



Unit 4

ADJUDICATION OF REFUGEE STATUS CLAIMS



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4.1 Assigning Cases for RSD Adjudication

4.1.1 UNHCR Staff Authorized to Conduct RSD

The individual adjudication of refugee status claims must be conducted by Eligibility Officers who have been assigned to this function by the Head of Office and have received necessary training (for further guidance on training see § 4.2 – *Training and Supervision of Eligibility Officers*).

Merged registration-RSD and merged RSD-resettlement processing must be conducted by authorized UNHCR staff according to the principles set out in § 4.11 – *Merged RSD Processing*.

4.1.2 Assigning RSD Cases – Relevant Factors

RSD cases should be assigned to Eligibility Officers by designated Protection staff according to established and transparent procedures and applicable RSD staffing benchmarks.¹ The Protection staff member who is responsible for case assignment should report to and be supervised by the RSD Supervisor.

KEY CONSIDERATIONS

FACTORS GOVERNING THE TYPE OF RSD CASES ASSIGNED TO ELIGIBILITY OFFICERS

- ▶ The assignment of RSD cases should be based upon an average processing capacity for Eligibility Officers as determined by the RSD Supervisor in the particular UNHCR Office, taking into account recommended case outputs and the particular operational context, as well as staff welfare considerations (see § 4.1.3 – *Determining Case Processing Capacity for Eligibility Officers*).
- ▶ **Complex or sensitive cases**, including cases raising complex exclusion issues, should be assigned to Eligibility Officers who have appropriate training and experience;
- ▶ Case assignment should take into account the **specialized knowledge of Eligibility Officers** on particular types of claims or countries/regions of origin of the Applicant;
- ▶ Cases for RSD should generally not be assigned to Eligibility Officers of the same nationality as the Applicant;
- ▶ Wherever possible, cases should be assigned to an Eligibility Officer of the same sex as the Applicant, or of the sex they prefer. This is of particular importance when the information gathered at registration, including through the RSD Application Form, indicates that **gender issues**, including issues related to sexual orientation or gender identity, may be raised during the RSD Interview, or when the Applicant has **requested to be interviewed by a staff member of a particular sex**;
- ▶ As a general rule, the same Eligibility Officer should interview all members of the same family who have filed individual applications for refugee status (i.e. linked cases) or applications for derivative refugee status.

¹ The development of RSD staffing benchmarks requires both a quantitative and qualitative analysis of the operational context. Required staffing levels in mandate RSD operations are closely related to case (or file) assignment and decision-making targets and are context-specific.

Cases for RSD should be assigned as early as **possible ahead of the RSD Interview date to permit adequate review** of the information on file and case preparation by Eligibility Officers. To facilitate the assignment and distribution of cases for RSD in a timely manner, it is recommended that UNHCR Offices put in place measures to reduce the number of Applicants not showing up for RSD Interviews. Such measures will depend on the operational context and may include information and counselling regarding the consequences of not attending RSD Interviews, as well as confirmation of attendance prior to the RSD Interview.

Protection staff who are responsible for the assignment of RSD cases should, in consultation with the designated Scheduling Coordinator and the RSD Supervisor as appropriate, endeavour to ensure that weekly RSD Interview assignments for individual Eligibility Officers match the **actual processing capacity of the Eligibility Officers** (see § 4.1.3 – *Determining Case Processing Capacity for Eligibility Officers*) and are informed by the decision-making targets in the particular operation.

4.1.3 Determining Case Processing Capacity for Eligibility Officers

There are many factors, including those relating to the operational context that will affect the time necessary to process RSD applications.

KEY CONSIDERATIONS

FACTORS AFFECTING THE TIME IT WILL TAKE TO PROCESS RSD APPLICATIONS INCLUDE:

- ▶ The number and rate of arrival of individuals registering in the UNHCR operation;
- ▶ The country of nationality / of former habitual residence and the profiles of asylum-seekers within the caseload(s) in question, including their specific needs;
- ▶ The level of complexity of claims, including potential exclusion considerations;
- ▶ The case processing modalities in place for specific caseloads or profiles;
- ▶ The recognition / rejection rates and percentage of Applicants who appeal negative first instance RSD decisions, as well as the percentage of closed cases requesting re-opening;
- ▶ The availability, quality and efficiency of support procedures (i.e. reception, registration, file management and interpretation);
- ▶ The existence of obstacles to accessing UNHCR RSD procedures, including remote location of UNHCR Offices, restrictions on freedom of movement in the host country / country of asylum, and applicants in detention;
- ▶ The available RSD staff resources, including number of staff, training and expertise, as well as staffing structures and the rate of staff turnover.

Given the many factors that may affect the processing time for RSD applications, it is not possible to provide a recommendation for an average processing capacity that will be relevant and accurate for all Eligibility Officers in all UNHCR operations. Rather **RSD case assignments should be based upon an established average processing capacity for RSD staff for a particular case processing modality, in the particular UNHCR Office**, taking into account the factors listed above.

The RSD Supervisor is responsible for determining the appropriate average processing capacity of Eligibility Officers for the purpose of RSD case assignments. Where responsibility for assignment of RSD cases is delegated to another Protection staff member, he/she should consult with the RSD Supervisor to ensure that expected processing levels meet actual processing capacity. Where appropriate, it is also recommended that Eligibility Officers be consulted in the process of determining the appropriate average processing capacity.

Averages for processing capacity should **promote the objectives of quality as well as efficiency** in UNHCR RSD procedures, and should help **avoid burnout of Eligibility Officers**. They should serve only as a guideline and may be increased or decreased as appropriate to reflect the actual experience and capacity of individual Eligibility Officers.

KEY CONSIDERATIONS

IN ASSESSING THE PROCESSING CAPACITY FOR ELIGIBILITY OFFICERS THE FOLLOWING FACTORS SHOULD BE TAKEN INTO ACCOUNT:

- ▶ The familiarity of the Eligibility Officer with the country of origin information for a given caseload or profile;
- ▶ The nature of the interviews, including whether the Applicant is a child or has other specific needs and vulnerabilities, or whether the services of an interpreter are required;
- ▶ The degree of complexity of the claim;
- ▶ The number of other interviews and appointments scheduled for the Eligibility Officer in a given week (i.e. Family Unity Interviews, complementary interviews, document appointments, etc.);
- ▶ Any additional (protection) responsibilities the individual Eligibility Officer may have.

The RSD Supervisor should monitor how Eligibility Officers are managing their individual caseloads and meeting expected processing requirements. Where Eligibility Officers frequently postpone scheduled interviews and appointments, or repeatedly seek extensions of the timelines for finalizing written RSD decisions, the RSD Supervisor should follow up with the Eligibility Officer concerned to determine the reason for the difficulty in managing the assigned caseload, and should take appropriate measures, which may include adjusting the volume and type of cases assigned to the individual Eligibility Officer (see § 4.2.3 – *Supervision of Eligibility Officers*).

4.1.4 Controls on Case Assignment / Transfer

Unless case assignment and status can be tracked through UNHCR's case management database, all Eligibility Officers should **maintain a complete and current case list** of all RSD cases assigned to them, and the status of each case. Where applicable, the case list should be submitted to the RSD Supervisor at the end of each month.

Under no circumstances should Eligibility Officers select cases for RSD or transfer cases assigned to them to another Eligibility Officer without the consent of the RSD Supervisor.

Eligibility Officers should report to the Protection staff member who assigned the RSD case, or the RSD Supervisor, **any conflict of interest or other factors**, that could affect the Eligibility Officer's ability to fairly adjudicate an assigned case, or give rise to negative perceptions about the Eligibility Officer's impartiality or the fairness and integrity of the RSD process. If appropriate, the case should be reassigned to another Eligibility Officer.

4.2 Qualifications, Training and Supervision of Eligibility Officers

4.2.1 Minimum Qualifications for Eligibility Officers

Persons engaged as Eligibility Officers² should hold a degree in a relevant field, preferably in law, international relations or political sciences. It is also recommended that they have had legal training and/or other relevant professional experience. Training and/or experience in the field of human rights, psychology or social work is an advantage.

STANDARDS & GUIDELINES

ALL PERSONS ENGAGED AS ELIGIBILITY OFFICERS SHOULD AT A MINIMUM POSSESS THE FOLLOWING APTITUDES, SKILLS AND QUALIFICATIONS:

- ▶ Legal knowledge and the ability to apply legal principles³
- ▶ Good research and analytical skills
- ▶ Good oral and written communication skills
- ▶ Strong interpersonal skills, including the ability to work as part of a team
- ▶ Age, gender, cultural and diversity awareness and sensitivity
- ▶ The ability to work effectively under stress and in crisis situations

RSD staff members conducting appeal, cancellation, revocation or cessation procedures, as well as RSD staff members reviewing RSD decisions, must also possess the minimum qualifications set out in this section.

² The term “Eligibility Officer(s)” should be understood as encompassing all UNHCR staff members, including affiliate workforce, involved in the determination of refugee status claims at first instance.

³ This requirement should not be equated to the possession of a law degree or a professional legal qualification.

