



# Unit 10

## **PROCEDURES FOR CANCELLATION AND REVOCACTION OF REFUGEE STATUS**



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## 10.1 General Principles

Cancellation of refugee status refers to a decision to invalidate a refugee status recognition which should not have been made in the first place.

Cancellation applies to individuals who, **at the time of recognition, were not entitled to refugee status**, either because they did not meet the inclusion criteria of the refugee definition under UNHCR's mandate<sup>1</sup> or because exclusion should have been applied.<sup>2</sup> Cancellation would also be justified if the individual's recognition as a refugee was incompatible with the civilian and humanitarian character of asylum.

Cancellation of refugee status must be **distinguished from revocation of refugee status**. **Revocation of refugee status** results in the withdrawal of refugee status that was properly conferred when subsequent to recognition a refugee engages in conduct coming within the scope of the exclusion clauses of Article 1F (a) or (c), which would render him/her undeserving of continued international refugee protection.<sup>3</sup>

Cancellation and revocation procedures should be **distinguished from cessation procedures, which are intended to reassess refugee status that was properly conferred, but is no longer needed** owing to a change in circumstances affecting the need for international refugee protection (see § 11 – *Procedures for Cessation of Refugee Status*). Cancellation and revocation procedures only apply where decisions to recognize refugee status are final and, therefore, should also be distinguished from procedures for review and revision of a RSD decision before it is issued to the Applicant (see § 4.4 – *Procedures for Review of RSD Decisions*).

UNHCR procedures to cancel refugee status that was wrongly conferred and procedures to revoke the refugee status of individuals who, through their own actions, are no longer deserving of international refugee protection are necessary to **preserve the integrity of UNHCR mandate refugee status and procedures**. If information comes to light, after an individual has been formally recognized as a refugee by UNHCR, to indicate that the individual may have been wrongly recognized, or that the individual may have engaged in conduct coming within the scope of the exclusion clauses in Article 1F(a) and (c), UNHCR should assess whether there are grounds for formally initiating cancellation or revocation procedures (see § 10.2.2 – *When to Formally Initiate Cancellation Procedures*). Cancellation procedures should not, however, be used as a remedy for deficient RSD procedures, or a supplement to or replacement for effective procedures for review and appeal of RSD decisions. Cancellation procedures can be initiated only in relation to decisions to recognize refugee status which have become final, that is, they are no longer subject to appeal or review.

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<sup>1</sup> An individual person meets the inclusion criteria for recognition as a refugee under UNHCR's mandate if he/she comes within the scope of Article 1A(2) of the 1951 Convention, or if he/she is outside his/her country of nationality or habitual residence and unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or events seriously disturbing public order.

<sup>2</sup> An individual person is excluded from recognition as a refugee under UNHCR's mandate if he/she falls within the scope of Article 1D of the 1951 Convention and, in line with its second paragraph, is receiving protection and assistance from a UN agency other than UNHCR; if he or she is recognized by the competent authorities of a country in which they have taken residence as having the rights and obligations attached to the possession of the nationality of that country, as provided for in Article 1E of the 1951 Convention; or if there are serious reasons for considering that he or she has committed crimes or acts falling within the scope of the exclusion clause in Article 1F of the 1951 Convention.

<sup>3</sup> Neither "cancellation" nor "revocation" are terms found in the 1951 Convention. They are used by UNHCR and some States when referring to the situations described in this Unit. Other States, however, use different terminology (e.g. "annulment", "withdrawal", "termination", etc.).

UNHCR staff should be aware of the purpose of cancellation and revocation procedures and the circumstances that would make cancellation or revocation of refugee status appropriate. **Cancellation of refugee status should only be undertaken where it is established that the individual concerned was not entitled to refugee status at the time of recognition.** To avoid unjustly depriving an individual of refugee protection, a determination of the individual's international protection needs existing at the time of deciding on cancellation should also be conducted in the cancellation procedures. **Revocation of refugee status should only be undertaken where it is established that the individual concerned engaged in conduct coming within the scope of the exclusion clauses of Article 1F(a) or (c) following recognition.**

## 10.2 Cancellation Procedures

Each UNHCR Office should implement procedures to ensure **fair, transparent and consistent procedures for cancellation of refugee status.** Procedures should set out the criteria for formally initiating cancellation procedures, the responsibilities of staff members in cancellation cases, and the rights of the individuals concerned. Given the significance of the cancellation procedures for the individual concerned, and the potentially very serious consequences of an unjustified cancellation of refugee status, UNHCR cancellation procedures **must incorporate the highest standards of fairness and due process.**

Cancellation of refugee status must be **determined on an individual basis** following the examination of the facts and circumstances relating to the individual concerned. The individual whose refugee status is subject to cancellation procedures must be given the opportunity to make relevant submissions in an interview and/or in writing (see § 10.2.5 – *The Cancellation Interview*).

