relationship with the Refugee Status Applicant, but it is not determinative; as such, the motivations for entering into a marriage or marriage-like relationship with a recognized refugee would not preclude the granting of derivative refugee status as long as the couple lives as a family unit or the family/dependency relationship can otherwise be established.

Where close family members are not able to provide reliable supporting documentation, the Eligibility Officer should question the family members regarding the family composition, the living circumstances in the country of origin and in the host country, as applicable, and other relevant aspects, to assess whether the existence of the family relationship can be accepted.

When assessing applications for derivative refugee status by **persons other than close family members**, Eligibility Officers must request details to determine whether there exists between the Derivative Refugee Status Applicant and the Refugee Status Applicant a relationship of significant **social, emotional or economic dependency**.

KEY CONSIDERATIONS

ASPECTS RELEVANT TO ESTABLISHING A RELATIONSHIP OF SIGNIFICANT SOCIAL, EMOTIONAL OR ECONOMIC DEPENDENCY MAY INCLUDE BUT ARE NOT LIMITED TO:

- ▶ The nature and duration of the relationship;
- ▶ Living arrangements in the country of origin and/or in the host country/country of asylum;
- ▶ Any financial, legal or social responsibilities assumed in a durable manner by the Refugee Status Applicant or the Derivative Refugee Status Applicant for one another;
- ▶ Any specific needs or vulnerabilities of the Derivative Refugee Status Applicant or the Refugee Status Applicant, and the existence of a care arrangement between them;
- ▶ Any changes in the personal situation of the Refugee Status Applicant or that of the Derivative Refugee Status Applicant since departure from the country of origin that may make them dependent on the other.

Other reliable information pertaining to the family composition or family/dependency relationship, including information gathered through, for example, “home visits”, medical or psycho-social assessments, if relevant, and similar means, should be considered in its entirety, in light of all available evidence, including the Applicants’ statements, taking into account the reasonableness of the explanations provided by the Derivative Refugee Status Applicants for any apparent credibility problems (for guidance on how to examine credibility problems that arise in the Refugee Status Applicant’s account, see § 4.3 – *The RSD Interview*).

As in the determination of refugee claims generally, Eligibility Officers must adopt a **flexible approach regarding the requirement to provide documentary evidence** in applications for derivative refugee status and take into account the situation of the Applicants, the circumstances of flight and the conditions in the country of origin and the host country/country of asylum.

Concerns regarding the involvement of a close family member or dependant in an **excludable act** should be fully examined and assessed.

5.3.2 Derivative Refugee Status Applications Involving Children

As a general rule, **young children** who are applying for derivative refugee status **should not have a separate Family Unity Interview**, unless the Derivative Refugee Status Applicant is an unaccompanied or separated child. In determining whether a child Applicant should undergo a Family Unity Interview, the age of the child, as well as his or her level of psychological and mental development and maturity must be taken into account. **In certain exceptional cases** (see also § 2.8.2 – *Best Interests Procedures and the RSD process*), it may also **be necessary and appropriate to interview a Derivative Refugee Status Applicant** who is a young child.

STANDARDS & GUIDELINES

CONDUCTING FAMILY UNITY INTERVIEWS WITH YOUNG CHILDREN MAY BE APPROPRIATE AND NECESSARY IN CASES WHERE:

- ▶ Serious credibility issues arise in the Family Unity Interviews with the Refugee Status Applicant or another family member/dependant regarding the composition of the family unit, or the legitimacy of the application for derivative refugee status for the child;
- ▶ There are reasons to believe that the child Derivative Refugee Status Applicant may be in danger of exploitation or abuse;
- ▶ The child Derivative Refugee Status Applicant is joining the Refugee Status Applicant in the host country, but one or both of the parents of the child have not been interviewed by UNHCR and are reportedly outside of the host country.