4.2.2 Training of Eligibility Officers

Before carrying out RSD responsibilities each Eligibility Officer should receive a comprehensive RSD induction training, which should cover both theoretical and practical aspects of conducting RSD. The RSD induction training should at a minimum include the elements set out below:

TRAINING

RSD INDUCTION TRAINING FOR UNHCR ELIGIBILITY STAFF SHOULD INCLUDE:

- ▶ An overview of UNHCR’s mandate, refugee status determination as a core protection function within the broader protection and solution strategy, as well as the role and responsibilities of Eligibility Officers;
- ▶ An overview of international refugee law, as well as aspects of humanitarian and human rights law relevant to refugee status determination under UNHCR’s mandate;
- ▶ A detailed overview of international refugee law principles relevant to RSD, including the interpretation and application of the inclusion and exclusion criteria for recognition of refugee status under UNHCR’s mandate, as set out in the *UNHCR Handbook on Procedures for Determining Refugee Status* and other UNHCR policies and guidelines relating to RSD;
- ▶ An introduction to essential principles and information on preparing for and conducting RSD interviews, as well as training on appropriate and effective interviewing techniques for examining the credibility of the claim, conducting RSD Interviews with children and other vulnerable applicants, and working with interpreters;
- ▶ An introduction to country of origin information (COI) that is relevant to the caseloads in the UNHCR Office, as well as training on how to conduct COI research, evaluating the reliability of available sources of COI, and guidelines on using COI effectively in RSD procedures;
- ▶ Instruction on the steps required to draft an RSD Assessment and to reach a decision on the applicant’s eligibility for refugee status, including how to establish the material facts in respect of which the refugee eligibility criteria are applied;
- ▶ An overview of the notification and appeal processes, as well as reasons and procedures for termination of refugee status;
- ▶ An outline of the Standard Operating Procedures (SOPs) in the UNHCR Office (and the implementation of these RSD Procedural Standards for UNHCR RSD Operations), including measures designed to ensure the quality (fairness, efficiency, adaptability and integrity) of the RSD process and procedures;
- ▶ An overview of some of the challenges that the RSD work may pose to Eligibility Officers, and the importance of developing the soft skills and self-care methods for overcoming them;
- ▶ A guided practice period appropriate to the operational context and designed to allow the Eligibility Officer to first observe registration and RSD Interviews, and then conduct RSD interviews and draft RSD Assessments under close supervision and guidance.

In addition, UNHCR Offices should establish a programme for continuing training and professional development for Eligibility Officers and other RSD staff members⁴, which should include:

TRAINING

ONGOING PROFESSIONAL DEVELOPMENT FOR ELIGIBILITY OFFICERS AND OTHER RSD STAFF MEMBERS

- ▶ Regular updates on COI that is relevant to caseloads or profiles of Applicants registered by the Office;
- ▶ Updates on case processing modalities and tools for processing claims registered by the Office;
- ▶ Updates on new guidelines and directions from UNHCR functional sections in DIP relevant to RSD;
- ▶ Training on specific issues related to RSD, as requested by Eligibility Officers, or as identified by the RSD Supervisor or other Protection staff responsible for reviewing RSD Assessments;
- ▶ Updates on broader protection issues and trainings/briefings on protection themes relevant to the operational context;
- ▶ Trainings/briefings on issues relating to staff welfare, including resilience and coping mechanisms.

In each UNHCR Office, a minimum of one day per month⁵ should be allocated for the **RSD professional development activities** referred to above. The RSD training activities should be provided in addition to general Office briefings on security and administrative issues.

Wherever possible, Eligibility Officers should be afforded additional possibilities to acquire knowledge or skills relevant to their RSD functions or obtain additional training on areas identified as individual development needs (see Annex 4.2-1 – *UNHCR RSD-focussed Learning Programmes for a list of current RSD-focussed training opportunities*). In this respect, inclusion of RSD staff as participants in general protection trainings is also important, both to equip RSD staff to carry out their role in identifying protection issues, as well as from the career development and staff welfare perspectives.

⁴ This means RSD staff members conducting appeal, cancellation, revocation or cessation procedures, as well as RSD staff members reviewing RSD decisions. For guidance on training of interpreters, see § 2.5.2 – *Qualifications and Training of UNHCR Interpreters*.

⁵ UNHCR Learning Policy requires Supervisors to ensure that all staff members have access to some form of learning opportunities and that a minimum of 5% of total work time (or just over 2 weeks per year) is allocated to formal and informal learning.

4.2.3 Supervision of Eligibility Officers

The RSD Supervisor should have the overall responsibility for the selection and training of Eligibility Officers and should supervise and support Eligibility Officers in all aspects of their RSD duties.⁶

The RSD Supervisor, or a designated Protection staff with appropriate RSD knowledge and experience, should **randomly monitor RSD Interviews** to ensure that the conduct of Eligibility Officers in the RSD Interview meets relevant standards for fairness and due process.

Unless all first instance decisions are systematically reviewed, the RSD Supervisor, or a designated Protection staff with appropriate RSD knowledge and experience, should also conduct regular and detailed **review of randomly selected RSD Assessments prepared by each Eligibility Officer**, and should provide substantive and procedural comments to Eligibility Officers on their RSD Assessments.⁷

Compliance by Eligibility Officers with established procedures for case management, postponing RSD Interviews (see § 3.5.5 – *Rescheduling RSD Interviews*) and issuing RSD decisions (see § 4.5 – *Timelines for Issuing RSD Decisions*) should be monitored on a regular basis or through random file reviews.

The procedures for supervision of Eligibility Officers set out above should be implemented as a complement to the standard procedures for review and approval of RSD decisions (see § 4.4 – *Procedures for Review of RSD Decisions*; § 7.4.5 – *Review of Appeal Decisions*), which may be conducted by the RSD Supervisor or other Protection staff members designated by the RSD Supervisor.

Frequent postponements of scheduled interviews and appointments, repeated requests for extensions of the timeline for finalizing written RSD Assessments, the accumulation of individual backlogs of unwritten RSD Assessments, are some of the indicators **that an Eligibility Officer is falling behind expected levels for case processing**, which can have a negative impact on the efficiency and quality of RSD processing (for guidance on determining the appropriate case processing output, see § 4.1.3 – *Determining Case Processing Capacity for Eligibility Officers*). In such cases, **the RSD Supervisor should follow up directly** with the Eligibility Officer to determine the reason for the difficulties in managing the assigned caseload, and should undertake the necessary response, which may include arranging additional training and assistance, or adjusting the weekly file assignments where appropriate both in terms of number and type of cases. In some instances, the persistent failure of an Eligibility Officer to meet **reasonable expectations** for the volume and rate of case processing, as well as quality of RSD Assessments, may be an indication that the Eligibility Officer lacks the required competence and should not continue to perform the role and responsibilities of an Eligibility Officer in mandate RSD procedures. Equally, a persistent failure to meet reasonable expectations regarding the quality of decision-making and volume of case processing may be a sign of burnout or related conditions and should be addressed without delay.

⁶ The supervision and oversight of RSD support staff should be done in accordance with established procedures (see, for example, § 2.5.9 – *Supervision and Oversight of Interpreters*).

⁷ It is recommended that the following factors are considered when setting up an internal quality monitoring mechanism: the number of RSD staff members, the experience and qualification of the RSD staff members, the number and type of RSD cases assigned to individual RSD staff members, the nature of the caseload or profiles and the RSD staff member's familiarity with the caseload, the case processing modalities in place, as well as the interview conditions (e.g. detention, remote interviewing, the need for interpretation, etc.).

4.2.4 Duty of Care in Individual Case Processing

All Protection staff should understand and be alert to signs of **compassion fatigue, vicarious trauma and burnout** among Eligibility Officers that may negatively affect the quality of RSD Interviews or Assessments as well as the well-being of the staff concerned. The RSD Supervisor, together with the management in the Office and the Eligibility Officers concerned, should be responsible to take effective measures to prevent and respond to cases of staff burnout.

STANDARDS & GUIDELINES

MEASURES TO ENSURE UNHCR'S DUTY OF CARE

Measures to effectively prevent and respond to RSD staff burnout must be taken at organisational, operational and individual levels and may include, but are not limited to, the following:

- ▶ Foster a culture of appreciation, both at individual and team levels;
- ▶ Promote work-life balance for staff, including by more actively implementing existing policies regarding flexible working arrangements and compensatory time off for extra time worked;
- ▶ Ensure effective information sharing, including by establishing clear lines of communication and reporting, and by understanding what information must be shared and the best communication method to do so;
- ▶ Foster a consultative working environment, including through participation in decisions regarding RSD and wider protection strategy in the operation;
- ▶ Set up a rotation system for staff within the operation and between various protection functions, as well as RSD case processing modalities, wherever feasible and appropriate;
- ▶ Set realistic operational and individual case-processing targets in line with existing resources, and staffing benchmarks and, in consultation with RSD staff wherever possible;
- ▶ Ensure adequate working conditions and technical support;
- ▶ Conduct cross-functional trainings and facilitate staff participation in multi-functional projects;
- ▶ Systematically provide comprehensive induction training and briefings to all staff members new to RSD, and encourage individual staff development, including through learning opportunities and diversification of functions;
- ▶ Provide guidance and feedback to RSD staff in a manner that facilitates their professional development and learning;
- ▶ Monitor the work routine of RSD staff with a view to identify possible ways of alleviating work-related stress and burnout;
- ▶ Provide support to RSD staff as necessary, including by facilitating advice on career progression and providing opportunities for training and access to other professional resources;
- ▶ Ensure that RSD staff is familiar with the symptoms for burnout and secondary trauma, and encourage and facilitate access to available staff welfare resources.

4.3 The RSD Interview and Assessment

4.3.1 The Applicant's Right to an Individual RSD Interview

All Applicants undergoing individual RSD procedures must have the opportunity to present their claims in person in an RSD Interview with a qualified Eligibility Officer. As a general rule, a refugee status claim should not be determined in the first instance on the basis of a paper review alone.

As the Applicant's own testimony is often the primary if not the only source of relevant information available, an individual RSD interview is essential to establish the facts of the claim, notably by enabling the Eligibility Officer to:

- ▶ Identify what elements are material to the Applicant's claim;
- ▶ Gather, as far as possible, from the Applicant all the necessary information related to those material elements; and
- ▶ Probe the credibility of the Applicant's statements with regard to material elements.

Exceptionally, where a refugee status claim is processed through simplified RSD procedures, **refugee status may be recognised on the basis of the information gathered at registration and through the RSD Application Form alone**, without conducting an individual RSD Interview, provided that the information available is sufficient to establish that the Applicant meets the inclusion criteria of the applicable refugee definition and that no credibility or exclusion concerns arise. This may be the case for caseloads or profiles to which a *prima facie* approach applies or which benefit from a presumption of inclusion (for further guidance, see § 4.10.4 – *Procedures for Simplified RSD Processing*).

4.3.2 Remote Participation of the Applicant in the RSD Interview

In situations where an individual **RSD interview cannot be conducted in person** for reasons of safety and security, availability of resources or significant costs and/or other obstacles relating to travel or access to the Applicant or public health imperatives, the **RSD Interview may be conducted remotely, through telephone or videoconference**.