UNHCR Offices should consult UNHCR guidelines on the application of the exclusion clauses, and seek additional guidance from DIP as required when examining the appropriateness of cancellation of refugee status as a result of the application of the exclusion clauses in Article 1F.

### 10.2.1 When to Consider a Possible Cancellation of Refugee Status

In the context of UNHCR mandate RSD procedures, refugee status will need to be considered cancelled whenever it is established that recognition was erroneously granted. This applies **irrespective of the reasons for the mistake**, which may be due to one or more of the following:

- ▶ **Misrepresentation or concealment** by the individual concerned or a third party of information that was material to the determination of the claim, with or without fraudulent intent;
- ▶ **Misconduct** by the individual (such as threats or bribery) being the motivating reason for the positive RSD decision;
- ▶ **Error of fact or law** by UNHCR in applying the inclusion or exclusion criteria;<sup>4</sup>

<sup>4</sup> For cancellation to be justified on exclusion grounds, all elements of the relevant provision must have been present at the time of the initial determination. Thus, cancellation on the basis of Article 1F of the 1951 Convention requires credible and reliable evidence supporting a finding of serious reasons for considering that the individual concerned incurred individual responsibility for an act within the scope of Article 1F. Similarly, cancellation on the basis of Article 1D or 1E of the 1951 Convention is justified only if the criteria set out therein were met at the time of recognition by UNHCR.

- ▶ **Misconduct or administrative error** by UNHCR at any stage in the RSD procedures, including the wrongful issuance of UNHCR documents or recognition in exchange for a bribe or any nonmonetary compensation.

Refugee status should not be cancelled **solely on the basis of a change of opinion regarding a credibility finding** which provided the basis for establishing a fact, or facts, which were material to the RSD decision. However, where the initial credibility finding related to core aspects of the individual's claim is inconsistent with new and reliable information that has come to light, or is clearly contradicted by information that was on the RSD file at the time of determination, a re-assessment of the credibility finding may be necessary to determine whether the refugee decision was based on an error of fact.

When examining the existence of grounds for cancellation, the **relevant inquiry is whether an incorrect refugee status determination was made**, rather than the intent of the persons whose words or actions led to the incorrect decision.

## 10.2.2 When to Formally Initiate Cancellation Procedures

Cancellation procedures should be formally initiated if there is **reliable information indicating that the recognition of refugee status was granted erroneously**.

Such information may come to light in a variety of ways, including but not limited to the following:

- ▶ Statements made by the refugee himself/herself, or by others, in the course of subsequent UNHCR procedures (for example, resettlement or refugee status determination proceedings concerning family members) may materially contradict information provided at the determination stage.
- ▶ Information concerning the possible applicability of an exclusion clause in Article 1F may come to light in the course of national or international criminal proceedings or where an extradition request affects a mandate refugee.
- ▶ Information relevant to the refugee status determination by UNHCR may come to light as a result of new country of origin information, or in the context of resettlement proceedings or national asylum procedures.

When determining whether to formally initiate cancellation procedures, the reliability of the information available, as well as its significance for the particular case, must be carefully assessed.

Where the available information does not conclusively indicate that the initial decision to recognize status was incorrect or where there are concerns about the reliability of such information, UNHCR may need to gather additional information in order to establish whether there is a sufficient basis for questioning the correctness of the decision to recognize refugee status. Such information should be gathered **prior to formally initiating cancellation procedures** and may be sought from the refugee himself/herself by **conducting a Protection Interview with him/her to obtain, confirm and assess relevant information and/or may be gathered from other sources before formally initiating cancellation procedures**. Where a Protection Interview is conducted, a full and accurate record of the interview must be maintained through a verbatim transcript and/or an audio or video recording. The refugee should be informed about the scope and purpose of the Protection Interview, i.e. that it is intended to confirm and update information regarding his/her continued international protection needs.