As a general rule, a BIA should be conducted prior to interviewing young children in order to determine whether, in light of the circumstances of the case and the personal and contextual circumstances of the child, pursuing the interview and the derivative status application is in the child’s best interest.

When interviewing child Derivative Refugee Status Applicants, Eligibility Officers should assess and take into account the level of maturity and development of the child, as well as his or her ability to understand, remember and recount events that have occurred in the country of origin and/or host country/country of asylum, and the precise composition of the household unit.

When it is necessary to interview child Applicants in Family Unity Procedures, UNHCR staff should use **child appropriate interview techniques** (see § 2.8.3 – *Child-friendly and Age-appropriate RSD Procedures* and § 4.3.7 – *Interviewing Child Applicants*) and ensure that the interview is conducted in a non-threatening environment, and in a child and age-sensitive manner.

Applications for Family Unity that involve unaccompanied and separated children should be processed under the procedures for **Accelerated RSD Processing** set out in § 4.9. The procedures and principles set out in § 5.2.6 – *Derivative Refugee Status Applications Involving Separated or Newly Formed Families* apply to applications for derivative refugee status by separated children.

5.3.3 Recording the Family Unity Interview

The Eligibility Officer must maintain a complete verbatim transcript and/or audio recording, where available, for all Family Unity Interviews.

STANDARDS & GUIDELINES

THE FAMILY UNITY INTERVIEW TRANSCRIPT AND/OR AUDIO RECORDING SHOULD INCLUDE:

- ▶ Name of the Eligibility Officer conducting the Family Unity Interview;
- ▶ Name of the Interpreter;
- ▶ Any third parties who are present;
- ▶ The date and time that the Family Unity Interview began and closed and any adjournments;
- ▶ The precise questions asked by the Eligibility Officer and the responses provided by the Applicant;
- ▶ Reference to all supporting documents and other relevant evidence presented or referred to during the Family Unity Interview;
- ▶ In the case of interview transcripts, relevant observations regarding the behaviour and demeanour of the Applicant during the Family Unity Interview, as well as non-verbal communication.

In cases where a Family Unity Interview is not conducted (see § 5.3.1 – *The Family Unity Interview*), a note briefly outlining the reasons for which a Family Unity Interview was believed not to be necessary or appropriate must be kept on the file of the Derivative Refugee Status Applicant.

5.3.4 The Derivative Refugee Status Assessment

As soon as possible following the Family Unity Interview or following a decision that conducting a Family Unity Interview is not necessary, the Eligibility Officer responsible for the case should prepare the written derivative refugee status assessment using the **Derivative Refugee Status Assessment Form** (Long or Short version) (**Annex 5-1 and 5-2**). The Eligibility Officer must sign and date the Derivative Refugee Status Assessment Form before referring the decision for review and endorsement according to the set procedures in the Office.

The **review of derivative refugee status decisions** must be conducted in accordance with the procedures set out in § 4.4 – *Procedures for Review of RSD Decisions*.

Procedures and timelines for **notification of derivative refugee status decisions** in each UNHCR Office should promote the need for decisions to be issued to the Derivative Refugee Status Applicant as soon as possible and without delay.

The form and procedures for notification of negative decisions in applications for derivative refugee status must be consistent with the procedures set out in § 6 – *Notification of RSD Decisions*.

Applicants whose claims for derivative refugee status are rejected have the **right to appeal** the negative decision. Appeals of rejected claims for derivative refugee status must be conducted in accordance with the procedures set out in § 7 – *Appeal of Negative RSD Decisions*.

5.3.5 Termination of Derivative Refugee Status

Derivative refugee status may be terminated for reasons related to the ending of the refugee status of the Refugee Status Applicant, or if the derivative refugee status itself ends through cancellation, revocation or cessation.