Remote interviewing arrangements may, for example, be necessary where UNHCR does not have an established presence in the country of asylum/host country, where UNHCR's presence and/or activities in the country of asylum/host country is restricted to certain geographical areas including for reasons such as armed conflict or other events seriously disturbing public order, or in order to enable the participation of qualified UNHCR eligibility staff and interpreters in the RSD Interview (for guidance on remote interpretation arrangements, see § 2.5.5 – *Remote Participation of Interpreters in Interviews*).

While remote interviewing arrangements may, in certain instances, facilitate an efficient and expeditious assessment of refugee status claims, they should only be relied upon as an **exceptional measure**, given the challenges and limitations associated with them.

KEY CONSIDERATIONS

BENEFITS OF CONDUCTING RSD INTERVIEWS VIA TELEPHONE OR VIDEOCONFERENCE INCLUDE:

- ▶ Allows RSD Interviews to take place when safety, security, public health or logistical difficulties present otherwise insurmountable obstacles;
- ▶ May reduce processing waiting time for Applicants where RSD Interviews cannot be conducted in person as a result of security risks and/or unavailability of resources, including specialised UNHCR eligibility staff;
- ▶ May reduce processing waiting time for Applicants when used for the purposes of facilitating interpretation (i.e. where interpretation services in specific languages are not readily available at the location of the RSD Interview);
- ▶ Reduces time and costs associated with travel by UNHCR staff to remote locations.

KEY CONSIDERATIONS

CHALLENGES OF CONDUCTING RSD INTERVIEWS VIA TELEPHONE OR VIDEOCONFERENCE INCLUDE:

- ▶ Difficulties in ensuring that the RSD Interview is conducted in a confidential setting, in a safe and secure location, and that the necessary technology is available;
- ▶ Potential problems with the verification of the identity of the Applicant, particularly where the RSD Interview is conducted by telephone;
- ▶ May hinder rapport building and interfere with the ability of the Eligibility Officer to obtain a full and truthful account from the Applicant. Applicants may not feel comfortable disclosing issues of a personal or sensitive nature via telephone or videoconference and may have concerns regarding the confidentiality of communications;
- ▶ Difficulties in submitting additional documentary evidence during the RSD Interview and examining the original documents to ensure that copies on the file are identical to the originals;
- ▶ Non-verbal cues indicating a lack of understanding of a question or problems with interpretation are more difficult to identify and address in a timely manner;
- ▶ Technological difficulties may result in impaired communication between the Eligibility Officer, Interpreter and Applicant, including questions and responses not being heard, and Interviews being interrupted. Dropped calls or interruptions may cause frustration to all participants in the Interview, hinder the ability and willingness of the Applicant to provide a full account of their experiences and may result in processing delays;
- ▶ Technological difficulties may result in an incomplete or unintelligible record of the interview and may affect the storage and retrieval of the audio/video recording.

A thorough assessment of the feasibility of conducting the interview remotely, including from a security and integrity of process, as well as a technical point of view and its potential impact on the RSD process should be undertaken prior to the implementation of a remote interviewing arrangement. The RSD Supervisor or the designated Senior Protection staff member has the responsibility for the implementation of remote interviewing arrangements and should ensure that UNHCR staff involved in remote interviewing, including interpreters, have the appropriate skills and experience.

The RSD Supervisor or the designated Senior Protection staff member should make **every effort to ensure the following safeguards**.

STANDARDS & GUIDELINES

RECOMMENDED SAFEGUARDS WHEN CONDUCTING RSD INTERVIEWS VIA TELEPHONE OR VIDEO CONFERENCE:

- ▶ The **technology used to support remote participation of an Applicant in an RSD Interview should permit clear, reliable and uninterrupted audio and video transmission**, as appropriate. The technology employed should be adequate to minimize the risks of having gaps in the communication and/or unrecoverable speech in the audio and/or video recording, where applicable. If reliable technical arrangements cannot be achieved, remote interviewing will generally not be appropriate as it may seriously compromise the effectiveness and accuracy of communication in the RSD Interview.
- ▶ The technology used should also permit **confidential and secure communication** and due consideration should be given to data protection. The assessment of whether and how appropriate levels of confidentiality can be achieved will have to be informed by existing communications systems and other factors in the specific operational context. Technical advice should be sought as appropriate.
- ▶ Wherever possible, the Applicant should participate from a location arranged by UNHCR in order to ensure that the RSD Interview is conducted in a **safe, confidential and suitable environment**. Where UNHCR does not have a physical presence at the location of the interview, it is recommended that the interview is conducted on the premises of a UN agency, an international organization or other UNHCR Partner. The staff of these organizations should be fully briefed on the confidentiality of UNHCR RSD procedures and the appropriate conditions for conducting RSD Interviews. Where such facilities cannot be arranged and it is imperative that the RSD interview is conducted, the Applicant should be required to participate from a space where he/she is free from interruption, noise and the presence of any unauthorised individual. The presence of the Applicant's legal representative or other authorised third party is permitted in accordance with sections § 4.3.3 – *Participation by Legal Representatives* and § 4.3.4 – *Attendance by Third Parties Other than Legal Representatives* below.
- ▶ Where the interview is conducted on the premises of a UN Agency, international organization or a UNHCR Partner, **the identity of the Applicant must be verified** at the beginning and end of the RSD interview by a staff member of that organization. The staff member must sign an undertaking to respect the confidentiality of UNHCR procedures⁸ and his/her presence in the interview room must be strictly limited to the identification of the Applicant. The Eligibility Officer should ensure that appropriate explanations regarding the role of the staff member verifying the identity are provided to the Applicant at the beginning of the interview.
- ▶ The **Applicant should be informed of the conditions under which the RSD Interview is conducted and should receive an explanation of the confidentiality of the arrangement**. This should include conditions related to the role and responsibilities of the Eligibility Officer and Interpreter, as well as the use and storage of electronic records of the RSD Interview, where applicable. The Applicant should be given the opportunity, at the start of the Interview, to ask any questions or express any concerns regarding the remote interviewing arrangements. If an Applicant raises serious concerns

⁸ UNHCR staff do not need to sign an undertaking of confidentiality as they are already bound to respect the confidentiality of UNHCR procedures. Staff members of UN Agencies, international organizations or other UNHCR partners, may sign a general undertaking of confidentiality as part of a training on UNHCR's confidentiality requirements.

about the use of a remote interviewing arrangement, which cannot be resolved by the Eligibility Officer and are likely to result in problems with disclosure during the Interview, an assessment should be made in consultation with the RSD Supervisor regarding the concerns raised, their impact on the process, and the appropriateness of proceeding with a remote interviewing arrangement.

- ▶ The Eligibility Officer should summarize and confirm their understanding of the Applicant's account, and put on record any statement by the Applicant regarding the impact of the remote interviewing arrangement and their ability to provide all relevant details during the interview. The possible impact of the remote interviewing arrangement on the willingness and ability of the Applicant to provide a full account of their identity, activities and experiences should be considered and taken into account when assessing the credibility of the Applicant's account by the Eligibility Officer.
- ▶ The Eligibility Officer must also be vigilant to **ensure that the quality of the audio and/or video transmission is adequate throughout the Interview**, for the Applicant as well as the Interpreter. The Eligibility Officer should ask both to signal any problems with the sound and/or video quality or transmission that may arise during the Interview, and seek immediately to address them. Should technical problems compromising the quality and accuracy of the communication between the participants persist, the RSD Interview must be adjourned until appropriate technical arrangements can be put in place or until an in-person Interview can be conducted.
- ▶ Observations regarding the interviewing conditions should always be recorded in the transcript.
- ▶ As applicable, RSD Interviews conducted remotely should be audio or video recorded in addition to written transcripts being maintained. Wherever possible, it is recommended that the interview is simultaneously audio/video recorded in both the applicant's location and in the interviewer's location in order to ensure the integrity and quality of the recording. This will help ensure an accurate record of the Applicant's statements, allow for a quick resolution to any challenges to the quality of the interview record or the interpretation, mitigate fraud and ensure Eligibility Officers and Interpreters conduct themselves in a professional manner.
- ▶ The Applicant should be given the opportunity to submit to UNHCR the originals of documents not already on file for verification and/or any additional documentary evidence within a reasonable timeframe following the conclusion of the RSD Interview (see § 4.3.9 – *Review of Original Documents in the RSD Interview*).
- ▶ Where remote RSD interviews are utilized, measures should be in place to facilitate the participation of legal representatives and other authorized third parties, e.g. support persons, legal or customary caretakers, guardians of child asylum seekers, or support persons for asylum seekers with mental health conditions or intellectual disabilities (see § 2.7 – *Legal representation in UNHCR RSD Procedures*)
- ▶ As a general rule, it is preferable to conduct remote interviewing through video conferencing rather than by telephone if both permit the same quality of communication. Video conferencing provides greater ability to ensure confidentiality of procedures and avoid undue interference in the process, and helps with building rapport.

Conducting an RSD Interview via telephone or video conference may not always be appropriate for **Applicants who have specific needs or vulnerabilities**, in particular children, persons with hearing or visual impairment or mental health issues, or who are suffering the effects of trauma or torture. Careful consideration should be given to any negative impact that remote interviewing may have on these Applicants' ability and willingness to provide a full and reliable account, as balanced against the need for an urgent protection intervention.

Similarly careful consideration should be given to whether it is appropriate to conduct RSD Interviews via telephone or videoconference with **Applicants in detention**, particularly where there are concerns

regarding the confidentiality of procedures (for further guidance on conducting RSD Interviews with Applicants in detention see § 4.6 – *RSD Procedures for Applicants in Detention*).

4.3.3 Participation by Legal Representatives

Applicants may be accompanied during the RSD Interview by an authorised legal representative. The role and responsibilities of legal representatives, as well as the conditions for their participation in mandate UNHCR procedures are set out in § 2.7 – *Legal Representation in Mandate UNHCR Procedures*.