Any information that comes to light relating to a possible error in a decision to recognize refugee status should be immediately brought to the attention of the RSD Supervisor or a designated Protection staff member, who should decide the appropriate course of action, i.e. formally initiate cancellation procedures or gather additional information with a view to determining whether such procedures should be initiated, including through conducting a Protection Interview. The determination that grounds exist to formally refer a recognized refugee to cancellation procedures should be made by the RSD Supervisor or the designated Protection staff member, who should provide written authorization to formally initiate cancellation procedures.

### 10.2.3 Notice of Initiation of Cancellation Procedures

Individuals who are formally referred to cancellation procedures should receive **notice of the nature and purpose of the cancellation procedures and of the reasons** why UNHCR considers that, unless the individual provides information in support of the initial positive RSD decision, his/her refugee status would be cancelled.

The individual concerned should also be advised that he/she will have the opportunity to explain or challenge the information upon which the cancellation procedures have been commenced, and to present any other information relating to **current international protection needs**.<sup>5</sup> Procedures for assessing new evidence regarding eligibility for refugee status are set out below in § 10.2.6 – *Assessing Current International Protection Needs*. The individual should also be advised that if he/she fails to attend the Cancellation Interview and/or make written submissions within the prescribed period, the cancellation assessment may nevertheless be conducted and a decision issued.

The requirement to notify the individual concerned, and to give the opportunity and sufficient time to reply to the information that has led to the formal initiation of cancellation procedures, are fundamental elements of fairness and due process.

The notification should be in writing. The relevant information should be provided in an accessible manner and communicated in a language that the refugee understands. UNHCR Offices should make reasonable efforts to notify the individual concerned of the initiation of cancellation procedures. The date and means of notification should be recorded on the individual's RSD file and in UNHCR's case management database.

Where, despite reasonable efforts, **it is not possible to notify the individual concerned**, cancellation procedures should in principle not proceed. In such cases, the written authorization to commence cancellation procedures and all other documents relating to the cancellation should be retained on the individual file. The individual's status as a person with respect to whom cancellation procedures are authorized should be clearly noted on the File Action Sheet and in UNHCR's case management database in which information about the individual is recorded.

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<sup>5</sup> An individual's situation at the time of the cancellation procedures may give rise to a need for protection under UNHCR's mandate. Current international protection needs are a relevant consideration also for cases referred to revocation procedures in terms of assessing the proportionality of the application of Article 1F(a) or (c) in light of the circumstances arising in the individual case.

In exceptional cases, including where an individual has been indicted by an international criminal tribunal or where there is other **reliable and compelling information to support cancellation, but it is not possible to notify the individual concerned**, cancellation proceedings may be undertaken by a UNHCR Office in accordance with established review and approval procedures.

#### 10.2.4 File Assignment for Cancellation Procedures

Files for cancellation procedures should be assigned to an Eligibility Officer or other Protection staff who have **training and experience with RSD**. Wherever possible, cancellation files should be assigned to Eligibility Officers or other Protection staff who are authorized to review RSD decisions or who have supervisory responsibilities in RSD procedures. Wherever possible and appropriate, the cancellation files should be assigned to the Eligibility Officer or Protection staff member who conducted the Protection Interview prior to the formal initiation of the cancellation procedures.

Cancellation procedures that are likely to involve examination of the **application of the exclusion criteria** should be assigned to an Eligibility Officer or a Protection staff member who has experience and knowledge regarding the application of the exclusion clauses in Article 1F. The considerations set out in § 4.1 – *Assigning Files for RSD Adjudication* are relevant to the assignment of files in cancellation procedures.

#### 10.2.5 The Cancellation Interview

Every individual whose refugee status is being re-examined in cancellation procedures must have an **individual Cancellation Interview**, in which he/she should be given the opportunity to respond to specific grounds for initiating the procedures and provide any other evidence that is relevant to the decision whether or not to cancel refugee status.<sup>6</sup> The individual should be given adequate time to prepare for the Cancellation Interview.

The purpose of the Cancellation Interview is to gather sufficient information to permit an **assessment of the correctness of the initial decision to recognize refugee status** and to identify any reason why an individual who was improperly recognized in the past should nevertheless **continue to have refugee status**.<sup>7</sup>

The Eligibility Officer or Protection staff member who conducts the Cancellation Interview should be thoroughly familiar with the RSD file of the individual concerned, including the information upon which the cancellation procedures are based.