(a) Termination of Derivative Refugee Status as a result of the Cancellation, Revocation or Cessation of the refugee status of the Refugee Status Applicant

Cancellation, revocation or cessation of the refugee status of the Refugee Status Applicant results in the termination of the derivative refugee status of family members/dependants of the individual concerned (see § 10.5 – *Cancellation of Derivative Refugee Status*; § 11.4 – *Cessation of Derivative Refugee Status*).

Whenever possible, UNHCR Offices should take steps to notify persons whose derivative refugee status is terminated as a result of the cancellation, revocation or cessation of the refugee status of the Refugee Status Applicant, and to inform them that the termination of derivative refugee status does not affect their right to submit an independent refugee claim should they have grounds to claim refugee protection.

(b) Cancellation, Revocation and Cessation of Derivative Refugee Status

The derivative refugee status of a family member/dependant should be **cancelled** if it is subsequently determined that, at the time of the granting of status, the family member/dependant did not meet the relevant eligibility criteria for derivative status (i.e. a family or dependency relationship did not exist) or if the family member/dependant should have been excluded pursuant to Article 1F. A decision to invalidate the derivative refugee status of a family member/dependant on these grounds does not affect the refugee status of the Refugee Status Applicant.

The derivative refugee status of a family member/dependant should be **revoked** if, following the grant of status, the family member/dependant engaged in conduct that would bring him/her within the exclusion clauses of Article 1F(a) or (c) thereby making him/her underserving of international refugee protection.

The derivative refugee status of a family member/dependant may be terminated if the circumstances in connection with which the status was granted have **ceased** to exist; while not directly applicable to derivative refugee status, the cessation clauses in Article 1C are applied by analogy in this context. This includes situations where UNHCR has received reliable information indicating that the relationship of social, emotional or economic dependency with the Refugee Status Applicant no longer exists due to the actions of the family member/dependant, or that a change in the personal circumstances of the family member/dependant or those of the Refugee Status Applicant, such as the formation of a different family

or dependency relationship or access to other support mechanisms, has occurred which means that derivative status is no longer required to preserve family unity.

While, as a general rule, family members should retain their derivative refugee status notwithstanding the dissolution of the family through divorce, separation or death or the fact that a child reaches the age of majority, careful consideration should be given to the personal circumstances of the family members to determine whether retention of status is appropriate in a particular case or whether retention of status would be merely for reasons of personal convenience. Relevant factors that should be considered for this purpose include the existence of financial, legal or social responsibilities between spouses or in relation to their children; the time the family member has spent in the country of asylum and his or her level of integration, including the existence of strong family, social and economic links; and other compelling reasons, including the family member's specific needs and vulnerabilities.

Family members/dependants whose derivative refugee status is cancelled, or whose status is ceased based on their actions or changed circumstances, should be given the opportunity to present an independent refugee claim if they have grounds to claim refugee protection at the time of the cancellation or cessation procedures. Procedures relating to **cancellation, revocation** and **cessation** of refugee status will also apply to persons who have been granted derivative refugee status (see § 10.2 – **Procedures for Cancellation of Refugee Status**; § 11.2 – *Procedures for Cessation of Refugee Status*).

Annex: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to Processing claims based on the Right to Family Unity. All Protection staff members who are responsible for RSD should have access to and be familiar with these documents. Managers should ensure that documents are disseminated to staff who are responsible for their implementation, and that the directions in these documents are reflected in the RSD procedures and practice in the UNHCR Office concerned.

Annex 5-1: Derivative Refugee Status Assessment Form (Long)



Derivative Refugee Status Assessment Form (Long)

Derivative Refugee Status Assessment Form (Long)

This form is designed to facilitate the assessment of derivative refugee status for a Derivative Refugee Status Applicant (DRS Applicant), who claims to be in a relationship of dependency with a Refugee Status Applicant (RS Applicant)¹, and should be used in the following situations:

- 1) In case of doubts about the existence of a close family relationship², which raises concerns that a relationship of dependency does not exist (for example in the case of estranged spouses, marriages concluded recently in the country of asylum, doubts regarding paternity or adoption or any other complexities that may arise) or if there are indications that a relationship of dependency may not exist despite the close family relationship;
- 2) for **other (non-close) family members or dependants**, where a relationship of dependency must be established in order for the DRS Applicant to be recognised as a refugee on derivative refugee status basis;
- 3) in case of any information in the DRS Applicant's case which requires consideration of the possibility of exclusion based on Article 1F of the 1951 Convention.