4.3.4 Attendance by Third Parties other than Legal Representatives

As a general rule, the participation of third parties in RSD procedures should be limited to the Applicant’s legal representative or, in the case of child Applicants or Applicants with mental health conditions or intellectual disabilities, to their **guardian** or **support person** in accordance with the principles set out in § 2.8 – *Children in UNHCR RSD Procedures* and § 2.9 – *Applicants with Mental Health Conditions or Intellectual Disabilities*). The participation of a **third party** may also be appropriate in order to facilitate communication in circumstances where the Applicant suffers from a speech or hearing impairment.

Where the attendance of a third party other than a legal representative or a guardian/support person is specifically requested by an Applicant, Eligibility Officers should consult with the RSD Supervisor to determine **whether or not to grant the request**. Where appropriate, Eligibility Officers may also recommend that an Applicant with specific needs or vulnerabilities is accompanied to the Interview by a person other than his or her legal representative or guardian. These may include a parent, legal or customary caregiver or a person otherwise providing emotional or other form of support. In assessing the appropriateness of the participation of a third party, Eligibility Officers should consider:

STANDARDS & GUIDELINES

FACTORS TO CONSIDER WHEN DETERMINING WHETHER A THIRD PARTY MAY ATTEND AN RSD INTERVIEW

- ▶ any specific needs or vulnerabilities of the Applicant;
- ▶ the nature of the relationship between the Applicant and the third party; and
- ▶ any other factors indicating that the attendance of the third party would be likely to promote or undermine the objectives of the RSD Interview.

The Eligibility Officer should explain the role and responsibilities of the third party and obtain the consent of the Applicant to their participation, which should be duly recorded on the file. Where the Applicant cannot provide free and informed consent, the Eligibility Officer should seek the Applicant’s views regarding the participation of the third party in the Interview before determining whether the presence of the third party is appropriate in a particular case. The Eligibility Officer should verify the identity of the third party and keep a copy of the relevant identity documents and contact details on file, as well as explain to the third party the confidentiality of UNHCR RSD procedures (for more guidance see § 2.9 – *Applicants with Mental Health Conditions or Intellectual Disabilities*).

The Eligibility Officer should, after consulting with the RSD Supervisor, **deny participation by any third party, or request that a third party does not attend the RSD Interview**, if the Eligibility Officer has good

reason to believe that participation of the third party is likely to jeopardize the security of the Applicant or UNHCR staff, or otherwise obstruct the objectives of the RSD Interview. Where an Eligibility Officer denies or withdraws permission for a third party to participate in an RSD Interview, the reasons for this decision should be explained to the Applicant in a manner that he or she can understand. In such cases the Eligibility Officer should also consider whether, given the Applicant's personal and contextual circumstances, it would be conducive or appropriate to continue the RSD Interview without the third party present or whether the Interview should be stopped and rescheduled for a later date. The reasons for denial or withdrawal of the permission for a third party to participate in the RSD Interview, as well as any conflicts or incidents involving the third party and how they were addressed by the Eligibility Officer should be duly recorded on the Applicant's file.

In principle, a third party who is not a legal representative may observe the entire RSD Interview but should not intervene during the RSD Interview. Eligibility Officers should have discretion to permit or request a greater degree of involvement by a third party in the RSD Interview, where appropriate. For example, where an Applicant does not have the capacity to fully present the claim because of his/her level of maturity or as a result of trauma or a mental health condition, the Eligibility Officer may call on the third party to provide additional information if he/she has personal knowledge of the events or circumstances relevant to the Applicant's claim.

Eligibility Officers should **note in the RSD Assessment** that a third party attended the RSD Interview, including his/her identity and relationship to the Applicant, and should maintain a full and accurate record of all statements or submissions made by the third party.

4.3.5 Planning and Preparation for the RSD Interview

Prior to the Interview, Eligibility Officers should conduct a thorough review of the Applicant's file, as well as any other relevant information which relates to the claim.

STANDARDS & GUIDELINES

IN PREPARING FOR THE RSD INTERVIEW, THE ELIGIBILITY OFFICER SHOULD:

- ▶ Carefully read the RSD Application Form, including the Applicant's written statement, as well as all information gathered at the registration stage or available from other sources. This is to allow the Eligibility Officer to identify, to the extent possible at this stage of the proceedings, elements that are material to the claim, and to draw up a tentative family tree and chronology/sequence of events leading to the Applicant's departure from his/her country of origin. This may be used as a point of reference during the RSD Interview.
- ▶ Ensure that relevant documents submitted in support of the Applicant's claim are translated and available for the RSD Interview.
- ▶ Identify preliminary issues and thematic areas that will be relevant to the determination of the claim and will need to be further examined during the RSD Interview.
- ▶ Review the information provided in travel and other documents, and note information which supports or is inconsistent with the information presented in the RSD Application Form.
- ▶ Consult relevant COI, including maps, and any other statements or documents submitted by the Applicant, ensuring that relevant maps are available for the Interview.

- ▶ Make a list of any missing information that the Applicant should be asked to provide at the RSD Interview, as well as unclear or inconsistent statements or other information that need to be clarified during the interview.
- ▶ In light of all the available information, prepare a flexible interview plan.
- ▶ Based on the file and other available information, including information obtained through best interest assessments or determinations, psychosocial evaluations and medical examinations, determine whether any additional measures should be put in place in order to accommodate the Applicant's specific needs and to create an environment of trust for the RSD Interview. In doing so, consider the Applicant's **capacity and fitness** for the Interview, as well as his/her **individual and contextual circumstances**, such as age, sex, sexual orientation or gender identity, cultural, social and educational background, experiences of trauma, his/her physical and mental health, and any physical or intellectual disabilities. Undertake any appropriate follow-up with relevant Protection staff members and/or Implementing Partners, as necessary. Ensure that any necessary arrangements are made prior to the RSD Interview.
- ▶ Where the Applicant has already registered with a UNHCR Office in a different host country / country of asylum, obtain all the information on the Applicant's file and undertake any other appropriate follow-up with the relevant UNHCR Office prior to the RSD interview whenever possible.

The RSD Interview Checklist (Annex 4.3-1) may be used to canvass the main elements of the Applicant's claim and identify the principal areas of COI research that the Eligibility Officer should conduct prior to the RSD Interview, as well as topics to be addressed during the RSD Interview, including any potential credibility issues and exclusion concerns.

4.3.6 Opening the RSD Interview

Eligibility Officers should adopt a non-adversarial, information-gathering approach throughout the RSD Interview. Eligibility Officers should take the opportunity at the beginning of the RSD Interview to create an environment of trust and respect in which the Applicant will have the best opportunity to remember and tell his/her story as truthfully and completely as possible.

It is recommended that Eligibility Officers address introductory issues systematically at the beginning of each RSD Interview and that they ensure that Applicants have a clear understanding of the interview process and their rights and obligations.

STANDARDS & GUIDELINES

CHECKLIST FOR OPENING THE RSD INTERVIEW

▶ **Introductions:**

The Eligibility Officer should introduce him/herself, and introduce the Interpreter and any other person present in the interview room, by functional title and role in the interview.

▶ **Gender Issues:**

Where staff resources do not permit the assignment of an Eligibility Officer and/or Interpreter of the sex requested by the Applicant, the Eligibility Officer must explain this to the Applicant and should consider any factors, including any concerns raised by the Applicant, indicating that the Interview should not proceed under the existing arrangement.

► **Interpretation in the RSD Interview:**

The Eligibility Officer should confirm whether the Applicant and the Interpreter understand each other and whether the Applicant is comfortable with the interpretation arrangement. The Applicant should be advised how to communicate through an interpreter and that any specific problems with the quality or accuracy of interpretation, or with the conduct of the Interpreter, should be identified during the RSD Interview as they arise. Where interpretation is done remotely, the Eligibility Officer should also ensure that the quality of the audio and/or video transmission is adequate and permits clear, reliable and uninterrupted communication.

► **Explanation of RSD Interview Procedures:**

The Eligibility Officer should explain, in a manner that the Applicant will understand, the following procedural matters:

- The purpose of the RSD Interview and how it will proceed, including the respective roles of the interviewer and the interviewee in enabling UNHCR to obtain relevant and sufficiently detailed information through the interview;
- The eligibility criteria for refugee status under UNHCR's mandate;
- The purpose and scope of use of notes or interview transcript taken by the Eligibility Officer during the RSD Interview, and/or the purpose and scope of the audio/video recording of the RSD Interview as applicable;
- The Applicant's right to ask for a break during the RSD Interview, during which he or she will be asked to remain on UNHCR premises;
- The conditions under which the Interview is conducted when the Applicant's participation in the Interview is through telephone or video conference.

► **Confidentiality:**

The Applicant must be assured that all information disclosed in the RSD Interview, as in all other stages of the RSD process, will be treated as confidential by UNHCR, and will not be shared with the authorities of the country of origin without the Applicant's express direction and consent. The Eligibility Officer should fully explain the scope and conditions of any disclosure of information regarding the Applicant to third parties, including Implementing Partners and the authorities in the host country, as set out in § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*. The Applicant should be advised that the Interpreter is also under an oath of confidentiality.

► **Obligation to Tell the Truth:**

The Applicant should be advised of the obligation to be truthful and to make the most complete disclosure possible of the facts relevant to the refugee claim. The Applicant should be told that if he/she does not know the answer to a question or cannot remember a detail, or if clarification is required, he/she should inform the Eligibility Officer. The Eligibility Officer should explain that misrepresentations during the RSD Interview may cast doubt on the truthfulness of other information provided by the Applicant.

► **Duty to Cooperate:**

The Applicant should be informed of his/her obligation to fully cooperate with UNHCR in all aspects of the procedures to examine the refugee claim and that he/she should make all efforts to substantiate the refugee claim and provide all available supporting evidence. The Applicant should provide as much detail as possible to the best of his/her recollection.

► **Applicant's Fitness to Proceed:**

The Eligibility Officer should ask whether the Applicant feels physically and psychologically fit for the RSD Interview. If the Applicant indicates that he/she does not feel well, the Eligibility Officer should ask follow-up questions to assess the nature of the problem, and whether it would be appropriate to proceed with the RSD Interview or reschedule. In determining whether or how to proceed with an RSD Interview of an Applicant who appears to be suffering from a mental health condition or an intellectual disability, or emotional problems affecting his/her meaningful participation in the interview, Eligibility Staff should refer to the considerations set out in § 2.9 – *Applicants with Mental Health Conditions and/or Intellectual Disabilities* and § 3.4 – *Applicants with Specific Needs*.