The procedures and principles for RSD Interviews, as set out in § 4.3 – *The RSD Interview and Assessment*, are relevant and should be reflected in the procedures for conducting Cancellation Interviews. In particular, the Eligibility Officer or Protection staff member who conducts the Cancellation Interview should maintain a full and accurate record of the interview, through a verbatim transcript and/or an audio

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<sup>6</sup> Information regarding whether the individual's has a well-founded fear of persecution at the time of the revocation procedures would need to be examined during the Revocation Interview only to the extent necessary to assess the consequences of the application of an exclusion clause at the time of the revocation procedures.

<sup>7</sup> The purpose of the Revocation Interview is to examine whether there are serious reasons for considering that the individual has committed acts falling within the scope of the exclusion clause in Article 1F(a) or (c) of the 1951 Convention following recognition.



or video recording. The procedures and principles set out in § 4.3.12 – *Recording the RSD Interview* should be followed in Cancellation Interviews. It is also recommended that, at the beginning of the Cancellation Interview, the individual refugee is counselled regarding the nature and purpose of the cancellation procedures and the reasons why UNHCR is considering cancelling the refugee status. However, in exceptional circumstances, generally relating to the security of UNHCR staff or a witness or other source of information, it may be necessary to limit full disclosure of reasons why UNHCR is considering cancelling the refugee status. The individual should also be informed of the right to appeal a cancellation decision.

At the Cancellation Interview, the individual should be given the **opportunity to present new information relating to the existence of a well-founded fear of persecution** in the country of origin or his/her eligibility for refugee status under UNHCR's broader refugee criteria at the time of the Cancellation Interview (see § 10.2.6 – *Assessing Current International Protection Needs*).

If an individual has been duly notified of cancellation proceedings (see § 10.2.9 – *Notification of the Cancellation Decision*), **but does not attend the Cancellation Interview**, the Eligibility Officer or Protection staff member may proceed with the Cancellation Assessment and, where appropriate, the individual's refugee status may be cancelled.

## 10.2.6 Assessing Current International Protection Needs

The Eligibility Officer or Protection staff member who conducts the Cancellation Interview should also consider the individual's eligibility for refugee status under UNHCR's mandate at the time of the Cancellation Interview.

Cancellation of refugee status and RSD adjudication are distinct procedures, to which distinct criteria apply. However, for reasons of consistency and efficiency, if the individual provides information relating to his/her eligibility for refugee status at the time of the Cancellation Interview, or if there are other indications that he/she may currently be eligible for international protection, the Protection staff member should examine current protection needs and eligibility for refugee status.

When conducting RSD adjudication in the context of cancellation procedures Protection staff should incorporate the procedural safeguards that are applicable in standard RSD procedures. Concurrent processing should not undermine the thoroughness or the reliability of the RSD. The individual should be given necessary opportunity to prepare and present the claim. If the facts relating to the current RSD adjudication raise complex issues, or if research or other preparation is necessary to permit the Protection staff member to effectively question the individual, a **Complementary RSD Interview** should be scheduled.

When RSD is undertaken concurrently with cancellation procedures, it is recommended that **separate Assessments** should be prepared for the cancellation decision and the RSD decision. All RSD Assessments should be prepared using the **RSD Assessment Form**. The principles and procedures set out in § 4.4 – *Procedures for Review of RSD Decisions* and § 6 – *Notification of RSD Decisions* should also apply.

## 10.2.7 The Cancellation Assessment and Decision

In each case, the cancellation decision should be recorded in a Cancellation Assessment, which should include the following:

### STANDARDS & GUIDELINES

#### THE CANCELLATION ASSESSMENT

- ▶ A summary of the information relevant to the grounds for re-assessing the refugee status recognition, including any relevant information provided by the individual whose refugee status is subject to individual cancellation procedures;
- ▶ A record of:
  - (i) the credibility assessment conducted with regard to any statements provided by the individual concerned and, where relevant, other persons (e.g. family members or witnesses) in relation to the grounds for cancellation and of the reasons why these statements have, or have not, been accepted as credible;<sup>8</sup> and
  - (ii) the determination of what material facts can be considered established, based on the credibility findings, where applicable, and any other reliable information (for further guidance on establishing material facts, see § 4.3.15 – The RSD Assessment);
- ▶ A determination of whether the established facts support a finding that the individual's refugee status was incorrectly recognized and, if so, a recommendation that the refugee status is cancelled.