Please note that while more than one person can derive status from one recognized refugee, this form should be filled out for **each** Derivative Refugee Status Applicant falling within one or more of the above-listed categories.

In cases where establishing **close family relationships** is straightforward and is supported by sufficient information and/or documentation, please use the [Short Derivative Refugee Status Assessment Form](#), which can be used for recognizing derivative refugee status of multiple individuals deriving refugee status from one particular Refugee Status Applicant.

All colleagues that are engaged with the process of derivative refugee status assessment in line with UNHCR's refugee status determination procedures, are required to familiarize themselves with the relevant [Chapter 5 \(Processing Claims Based on the Right to Family Unity\)](#) in the RSD Procedural Standards, before proceeding with the derivative refugee status assessment process.

¹ RS Applicant, who has been recognized as a refugee in his/her own right

² For the purposes of UNHCR's derivative status assessment, a close family member is a spouse, an unmarried child under 18 years of age, a parent/legal or customary primary caregiver of the child² Refugee Status Applicant (and their dependants), or child sibling of a child Refugee Status Applicant.

UNHCR Office:	
Interview/Eligibility Officer:	Interpreter:
Date(s) of Family Unity Interview(s), if applicable:	Language of Interview:

Derivative Refugee Status Applicant’s Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

Refugee Status Applicant’s Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Date of Birth:	Nationality:
Sex:	If Stateless, Country/Countries of Former Habitual Residence:

PART I – PRELIMINARY CONSIDERATIONS

I-1 Are there any indications that he/she/they may have an independent refugee claim?

Yes No

If ‘yes’, please refer the case to the appropriate individualized RSD procedure in accordance with standard operating procedures of your operation, and do not use the present DRS Assessment Form at this point. If no, please proceed to question I-2.

RSD Procedural Standards Annex 5-1

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I-2 Would recognition of derivative refugee status be compatible with the DRS Applicant's personal legal status? Yes No

If 'yes', please proceed to Part II – Summary for the Claim for Derivative Refugee Status.

If 'no', please briefly explain why and then go directly to Part VI – Recommendation.

PART II – SUMMARY OF THE CLAIM FOR DERIVATIVE REFUGEE STATUS

II-1 Please indicate the nature of the claimed family or dependency relationship between the Refugee Status Applicant (RS Applicant) and the Derivative Status Applicant (DRS Applicant).

(a) Close Family Member Yes No

If 'yes', please check the appropriate box below:

Spouse of RS Applicant Yes No

Unmarried child (under 18) of RS Applicant Yes No

Parent/legal or customary primary caregiver of RS Applicant under 18, or the dependant of the adult parent or caregiver Yes No

Child sibling of child RS Applicant Yes No

(b) Person other than close family member Yes No

If 'yes', please briefly indicate the nature of the claimed relationship between the DRS Applicant and the RS Applicant.

II-2 Please summarize below the information provided by the DRS Applicant and RS Applicant concerning the existence of the family/dependency relationship:

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PART III - MATERIAL FACTS

III-1 Please identify the material elements relevant to the derivative refugee status claim and, for each of them, set out the Credibility Assessment with regard to the DRS Applicant's statements as well as your determination as to the established material facts.

Please present your analysis using the following structure:

(i) Material Element (1):

- A. Credibility Findings
- B. Established Facts

(ii) Material Element (2): [next relevant material element]

- A. Credibility Findings
- B. Established Facts

[...]