► **Opportunity for Questions or Comments by Applicant:**

The Eligibility Officer should ensure that the Applicant has understood his/her rights and obligations. The Applicant should be given the opportunity to make preliminary remarks or to ask questions before the RSD Interview.

4.3.7 Interviewing the Applicant⁹

The aim of the RSD Interview is to elicit all relevant information to the claim, and to provide the Applicant with the opportunity to clarify or explain unclear or inconsistent information. Questioning by the Eligibility Officer during the RSD Interview should facilitate the most complete and accurate disclosure of the information relevant to the refugee claim.

In formulating the questions and structuring the Interview, the Eligibility Officer should take into account the Applicant's background and personal characteristics, including his/her age, gender, religion, cultural, social and educational background, physical and mental health. The Eligibility Officer should use language that is easy for the Applicant to understand and repeat or reformulate the question if the Applicant doesn't appear to understand it or provides an unclear answer.

At the beginning of the RSD Interview, Eligibility Officers should elicit a free account of the reasons for and the events leading up to the Applicant's departure from his/her country of nationality or country of habitual residence. Wherever possible, Eligibility Officers should use **open-ended questions** to permit Applicants to use their own words when describing the events they consider most important to their claim. Eligibility Officers should **avoid interrupting the Applicant** unnecessarily and should **actively listen** to identify and examine relevant information, and to establish and maintain rapport.

While Applicants should not be asked to structure the information provided during the interview chronologically, Eligibility Officers should, to the extent possible, assist Applicants to describe the events that are relevant to their claim in a manner that allows them to be placed in **chronological order**. This will permit the Eligibility Officer to fully appreciate the significance of the information presented and identify and follow up on gaps and inconsistencies during the RSD Interview, thereby minimizing the need for Complementary RSD Interviews. However, Eligibility Officers should be aware that Applicants might

⁹ The standards and guidance set out in this and following sections are not intended to provide comprehensive guidance on interviewing techniques in UNHCR RSD Procedures. Eligibility Officers should have access to and be familiar with UNHCR tools and resources on effective interviewing techniques, including relevant UNHCR learning programmes. For a list of currently available learning programmes see Annex 4.2-1 – UNHCR RSD-focussed Learning Programmes.

not be able to recollect exact dates or a sequence of events, particularly if the event experienced was traumatic. Perceptions of time and the way that Applicants recount events may also be culturally specific.

When the Applicant has given an uninterrupted account about a particular aspect of his/her claim, the Eligibility Officer should ask probing or closed follow-up questions in order to elicit additional information relevant to the material elements of the claim, clarify statements, address vague testimony and/or confirm information already provided.

As a good practice, when the Eligibility Officer has obtained and clarified information about a particular aspect of the claim, he/she should summarize the Applicant's statements using, the Applicant's own words to the extent possible. Summarizing allows the Eligibility Officer to check his/her understanding, and affords the Applicant an opportunity to elaborate or clarify any relevant aspect summarized. Eligibility Officers should record any corrections and/or confirmation provided by the Applicant.

Inconsistencies in information provided by the Applicant, or between the information provided by the Applicant and other reliable sources of information, including COI, must be addressed during the RSD Interview. The Eligibility Officer should consider how and when during the interview to address inconsistencies or other credibility concerns. As a general rule, no negative credibility findings regarding an Applicant's statements, whether inconsistencies, lack of detail or lack of plausibility, relating to elements material to the refugee claim may be reached without fully explaining the issue to the applicant and having given the Applicant the opportunity to provide missing information, and/or to explain or clarify the inconsistency. Similarly, an Applicant's failure to explain an aspect of their claim should not as such be considered an indication of their failure to cooperate with UNHCR, if they have not been asked specifically to provide information on that aspect of their claim.

4.3.8 Interviewing Child Applicants¹⁰

The best interests of the child must be a primary consideration in deciding whether or not to interview a child Applicant. Depending on the personal and contextual circumstances of the child, including his/her level of development and maturity, a best interest assessment (BIA) may need to be conducted in order to inform the appropriateness of interviewing a child for RSD (see § 2.8 – *Children in UNHCR RSD Procedures* and § 5.3.2 – *Derivative Refugee Status Applications Involving Children*).

Wherever possible, RSD Interviews of children should be carried out by **Eligibility Officers who have special training and knowledge** regarding the emotional, mental and intellectual development and behaviour of children. UNHCR Offices should make every effort to develop this staffing capacity.

As a general rule, RSD Interviews of children should be conducted in the presence of a **guardian** or another appropriate adult who is trusted by the child. Decisions to appoint a guardian for unaccompanied and separated children should take into account the views of the child regarding the selection of and need for a guardian (see § 2.8 – *Children in UNHCR RSD Procedures*).

Special emphasis should be placed on **putting the child at ease and developing a relationship of trust**. The environment and tone of the Interview should be as informal as possible and adapted to the child's specific needs.

¹⁰ Ibid.

Eligibility Officers should use **age-appropriate language** to advise the child about the purpose of the RSD Interview and how it will proceed. The importance of being truthful, and providing as much information as possible, should be explained in a way that the child can understand. In addition, the child should be assured that if he/she does not understand the question or does not know the answer, he/she should say so. Depending on the age and level of emotional, mental and intellectual development of the child, alternative methods of communication may be needed to put him/her at ease and enable him/her to provide an account. Drawings, role-plays, games, storytelling, singing or writing can be useful communication tools with younger children in an interview. It may also be necessary to allow children to raise issues important to them during the interview even if not related to their claim.

Questioning the child on the factual elements of the claim should be guided by the following considerations:

STANDARDS & GUIDELINES

FACTORS TO BE TAKEN INTO CONSIDERATION WHEN INTERVIEWING A CHILD:

- ▶ The child's age and level of emotional, mental and intellectual development at the time of the Interview and at the time of the relevant events;
- ▶ The psychological impact the events related to the claim may have had on the child;
- ▶ The child's possibly limited knowledge of conditions in the country of origin, and their significance for the determination of refugee status.

Children may be unable or unwilling to provide the information that is necessary to determine their claim. **Where the child is reluctant to discuss particular facts or events** it may be appropriate to postpone or cease questioning on the particular aspect of the claim. In many cases involving child Applicants it will be necessary to use **other appropriate sources to obtain relevant information about the child's eligibility for refugee status**, including family members, and country of origin information.

The RSD Interview of child Applicants should include **regular breaks** during which the child should be permitted the appropriate degree of freedom to move around. Furthermore, a child Applicant's personal and contextual circumstances may require several RSD Interviews to facilitate his/her meaningful participation in the RSD process and a correct determination of the claim.

4.3.9 Review of Original Documents in the RSD Interview

Applicants are expected to present documents that are in their possession and relevant for the determination of their claims. Relevant documents may relate to identity, nationality, age, country(ies) and place(s) of previous residence, family composition, level of education, health and specific needs, experiences of torture or trauma, or previous asylum applications or registration with UNHCR. Eligibility Officers should assist Applicants to identify which documents or other materials may be relevant for the determination of the claim.

Original documents or copies provided by the Applicant should be translated and reviewed prior to the Interview, if possible, or during the Interview if presented at that time.

During the Interview, the Eligibility Officer should examine the original documents or best available copy to ensure that copies on the file are identical to the originals, and that **a legible and complete copy of every original is on the file**. Eligibility Officers should record whether they have seen the original of the document. While UNHCR does not have the expertise or capacity to determine the authenticity of a document, a verification of the documents submitted by Applicants should still be conducted.

When examining original documents, Eligibility Officers should take the opportunity to **inspect the following features of the documents** to identify evidence or other signs of tampering:

STANDARDS & GUIDELINES

INSPECTING DOCUMENTS

- ▶ Quality and consistency of the paper of the document;
- ▶ The numbering and sequence of pages;
- ▶ Check the document for spelling errors;
- ▶ Check photographs to determine likeness to the Applicant, taking into account factors such as the date when the photograph was taken;
- ▶ Comparison of signatures on documents with those of the Applicant and/or comparison with the signatures on other documents submitted;
- ▶ Discoloration or smearing around dates, names or serial / reference numbers;
- ▶ Smudged or irregular stamps;
- ▶ Separation of the photograph from the page, or blistering of lamination.

The Eligibility Officer should also compare the original documents with sample documents from the same source, where these are available. Any **irregularities in the documents** or inconsistencies with sample documents, such as differences in the country flag and emblem of the issuing authority¹¹ should be raised with the Applicant during the RSD Interview, and the Applicant should be given an opportunity to provide an explanation. The Eligibility Officer should consider how and when during the interview to address an irregularity or inconsistency relating to the documents submitted.

Evidence that a document may have been obtained through bribery or other fraudulent means may, depending on the circumstances, affect its reliability and, thus, its evidentiary weight. Where there are indications that a document relevant to the determination of the refugee claim may have been obtained through bribery or other fraudulent means, the Applicant should be asked to explain the process of obtaining the document during the RSD Interview.

Where an Applicant is in possession of a document that is relevant to the determination of the refugee claim but has not brought it to the RSD Interview, he/she should be asked to return to the Office at a later date with the original document or best available copy. A Document Appointment should be assigned under established scheduling procedures (see § 3.5.1 – *General Scheduling Procedures*.) Where an Applicant is not in the possession of a document that would support his/her claim, but is able to acquire it without

¹¹ Any such comparison must take into account the time of issue of the document as a potential reason for the discrepancy.

personal risk or risk to others, he/she should take the necessary steps to do so or provide an explanation why he/she cannot acquire it.