The Eligibility Officer should sign and date the Cancellation Assessment before referring the recommendation and file to the review and approval procedures established by the Office (see § 10.2.8 – *Review of the Cancellation Decision*).

## 10.2.8 Review of the Cancellation Decisions

Cancellation procedures in each UNHCR Office should include a mechanism for review of all cancellation decisions. The principles and procedures set out in § 4.4 – *Procedures for Review of RSD Decisions* are relevant to, and should inform the development of review procedures of cancellation decisions.

The review and approval by the **RSD Supervisor** or the **Head of Office** should be required in all cases where a determination is made to cancel refugee status of a person who was recognized pursuant to UNHCR's mandate.

Following review procedures within the UNHCR Office, **all decisions to cancel an individual's refugee status** must be submitted for review in accordance with the principles and procedures set out in § 4.4.3 – *Procedures for Consultation with UNHCR Regional Bureau(s) and DIP on RSD Decisions*. The review should be carried out by **the designated focal point in the relevant Regional Bureau**, unless an individual case or group of cases is delegated by the Bureau Director for review to another qualified and appropriate

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<sup>8</sup> Where the refugee concerned does not attend a Cancellation Interview nor makes any other submissions regarding the applicability of cancellation in his/her case, a credibility assessment will not be necessary.

staff member at the regional level. Any changes to the RSD decision as a result of the Regional Bureau, and where applicable, DIP's review should be made in accordance with the procedures set out in § 4.4.2 – *Procedures for Revising the RSD Assessment or Decision*. The individual concerned should be notified of the decision to cancel or revoke only once this is reviewed or endorsed by the Regional Bureau, and where applicable, DIP.

Cases which raise complex procedural, doctrinal or interpretative issues may be referred by the relevant Regional Bureau to DIP for guidance if necessary (see § 4.4.3 – *Procedures for Consultation with UNHCR Regional Bureau(s) and DIP on RSD Decisions*).

#### STANDARDS & GUIDELINES

##### THE SUBMISSION FOR HEADQUARTERS REVIEW SHOULD INCLUDE THE FOLLOWING:

- ▶ A copy of the Cancellation Assessment, as well as the initial RSD Assessment and, where applicable, the Appeal Assessment;
- ▶ Copies of the transcripts of the Cancellation Interview, the Protection Interview leading to the initiation of cancellation procedures where applicable, as well as the transcripts of the interview(s) on which the initial RSD/appeal decision(s) recognizing refugee status was based. In the absence of a verbatim written transcript, the audio recordings of the interviews should be submitted;
- ▶ Copies of the supporting documentation submitted by or on behalf of the individual during the cancellation procedures;
- ▶ Any other information relevant to the decision to cancel status.

Alternative review procedures may be adopted in certain RSD operations where the Bureau and/or DIP determine that only cases of a specific type or exceptional nature need to be reviewed by Headquarters (for further guidance, see § 4.4.3 – *Procedures for Consultation with UNHCR HQ on RSD Decisions*).

### 10.2.9 Notification of the Cancellation Decision

Individuals whose refugee status is cancelled by UNHCR must receive **notice in writing of the decision and the reasons** supporting the cancellation decision. Individuals whose refugee status is maintained following cancellation procedures must also be notified of the decision. The principles and procedures set out in § 6 – *Notification of RSD Decisions apply to the notification of cancellation decisions*.

NOTIFICATION OF A DECISION ON THE CANCELLATION OF REFUGEE STATUS SHOULD ALSO INFORM THE INDIVIDUAL OF THE CONSEQUENCES OF CANCELLATION, INCLUDING:

- ▶ The ending of refugee status of the individual concerned;
- ▶ Where possible, the known implications of cancellation of refugee status for the individual's legal status in the host country / country of asylum;
- ▶ The effect of cancellation on protection and assistance received from UNHCR, including processing for resettlement;
- ▶ The effect of cancellation on derivative refugee status of family members/dependants, where applicable (see § 10.5 – *Ending of Derivative Refugee Status*);
- ▶ The right to appeal the cancellation decision and the relevant procedures and applicable deadlines;
- ▶ Procedures regarding the return of refugee identity documents issued by UNHCR (see §10.6 – *Withdrawal of UNHCR-issued Refugee Documents in Cancellation and Revocation Procedures*).