Conclusions on the Material Facts

In this final section, please spell out the conclusions you have reached in establishing the material facts of the case

Once the material facts of the DRS Applicant's claim have been established, please proceed to Part IV – Assessment of the Derivative Refugee Status Claim.

If, as a result of your analysis, you assess that the material facts necessary to determine eligibility for derivative status cannot be established, please explain and proceed to Part VI.

PART IV – ASSESSMENT OF THE DERIVATIVE REFUGEE STATUS CLAIM

Close Family Relationship

IV-1 Considering the established material facts, is the DRS Applicant a close family member of the RS Applicant?

If 'yes', please proceed to question IV-2.

If 'no', please proceed to question IV-3.

Yes No

On the basis of the facts established in Part III, the DRS Applicant is (is not) the [insert category of close family member] of the RS Applicant.

IV-2 Considering the established material facts, is there evidence that would rebut the presumption of dependency between the DRS Applicant and the RS Applicant?

Yes No

If 'yes', please explain.

If 'no', please proceed to question IV-4.

There is (no) evidence that will rebut the presumption of dependency between the DRS Applicant and the RS Applicant.

Other Dependency Relationship

IV-3 Considering the established material facts, does the relationship between the DRS Applicant and the RS Applicant give rise to significant social, emotional and/or economic dependency?

Yes No

Considering the established material facts, outlined in Part III, it has/has not been established that the DRS Applicant is (is not) in a relationship of dependency with the RS Applicant.

Please provide an explanation for your conclusion.

Conclusion on Eligibility for Derivative Status

IV-4 Does the DRS Applicant meet the criteria for Derivative Refugee Status?

Yes No

PART V – APPLICATION OF THE EXCLUSION CLAUSES

V-1 Is there any information in the DRS Applicant's case which requires consideration of the possibility of exclusion based on Article 1F(a), (b) or (c) of the *1951 Convention*?

Yes No

RSD Procedural Standards Annex 5-1

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If 'no' (i.e., if there is nothing in the Applicant's case to indicate that exclusion may be an issue), please confirm and proceed to Part VI.

If 'yes' (i.e. there are indications that exclusion may arise in the Applicant's case), please briefly explain and proceed with the analysis in relevant parts of the regular RSD Assessment Form and attach them to this form.

The assessment of those aspects of the DRS Applicant's case which are relevant to exclusion considerations needs to be set out in Part I (Summary of Claim), Part II (Material Facts) and Part V (Application of the Exclusion Clauses) of the RSD Assessment Form, which should be attached to the Derivative Refugee Status Assessment Form once completed.

PART VI – RECOMMENDATION

[Select the applicable paragraph and delete all others.]

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

- The Applicant meets the criteria for Derivative Refugee Status and should be recognized as a refugee.
- The Applicant's personal legal status is incompatible with recognition as a refugee.
- The Applicant does not meet the criteria for Derivative Refugee Status and the claim should be rejected
- The Applicant is excluded from Derivative Refugee Status pursuant to Art. 1 F of the *1951 Convention* and the claim should be rejected (please see attached Parts I, II and V of the Regular RSD Assessment Form).

Name and Signature of Eligibility Officer:	Name and Co- Signature of Reviewing Officer(s):
Date:	Date:

RSD Procedural Standards Annex 5-1

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Annex 5-2: Derivative Refugee Status Assessment Form (Short)



Derivative Refugee Status Assessment Form (Short)

Derivative Refugee Status Assessment Form (Short)

This form is designed to facilitate the assessment of derivative refugee status for one or more Derivative Refugee Status Applicants (DRS Applicants), who are **close family members** of a Refugee Status Applicant (RS Applicant)¹, as in such cases the **existence of dependency is presumed**². The form should only be used for **recognition** of derivative refugee status.

For the purposes of UNHCR's derivative status assessment, a close family member is a spouse, an unmarried child under 18 years of age, a parent/legal or customary primary caregiver of the child³ Refugee Status Applicant (and their dependants), or child sibling of a child Refugee Status Applicant⁴.