4.3.10 Closing the RSD Interview

At the end of the RSD Interview, the Eligibility Officer should:

STANDARDS & GUIDELINES

CLOSING THE RSD INTERVIEW

- ▶ Ensure that the Applicant has been given the **opportunity to present all elements of the refugee claim**;
- ▶ Ask the Applicant whether he/she would like to add anything to the information already provided and inform the Applicant about the possibility of notifying UNHCR in writing after the interview, but before a decision is issued, of any additional information relevant to his/her refugee claim or any correction/clarification of the information already provided. Such notification must be accompanied by an explanation why the information was not provided or not accurate at the time of the interview and the Applicant should be informed of the possibility of a Complementary Interview where necessary to examine the additional or corrected information;
- ▶ Check with the Applicant and the Interpreter whether there have been any interpretation or communication problems during the Interview and, if so, ascertain the nature of the problem. Where appropriate provide information regarding the established complaints procedures;
- ▶ Where the facts presented or the known conditions in the host country/country of asylum suggest that the Applicant may have protection concerns in the country, it may be necessary to make inquiries regarding the Applicant's personal circumstances in the host country/country of asylum;
- ▶ **Read back elements of the RSD Interview transcript** that are most relevant to the determination of the claim. As a general rule, any part of the information presented in the RSD Interview that is unclear, or regarding which there were apparent difficulties with interpretation, should also be read back. Clarification or elaboration offered by the Applicant at this stage should be noted at the end of the transcript, without revising the original answer in the transcript.
- ▶ Where operational constraints do not allow for reading back the entire Interview transcript or when the RSD Interview is audio/video recorded and a verbatim Interview transcript is not maintained, the Eligibility Officer should summarize the main aspects of the Applicant's account, using as much as possible the Applicant's words, and afford him/her the opportunity to clarify any aspect of the claim (for further guidance on audio/video recording see § 4.3.12 – *Recording of the RSD Interview*);
- ▶ Confirm and note documents or other information that the Applicant has agreed to provide following the RSD Interview, and the arrangements that have been made to provide it;
- ▶ Ensure that the Applicant is satisfied with the way that the Interview was conducted. Take note of any concerns raised by the Applicant and address them to the extent possible and appropriate;
- ▶ Explain the **next steps in the RSD process and relevant timeframes**, including:
 - The method and timeframe for receiving the RSD decision;
 - Consequences of a positive or a negative RSD decision;
 - Applicant's right to appeal a negative RSD decision and the appeal procedures;
 - Family Unity procedures, where appropriate.

- ▶ Where a **Complementary Interview**¹² must be conducted, the Eligibility Officer should explain:
 - The reason(s) for conducting a Complementary Interview;
 - The date and time when the Complementary Interview will be conducted, or the method and timeframe for notifying the Applicant of the date and time of the Complementary Interview.

4.3.11 Evaluation of the RSD Interview

Following the RSD Interview, the Eligibility Officer must **evaluate the information that the Applicant has provided during the Interview** in light of all other information available, including any written and oral statements and documents provided by the Applicant and other relevant information from reliable sources with a view to determine whether any further action is necessary. If additional information is needed relating to material elements of the claim or if certain aspects of the Applicant's account need to be further examined or clarified, including as a result of the information provided by the Applicant following the RSD Interview or as a result of apparent credibility problems, a **Complementary RSD Interview** may have to be conducted. Similarly, if new information presented by the Applicant during the Interview raises complex issues for which additional research or other preparation is necessary to effectively question the Applicant, a Complementary RSD Interview should be conducted.

As a general rule, the Complementary RSD Interview should be conducted by the Eligibility Officer to whom the file was assigned and who conducted the RSD Interview. In certain instances, it may however be appropriate to reassign the file to a different Eligibility Officer for a Complementary RSD Interview (for further guidance on instances where it is appropriate to reassign a RSD case see also § 4.4.2 – *Procedures for Revising the RSD Assessment or Decision*).

4.3.12 Recording the RSD Interview

Eligibility Officers must maintain a full and accurate record of the RSD Interview.¹³ This can be done through maintaining a verbatim transcript and/or an audio or video recording of the RSD Interview. The main considerations and safeguards associated with the various methods of recording the RSD Interview are outlined below.

Applicants and their legal representatives may take notes during the RSD Interview, but may not otherwise record it (see § 2.7.4(a) – *The Role of the Legal Representative*).

¹² The need to conduct a Complementary Interview may only become apparent once the Eligibility Officer has had the chance to consider all the information gathered during the interview and available from other sources. In such cases, an explanation regarding the aim of the Complementary Interview should be provided at the beginning of such interview.

¹³ Unless otherwise specified in these RSD Procedural Standards, the same standards relating to the recording of interviews should apply to derivative status, appeal, cancellation, revocation or cessation procedures under UNHCR's mandate.

a. Verbatim Transcript of the RSD Interview

As a general rule, Eligibility Officers should maintain a verbatim transcript of the RSD Interview.

STANDARDS & GUIDELINES

THE RSD INTERVIEW TRANSCRIPT SHOULD RECORD THE FOLLOWING:

- ▶ Name of the Applicant and case number;
- ▶ Name of the Eligibility Officer conducting the RSD Interview;¹⁴
- ▶ Name of the Interpreter;
- ▶ Applicant's date and place of birth, nationality, sex, marital status, ethnicity and religious affiliation, occupation/employment as well as other relevant information about their profile and background;
- ▶ The name and role or relationship with the Applicant of any third parties who are present (e.g. legal representative, family member, support person, etc.);
- ▶ The date and time that the RSD Interview began and closed and any breaks, interruptions or adjournments;
- ▶ The precise questions asked by the Eligibility Officer and the response provided by the Applicant, including all communications between the Eligibility Officer and the Applicant at the start and end of the Interview;
- ▶ Relevant observations regarding the behaviour of the Applicant at particular stages of the RSD Interview, as well as non-verbal communication.

In the RSD Interview transcript, the Eligibility Officers should endeavour to record the **precise words** used by an Applicant, and should avoid summarizing or paraphrasing the Applicant's statements.

As a general rule, the RSD Interview transcript should be recorded electronically. A hard copy of the RSD Interview transcript should be printed out and retained in the physical file. Where it is **not possible to record** the transcript electronically,¹⁵ Eligibility Officers should maintain a detailed and legible hand-written transcript, which should be transcribed in an electronic format as soon as practicable.

¹⁴ For security reasons, particularly where Interview transcripts are shared with the Applicant, it is recommended that the names of the Eligibility Officer and Interpreter are not listed in full in the Interview transcript or are redacted or otherwise anonymized prior to sharing the transcript. For further guidance see § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*.

¹⁵ This may, for instance, be the case in certain emergency or camp operations, or in some detention contexts.

b. Audio or video recording in addition to interview transcripts

Wherever possible, Offices are highly encouraged to maintain an **audio or video recording of the RSD Interview in addition to written (verbatim) transcript**.

Where available resources do not permit the systematic audio/video recording of all RSD Interviews in addition to maintaining written transcripts, it is recommended that audio/video recording be considered and, where possible, prioritized for cases raising complex credibility issues and/or exclusion concerns.

The audio/video recording should be maintained as part of the file in accordance with filing procedures and nomenclature. Appropriate data protection safeguards should be put in place to ensure the security and confidentiality of the information captured through audio and video recordings and minimize the risk of accidental or unauthorized disclosure, destruction, loss or alteration of the information (see § 2.2 – RSD File Management and Recordkeeping procedures).

KEY CONSIDERATIONS

BENEFITS ASSOCIATED WITH MAINTAINING AN AUDIO/VIDEO RECORDING OF THE INTERVIEW IN ADDITION TO A WRITTEN TRANSCRIPT:

- ▶ Ensures an accurate record of the interview, thus enabling verification by the Eligibility Officer of parts of the RSD Interview which are unclear or incomplete, or which are of particular relevance to the claim before finalizing the interview transcript;
- ▶ Facilitates the identification and the evaluation of issues raised on appeal regarding the accuracy of the RSD Interview record, the conduct of the Eligibility Officer and/or Interpreter, as well as interpretation problems during the RSD Interview, which could preclude the need to conduct an Interview on appeal in certain cases;
- ▶ May constitute a deterrent for frivolous or baseless appeal applications;
- ▶ Encourages professional conduct on the part of Eligibility Officers and Interpreters;
- ▶ Facilitates systematic monitoring of interviews to improve integrity and quality of UNHCR procedures;
- ▶ Constitutes an anti-fraud measure, and protects Eligibility Officers and Interpreters from allegations of fraud and misconduct.

c. Audio or video recording *in lieu* of interview transcripts

Maintaining a verbatim transcript of RSD interviews is essential to ensuring the quality and integrity of the RSD procedures, particularly where complemented by an audio or video recording. **Exceptionally, audio/video recordings can be used *in lieu* of written interview transcripts** in situations where the number of applications is significant and where a swift determination of the international protection needs of asylum-seekers is necessary to ensure their protection.

The use of audio/video recordings *in lieu* of written transcripts would generally only be considered appropriate for caseloads to which a ***prima facie* approach or a presumption of inclusion applies**, and which, on the whole, are not likely to raise complex credibility problems and/or exclusion concerns. For the latter cases, a verbatim written Interview transcript will be essential to ensure that all the information

provided by the Applicant during the RSD Interview has been adequately examined, and to provide an easily accessible Interview record for review and appeal of the first instance RSD decision.

KEY CONSIDERATIONS

POTENTIAL DRAWBACKS RELATING TO THE EXCLUSIVE USE OF AUDIO/VIDEO RECORDINGS:

- ▶ incomplete or poor quality recording due to human error or technical problems;
- ▶ limited use of audio/video recordings for the purpose of ensuring that information provided by the Applicant has been adequately examined and assessed;
- ▶ increased risk that first instance RSD decision is based on incomplete or inaccurate summary of the Applicant's statements;
- ▶ accidental loss, destruction or disclosure of the audio/video recording due to human error or technical problems, as well as inadequate link to the RSD file as a result of failure to observe filing procedures and nomenclature.
- ▶ limited access and use of information provided in the audio/video recordings following the RSD process, such as for resettlement purposes etc.

The use of audio/video recording instead of a written transcript may also be appropriate in cases involving particularly vulnerable Applicants, such as young unaccompanied or separated children, victims of trauma or Applicants with mental health conditions or intellectual disabilities. Not having to take down a written record of the interview is likely to assist in building rapport and may create a less stressful or intimidating interviewing environment for the Applicant. In such cases, the audio/video recording would ideally be transcribed following the interview to facilitate the decision-making and review process. While this approach is more resource-intensive, being able to focus on the interview rather than maintaining a verbatim transcript is likely to encourage disclosure and, thus, constitutes a more effective way to gather information during interviews with vulnerable Applicants.