The criteria and principles regarding limiting disclosure set out in § 6.2 – *Notification of Negative RSD Decisions to Applicants* are relevant to decisions to limit disclosure during cancellation proceedings. Eligibility Officers should seek the guidance of the RSD Supervisor, or another designated Protection staff member who has knowledge and experience in cancellation cases, to determine the appropriate disclosure. UNHCR security staff should also be consulted whenever disclosure may give rise to risks for the security of staff, persons of concern or other third parties. Alternatives to withholding relevant information should be considered, including making partial disclosure, or disclosing the evidence without revealing the source, so that the individual concerned is not unduly denied the opportunity to challenge or explain information upon which the cancellation decision is based.

When the examination of the grounds for cancellation of refugee status is conducted at the same time as the determination of the individual's need for international refugee protection (i.e. eligibility for refugee or derivative refugee status under UNHCR's mandate), the decision in cancellation procedures should not be issued until the RSD decision has been made and the individual's current eligibility for (derivative) refugee status is determined, to avoid confusion regarding the person's status with UNHCR as a result of the two procedures.

If it is determined that an individual was incorrectly recognized in the past, but has **subsequently become eligible for (derivative) refugee status**, the individual should generally be notified of the decision taken with respect to the cancellation of the original refugee status, as well as the decision to recognize him/her as a refugee based on subsequent changes in the individual's personal circumstances or the circumstances in the country of origin. In such cases, it is not necessary to provide reasons for the cancellation and RSD decisions.

In light of the serious implications of cancellation procedures, and potential confusion and uncertainty associated with these procedures, particularly when adjudication for RSD is undertaken concurrently, procedures for notification should, wherever possible, include the possibility to receive **counselling on the decision from UNHCR staff** with appropriate RSD training and experience. Notification should permit the individual to know the decision in each procedure, as well as to clearly understand their status with UNHCR as a result of these procedures.

## 10.3 Appeal of Decisions to Cancel Refugee Status

Individuals whose refugee status is ended by UNHCR pursuant to cancellation procedures **have the right to appeal the cancellation decision**. The timeframe for submitting an appeal application should be no less than 30 days after the date of notification of the cancellation decision. In so far as possible, the appeal should be determined by an Eligibility Officer or another qualified Protection staff member who was not involved in the determination or review of the initial refugee claim or the cancellation decision. The principles and procedures set out in § 7 – *Appeal of Negative RSD Decisions* are applicable and should inform the development of appeal procedures in cancellation cases.

While the appeal of the cancellation decision is pending, the individual's refugee status remains valid. As such, an individual subject to cancellation procedures should continue to enjoy the rights and protection accorded to them as recognized refugees throughout the period allowed for submitting an appeal and, once the appeal application is submitted, while a final decision is pending. The derivative refugee status of family members/dependants also remains valid while a final decision on the cancellation of status or appeal of the recognized refugee is pending (see also § 10.5 – *Ending of Derivative Refugee Status*).

A first instance decision to cancel refugee status that is not appealed within the established timeframe or an appeal decision to cancel refugee status is considered final and should result in the closure of the file.<sup>9</sup> Cancellation of refugee status does not prevent an individual from requesting a re-opening of the RSD case at a later date (see § 9.2 – *Re-Opening RSD Cases*).

## 10.4 Revocation Procedures

Each UNHCR Office should implement procedures to ensure **fair, transparent and consistent procedures for revocation of refugee status**. Revocation procedures should be formally initiated if there is **reliable information indicating that an individual has engaged in conduct coming within the scope of the exclusion clauses of Article 1F(a) or (c) following recognition**.

Unless otherwise specified, the procedures for cancellation set out in this Unit generally apply to procedures for revocation of refugee status. UNHCR Offices should consult UNHCR guidelines on the application of the exclusion clauses, and seek additional guidance from DIP as required when examining the appropriateness of revocation of refugee status.

<sup>9</sup> To facilitate a flexible approach, the files of individuals whose refugee status was ended as a result of first instance cancellation or revocation procedures should generally not be referred to file closure until a minimum period of six weeks has elapsed following the expiry of the appeal deadline (see § 9.1 – *Closure of RSD Cases* § 7.2.4 – *Time Limit for Submitting the Appeal Application*).