This form should only be used if the existence of close family relationship between DRS Applicant(s) and the RS Applicant is not in doubt. This form is designed for situations where establishing **close family relationships** can be done without any complexity and is supported by sufficient available information, including documentation, where relevant. It can be used for multiple DRS Applicants, provided they are all close family members of the RS Applicant

The Long DRS Assessment Form should be used instead in the following cases:

- In case of doubts about the existence of a close family relationship, which raises concerns that a relationship of dependency does not exist (for example in the case of estranged spouses, marriages concluded recently in the country of asylum, doubts regarding paternity or adoption or any other complexities that may arise) or if there are indications that a relationship of dependency may not exist despite the close family relationship;
- for **other (non-close) family members or dependants**, where a relationship of dependency must be established in order for the DRS Applicant to be recognized as a refugee on derivative refugee status basis;
- in case of any information in the DRS Applicant's case which requires consideration of the possibility of exclusion based on Article 1F of the 1951 Convention.

All colleagues that are engaged with the process of derivative refugee status assessment in line with UNHCR's refugee status determination procedures, are required to familiarize themselves with the relevant Chapter 5 (Processing Claims Based on the Right to Family Unity) in the RSD Procedural Standards, before proceeding with the derivative refugee status assessment process.

¹ RS Applicant, who has been recognized as a refugee in his/her own right

² Please refer to Unit 5.2.2 of the RSD PS

³ According to the RSD PS, "child is a person under 18 years of age".

⁴ Refugee Status Applicant is an individual recognized as a refugee in his or her own right, from whom the refugee status may be derived.

UNHCR Office:	Interpreter:
Interview/Eligibility Officer:	Language of Interview:
Date(s) of Family Unity Interview(s), if applicable:	

1. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

2. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

3. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

[RSD Procedural Standards Annex 5-2](#)

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4. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

5. Derivative Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	
Date of Birth:	Sex:

[add more dependants if necessary]

Refugee Status Applicant's Basic Bio-Data

Full Name:	RSD Case No - Derivative Refugee Status (DRS) Applicant:
Relationship to the Refugee Status Applicant:	Nationality:
If Stateless, Country/Countries of Former Habitual Residence:	

PART I – PRELIMINARY CONSIDERATIONS

This form should only be used for DRS Applicants, where there are no indications that any of the DRS Applicants may have an independent refugee claim.

DRS Applicant(s)' personal legal status must be compatible with recognition of derivative refugee status.

I-1 Are there any indications that he/she/they may have an independent refugee claim?

Yes No

If 'yes', please refer those Applicant(s) to the appropriate individualized RSD procedure in accordance with standard operating procedures of your operation, and do not use the present DRS Assessment Form for him/her/them.

Please proceed to question I-2 for the Applicant(s), in relation to whom the answer is 'no'.

I-2 Would recognition of derivative refugee status be compatible with the DRS Applicant(s)' personal legal status?

Yes No

Please proceed to Part II – Material Facts – Close Family Relationship(s) for those DRS Applicants, in relation to which the answer is 'yes'.

If for any of the DRS Applicants the answer is 'no', please briefly explain why and do not use the present form for him/her/them.

PART II – MATERIAL FACTS - CLOSE FAMILY RELATIONSHIP(S)

- II-1 Please briefly describe and set out the findings of fact on the nature of the claimed family relationship between the Refugee Status Applicant (RS Applicant) and each of the Derivative Status Applicant(s) (DRS Applicant(s)). Please include reference to the information provided by the DRS Applicant(s) and RS Applicant, as well as other relevant information and documentation.

PART III – RECOMMENDATION

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

- The Applicant(s) meet(s) the criteria for Derivative Refugee Status and should be recognized as a refugee.

Name and Signature of Eligibility Officer:	Name and Co-Signature of Reviewing Officer(s):
Date:	Date:



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