Given the potential problems associated with the use of audio/video recording instead of written transcripts, it should remain an exceptional measure. As such, it will generally not be appropriate to replace written transcripts with audio/video recordings in cases that are processed in regular RSD, appeal, cancellation, revocation, re-opening or cessation procedures.¹⁶

A decision to implement audio/video recordings *in lieu* of written Interview transcripts, including in the context of simplified RSD or merged RSD processing procedures, should only be taken **after careful consideration of the impact on the quality of the decision-making and integrity of the process, and in consultation with the relevant Regional Bureau and the functional sections in DIP**. UNHCR Offices should also consult relevant UNHCR resources to ensure the facilities and technology available in the particular Offices are appropriate to support the implementation of audio/video recording.

¹⁶ As mentioned above, audio/video recording *in lieu* of interview transcripts may nevertheless be appropriate in cases involving particularly vulnerable Applicants in order to encourage rapport-building and full disclosure.

KEY CONSIDERATIONS

MEASURES TO MITIGATE THE RISKS RELATING TO THE QUALITY OF THE DECISION-MAKING AND OF THE AUDIO/VIDEO RECORDING INCLUDE:

- ▶ **Regular and *ad hoc* quality checks of RSD decisions:** Regular and *ad hoc* checks of the quality of the RSD decisions can be undertaken at the review of the RSD decision stage, and would entail a review of the correctness of the RSD assessment by listening to the entire audio/video recording of the RSD interview for the selected case. The frequency of the quality checks and the number of cases selected will depend on the caseload in question, operational capacity and procedures in place, in particular any additional safeguards or measures to mitigate the risk of reaching a decision based on an incorrect or incomplete understanding of the Applicant's oral statements. In instances where interviews are conducted without the use of an interpreter in a language not understood by the Reviewing Officer, the quality checks will require interpretation or translation and transcription by an interpreter.
Where an audio/video recording is used in addition to written transcripts, regular and *ad hoc* checks of the quality of the written transcript is also recommended.
- ▶ **Keeping a time record of the RSD Interview:** Eligibility Officers may note the exact time in the recording when core aspects or complex topics are examined during the interview. This would allow Eligibility and Reviewing Officers to refer back to the relevant portion of the audio/video recording when assessing or reviewing these core aspects of the Applicant's claim without having to go through the entire recording.
- ▶ **Keeping notes to make a summary of the interview:** Eligibility Officers may summarize the Applicant's account during the Interview. This has the advantage of providing a more accurate (if not complete) record of the Interview than one reconstructed from memory. The use of the summary should be supplemented by listening to the entirety of the audio/video recording.
- ▶ **Partial or full transcription of audio/video recording:** A partial or full transcription of the audio/video recording can be undertaken at the request of the Eligibility Officer for cases that give rise to credibility problems, exclusion concerns or other complex issues. A transcription can also be initiated by the Reviewing Officer.
- ▶ **Reverting to a written transcript:** In cases where complex credibility issues or exclusion concerns arise during the Interview, it is recommended that the Eligibility Officer revert to maintaining a verbatim written transcript from the moment such issues or concerns arise and that he/she notes down the exact time this occurs. This approach will facilitate the identification of the relevant part of the audio/video recording to enable a full consideration of the Applicant's statements.
- ▶ **Screening / identification of complex cases prior to RSD:** Cases likely to give rise to complex credibility problems or exclusion concerns should be identified prior to RSD processing, to the extent possible in order to ensure that a verbatim interview transcript is maintained.
- ▶ **Testing the quality of the audio/video recording:** To avoid human or technical error that may render the audio/video recording unusable, it is recommended that Eligibility Officers test the quality of the recording at the beginning of the RSD interview and at the end of the interview, wherever possible. Problems with the audio/video recording detected at the beginning of the interview should be immediately addressed, including by seeking technical assistance if necessary. If technical issues relating to the quality of the recording cannot be solved in a timely manner, the Eligibility Officer should revert to taking a verbatim interview transcript or reschedule the interview for a later date. Where problems with the audio/video recording occur during the interview and are not immediately detected, it may be necessary to conduct again the part of the interview for which no audio/video recording is available. In such cases, the Applicant must be counselled as to the reasons why part of the interview has to be repeated and any problems with the audio/video recording should be noted on the file.

The Eligibility Officer should notify the Applicant at the beginning of the Interview that the Interview is audio/video recorded and explain the purpose and scope of use of the recording (see § 4.3.5 – *Opening of the RSD Interview*). Although the consent of the Applicant to the Interview being audio/video recorded is not required, the Eligibility Officer should make every effort to immediately address any genuinely-held concerns by the Applicant in relation to the audio/video recording.

If the Applicant raises serious concerns about the Interview being audio/video recorded which cannot be resolved by the Eligibility Officer and which are likely to result in significant problems with disclosure during the Interview, an assessment should be made in consultation with the RSD Supervisor regarding the concerns raised, their impact on the process, and the appropriateness of proceeding with a written transcript instead.

Applicants and their legal representatives may, on request, access the transcript or audio/video recording of the Interview with the Applicant, at the UNHCR Office premises and under supervision or through other secure and appropriate means as established by UNHCR Offices. All disclosure of information to an Applicant or a legal representative must be in accordance with UNHCR's data protection policy and must respect the Applicant's right to confidentiality (see §§ 2.1.3 – *Disclosure to Individual Persons of Concern and Other Rights relating to Personal Data* and 2.7.4.(b) – *Communication and Access to Information*).

4.3.13 Information Provided by Witnesses

Applicants **should be permitted to bring witnesses** to the RSD Interview to support their claim. The witness should not be in the interview room while the Applicant is being interviewed. The identity of the witness, as well as the relationship with the Applicant, if any, should be verified and recorded on file. Contact details and copies of any identity documents should also be recorded on file.

As a general rule, **witnesses should not be interviewed or provide information in the presence of the Applicant**, nor in the presence of other witnesses or third parties.

Before receiving the testimony of a witness, the Eligibility Officer should **establish the identity of the witness**, and his/her relationship with the Applicant, and should examine and copy identity documents of the witness for the file. The Eligibility Officer should also explain the confidentiality of UNHCR RSD procedures and the obligation to tell the truth.

The information provided by the witness and its examination should be **fully and clearly recorded** on the Applicant's file (see § 4.3.12 – *Recording the RSD Interview*).

Should new information or inconsistencies material to the determination of the Applicant's claim arise during an interview with a witness, the Applicant should generally be given the opportunity to clarify these aspects of the evidence in a Complementary RSD Interview (see § 4.3.7 – *Interviewing the Applicant*). The obligation to preserve the confidentiality of the interview with the witness must, however, be respected. The Eligibility Officer should use the utmost discretion and sensitivity in **assessing the reliability of the information** provided by the witness and probing the credibility of the Applicant's statements, since disclosure may give rise to serious protection concerns for the individual concerned.

Where disclosure to the Applicant of **apparently contradictory** information provided by a witness is deemed necessary and/or appropriate, the Eligibility Officer must obtain the free and informed consent of the individual who has provided the information. In this context, the Eligibility Officer must clearly explain the intended purpose and possible consequences of the disclosure to the individual concerned

and fully and accurately record this in the file. In the absence of consent, or in cases where disclosure is not deemed necessary or appropriate, apparently contradictory information provided by an individual may, nevertheless, be used to inform the examination of the particular aspect(s) of the Applicant's claim on which some doubt remains. Utmost care must be taken, however, to ensure that the Applicant is not able to identify or infer the source of such information based on the line of questioning adopted.

4.3.14 Interview of Family Members or other Dependants

The Eligibility Officer should confirm that every accompanying adult family member/dependant of the Principal Applicant has completed an RSD Application Form and **has had an individual Registration Interview**.

Wherever feasible, Eligibility Officers should take the opportunity to meet briefly with each adult family member/dependant of the Refugee Status Applicant,¹⁷ to ensure that they understand the refugee criteria and to give them the opportunity to discuss any individual protection needs they may have. Family members/dependants who may have a refugee claim in their own right should have their claim determined independently (see § 5 – *Processing Claims based on the Right to Family Unity*).

STANDARDS & GUIDELINES

A SEPARATE INTERVIEW WITH A FAMILY MEMBER/DEPENDANT MUST BE CONDUCTED IN THE FOLLOWING CIRCUMSTANCES:

- ▶ If an adult family member/dependant did not have an individual Registration Interview; the Interview should be conducted with a view to gather and examine information relating to individual protection needs of the family member/dependant or the relationship of dependency with the Refugee Status Applicant, as appropriate;
- ▶ If the information provided in the RSD Application Form or gathered during the Registration Interview of an accompanying family member/dependant, or any other information obtained during the examination of the Refugee Status Applicant's claim, indicates that a person who is seeking derivative refugee status may have an independent refugee claim in their own right, which should be examined through a separate RSD Interview.

The Eligibility Officer may take the opportunity of the RSD Interview of the Refugee Status Applicant to **examine the eligibility of accompanying family members/dependants for derivative status** pursuant to the criteria and procedures set out in § 5 – *Processing Claims based on the Right to Family Unity*.

¹⁷ 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.

It would generally be appropriate to **defer the examination of eligibility for derivative refugee status** to a separate Family Unity Interview after the status of the Refugee Status Applicant has been determined, in the following circumstances:

- ▶ The determination of eligibility for derivative refugee status of family members/dependants requires review of complex factual or legal issues (e.g. exclusion);
- ▶ Not all individuals or information necessary for the determination of derivative refugee status are available at the time of the Refugee Status Applicant's RSD Interview;
- ▶ The claim of the Refugee Status Applicant is unlikely to be recognized.