## 10.5 Ending of Derivative Refugee Status

### 10.5.1 Ending of derivative refugee status as a result of the cancellation or revocation of the refugee status from which it was derived

Cancellation or revocation of refugee status of a refugee will automatically result in the ending of the derivative refugee status of his/her family members / dependants. Wherever possible, UNHCR Offices should take all reasonable steps to notify persons whose derivative refugee status has been ended following the cancellation or revocation of the status of an individual refugee, and to inform them that the ending of the derivative refugee status does not affect their right to make an independent refugee claim should they have grounds to claim refugee protection (see also § 5.3.5(a) – *Termination of Derivative Refugee Status as a result of the Cancellation, Revocation or Cessation of the refugee status of the Refugee Status Applicant* and § 10.2.9 – *Notification of Cancellation Decision*).

The decision to end derivative refugee status in these circumstances does not require the review and approval of the RSD Supervisor or the Head of Office. The ending of the derivative status should be recorded on the appropriate individual file and in UNHCR's case management database.

In order to enable family members / dependants to apply for refugee status in their own right and, thus, avoid a gap in protection, their refugee identity documentation should not be withdrawn for a set period of time as deemed appropriate by the UNHCR Office following the automatic ending of their derivative refugee status.

### 10.5.2 Cancellation or revocation 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 refugee status (i.e. a family or dependency relationship did not exist) or if the family member/dependant should have been excluded pursuant to the exclusion clauses in Articles 1D, 1E or 1F of the 1951 Convention. Family members/dependants, whose derivative refugee status is cancelled because they did not meet the eligibility criteria at the time of the granting of derivative refugee status, should be given the opportunity to present information regarding their current relationship with the recognized refugee and/or an independent refugee claim if they have grounds to claim refugee protection at the time of the cancellation procedures. The derivative refugee status of family members/dependants should be maintained if a family or dependency relationship was established following the original recognition (for further guidance regarding cancellation of derivative refugee status, see § 5.3.5(b) – *Cancellation, Revocation and Cessation of Derivative Refugee Status*).

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) of the 1951 Convention thereby rendering him/her underserving of international refugee protection.

The ending of derivative refugee status, as a result of the circumstances described above should be noted on the appropriate individual file and in UNHCR's case management database. The principles and procedures set out in this Unit regarding the cancellation and revocation of refugee status of an individual also apply to the cancellation and revocation of derivative refugee status of family members / dependants.

## 10.6 Withdrawal of UNHCR-issued Refugee Documents in Cancellation and Revocation Procedures

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In the interest of maintaining the integrity of identity documentation issued by UNHCR to recognized refugees, UNHCR Offices should take **all reasonable steps to withdraw valid UNHCR refugee identity documentation issued** to individuals whose refugee status has been ended as a result of cancellation or revocation procedures (see also § 8.2.4 – *Retrieval of UNHCR Refugee Identity Documents*).

At the time of notification of the cancellation or revocation decision, individuals whose refugee status has been ended should be requested to return the UNHCR Refugee Certificate or any other refugee identity documentation that was issued by UNHCR upon recognition. Documentation issued by UNHCR to family members / dependants who were granted derivative refugee status should also be returned to UNHCR (see also § 10.5.1 – *Ending of derivative refugee status as a result of the cancellation or revocation of the refugee status from which it was derived*). The fact that the refugee documentation has been returned to UNHCR should be recorded on the individual's RSD file and in the Office's central record of identity documents. Where retrieval is not possible, the Office's central record of identity documents should be updated to reflect that the particular document is no longer valid (see § 8.3 – *Maintaining Office Records of UNHCR Refugee Identity Documents*).

Individuals who appeal the first instance cancellation decision should be allowed to retain the UNHCR refugee identity documentation until a final decision on their refugee status is reached. To ensure the preservation of the family unity, family members / dependants should also be allowed to retain their UNHCR refugee identity documentation during this period.

Wherever possible, the UNHCR identity document held by refugees whose initial status was determined to be incorrect, but who were found to have become subsequently eligible for refugee status should be **amended to reflect the later date of recognition**.

## Annex: List of Additional Resources

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UNHCR, *Note on the Cancellation of Refugee Status*, 22 November 2004, available at: <https://www.refworld.org/docid/41a5dfd94.html>

UNHCR, *Guidelines on the Cancellation of Mandate Refugee Status*, 22 November 2004 (*internal*), available at: <https://bit.ly/2WEkOCf>



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