When interviewing family members/dependants of the Refugee Status Applicant, Eligibility Officers should respect the **right of confidentiality** of the Refugee Status Applicant and Applicants for derivative status in UNHCR procedures. **Interviews with the Refugee Status Applicant and the Applicants for derivative status should be conducted separately** unless there are compelling reasons to indicate that this would not be appropriate or constructive (see, for instance, § 5.3.2 – *Derivative Refugee Status Applications Involving Children*).

Should new evidence or inconsistencies that are material to the determination of the Refugee Status Applicant's claim arise during an interview with family members or dependants, the Refugee Status Applicant should be given the opportunity to clarify these aspects of the evidence in a Complementary RSD Interview (see § 4.3.7 – *Interviewing the Applicant*).

The obligation to preserve the confidentiality of the information gathered during the interview with the family member/dependant must, however, be respected. The Eligibility Officer should use the utmost discretion and sensitivity in **assessing the reliability of the information** provided by the family member/dependant and in probing the credibility of the Refugee Status Applicant's statements, since disclosure of this information may give rise to serious protection concerns for the family member/dependant concerned. The Eligibility Officer should consider strategies of questioning that do not require disclosure of information obtained from the family members, or obtain their consent prior to such disclosure where disclosure is appropriate.

Where disclosure of **apparently contradictory information** provided by a family member/dependant is deemed necessary and/or appropriate, the Eligibility Officer must obtain the free and informed consent of the individual who has provided the information. In this context, the Eligibility Officer must clearly explain the intended purpose and possible consequences of the disclosure to the individual concerned and fully and accurately record this on the file. In the absence of consent, or in cases where disclosure is not deemed necessary or appropriate, apparently contradictory information provided by a family member/dependant may, nevertheless, be used to inform the examination of the particular aspect(s) of the Applicant's claim on which some doubt remains. Utmost care must be taken, however, to ensure that the Refugee Status Applicant is not able to identify or infer the source of such information based on the line of questioning adopted.

However, as a general rule, no negative credibility findings may be reached in relation to facts that are material to the claim unless the Refugee Status Applicant has had the opportunity to explain or clarify the new evidence or apparent inconsistencies (see § 4.3.7 – *Interviewing the Applicant*).

Consistency between the account of a Refugee Status Applicant and that of a family member/dependant is only one credibility indicator (alongside specificity and sufficiency of detail, internal consistency, consistency with other sources of information, including COI, and plausibility). Any apparent

inconsistencies between individuals' respective accounts must, therefore, be carefully assessed as part of the overall credibility assessment of the particular statement in doubt. Apparently contradictory information must also be given appropriate weight taking into account that individuals, and family members in particular, may have different perspectives, knowledge and/or understanding of the facts that are relevant to the determination of the Refugee Status Applicant's claim. This is a particularly relevant when weighing information provided by children and, depending on family dynamics and cultural norms in the country of origin, women.

4.3.15 The RSD Assessment

As soon as possible following the RSD Interview, the Eligibility Officer who conducted the RSD Interview should prepare the written decision using the **RSD Assessment Form (Annex 4.3-3)**. If the case raises exclusion considerations under Article 1F of the 1951 Convention, the **Exclusion Assessment Form** should also be completed.

Caseload or profile-specific RSD assessment forms may be used to facilitate and expedite the determination of claims by Applicants with specific profiles or belonging to a caseload to which a *prima facie* approach or a high presumption of inclusion applies (see § 4.10 – *Simplified RSD Processing*). To promote consistency in decision-making, such forms should be developed in consultation with the relevant Regional Bureau(s) and the functional sections in DIP.

STANDARDS & GUIDELINES

KEY ELEMENTS OF THE RSD ASSESSMENT

► Summary of claim

A summary of the information provided by the Applicant with regard to the reasons for leaving the country of nationality or habitual residence and for being unwilling or unable to return, as well as aspects of his/her claim which are material to the determination of eligibility for refugee status, including his/her profile, experiences in the country of nationality or habitual residence, experiences of similarly situated persons and the specific context in which the Applicant lived.

For Applicants who are unable to provide an account of the events leading up to their departure from the country of nationality or habitual residence, the summary of the statements by family members or other witnesses with direct knowledge of the Applicant's personal and contextual circumstances and experiences should be included here (see, for instance, § 2.8 – *Children in UNHCR RSD Procedures* and § 2.9 – *Applicants with Mental Health Conditions and Intellectual Disabilities*).

► Material facts (Credibility assessment and findings of fact)

A record of (i) the credibility assessment conducted with regard to the credibility of statements provided by the Applicant and, where relevant, other persons (e.g. family members or witnesses) in relation to material elements of the Applicant's claim and of the reasons why these statements have, or have not, been accepted as credible, and of the findings of fact reached, and (ii) the determination of what material facts of the claim can be considered established, based on the credibility findings and any other reliable information.

The credibility assessment needs to examine the oral and written statements provided by the Applicant relating to the material elements of the claim. Reference should also be made to the relevant

credibility indicators, while also taking into account any explanation provided by the Applicant for apparent credibility problems. The applicable credibility indicators are: (i) sufficiency of detail and specificity; (ii) internal consistency of oral and written information provided by the Applicant, including documents; (iii) external consistency (i.e. consistency of Applicant's statements with information provided by family members/witnesses or COI); and (iv) plausibility. Potential distortion factors affecting the Applicant's ability and/or willingness to recall and recount past experiences, or the Eligibility Officer's ability to interview in an effective manner, should also be taken into account in reaching findings on credibility.

As part of the credibility assessment, Eligibility Officers need to assess the reliability (or otherwise) of any documents and other materials that contain information relevant to the claim in order to determine what weight to give them based on their source, content and other factors. Where the information on file includes statements of family members and/or witnesses, these will also need to be assessed for their credibility.

The credibility assessment should result in findings which clearly indicate which statements are accepted on balance and which are not and the reasons why, including whether the benefit of doubt was applied in reaching a credibility finding.

The material facts are then established on the basis of the credibility findings with regard to the Applicant's statements and/or any other available reliable information.

► **Well-founded fear**

An analysis of whether, considering relevant COI, the individual profile and experiences of the Applicant, and the experience of similarly situated individuals in the country of origin, there is a reasonable possibility that the Applicant would experience harm if returned to the country of nationality or habitual residence. The assessment must be based on the established material facts relating to the Applicant's profile and experiences with reference to relevant COI and should identify the harms the Applicant is reasonably likely to face on return. Where the risk of harm emanates from non-State agents of persecution, an examination of whether State authorities are willing or able to provide protection will also be required.

► **Persecution**

A determination of whether the harms identified, individually or cumulatively, are sufficiently serious to constitute persecution. This analysis needs to be conducted in light of relevant human rights standards and principles.

► **Reasons for persecution (grounds)**

An analysis of whether the persecution which the Applicant is reasonably likely to face is for reason of one or more of the 1951 Convention grounds (i.e. race, religion, nationality, membership of a particular social group and political opinion). The causal link or nexus requirement is also met where State protection is denied for reason of one of the 1951 Convention grounds.

► **Internal flight or relocation alternative**

An Analysis of whether, if the Applicant has a well-founded fear of persecution in the country of nationality or habitual residence at the hands of non-State agents, the Applicant has the possibility to return to any part of that country where he/she would not be exposed to a risk of persecution or other serious harm, and where he/she could live a relatively normal life without undue hardship. This requires an analysis in light of the requirements that an internal flight or relocation alternative would need to be both "relevant" and "reasonable".

► **UNHCR’s broader refugee criteria**

An Analysis of whether, if the Applicant does not fulfil the inclusion criteria of the 1951 Convention, 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.

► **Exclusion**

An exclusion assessment must be undertaken if there is reliable information indicating that the Applicant may have been associated with acts that could bring him/her within the application of the exclusion clauses in Article 1F(a), (b) or (c) of the 1951 Convention, see § 4.7 – *The Application of the Exclusion Clauses in Article 1F*.

The Eligibility Officer should sign and date the RSD Assessment Form before referring the file to the review and approval procedures established by the Office in accordance with see § 4.4 – *Procedures for Review of RSD Decisions*.

4.4 Procedures for Review of RSD Decisions

4.4.1 General Principles

UNHCR Offices should establish mechanisms and procedures for **review of the quality of first instance RSD decisions before they are issued**.¹⁸ Effective review of first instance decisions is of particular importance in UNHCR Offices where Applicants whose refugee status claims are rejected at first instance are at risk of *refoulement* by the host country / country of asylum authorities before they have the opportunity to exercise their right to appeal.

As a **best practice**, prior to the RSD decision being issued, every RSD Assessment should be reviewed and endorsed, by a UNHCR Protection staff member other than the Eligibility Officer responsible for hearing the claim at first instance (“Reviewing Officer”).

Given the **training and supervision objectives** of the review of RSD decisions, UNHCR staff who are designated to review RSD decisions should have appropriate experience and proven competency in RSD.

STANDARDS & GUIDELINES

WHERE, DUE TO THE SIZE AND NATURE OF THE CASELOADS AND/OR PROFILES OF APPLICANTS, OR AVAILABLE STAFF RESOURCES, IT IS NOT FEASIBLE TO SYSTEMATICALLY REVIEW ALL RSD ASSESSMENTS, IT IS **STRONGLY RECOMMENDED** THAT:

- ▶ the RSD Assessment for **every negative RSD decision** be reviewed;
- ▶ the RSD Assessment for **sensitive cases** or cases raising **complex issues** be reviewed;
- ▶ the RSD Assessment for cases of Applicants in detention, unaccompanied and separated children and Applicants with mental health conditions or intellectual disabilities be reviewed;
- ▶ the RSD Assessment for cases identified for resettlement submission be reviewed;
- ▶ all RSD Assessments prepared by **new Eligibility Officers during the first three months of employment** be reviewed; and
- ▶ **routine random reviews** of RSD Assessments prepared by each Eligibility Officer be conducted.

All applications that are rejected on the basis of the application of the Article 1F exclusion clauses **must be reviewed** (see § 4.7.4 – *Review and Approval of Decisions to Exclude*).

The review of the RSD decision should be done in light of all the information on the file, including any supporting information submitted by, or on behalf of, the Applicant¹⁹ and the written or audio/visual record of the RSD Interview(s).

¹⁸ An RSD decision is considered to be “issued” once it is notified to the Applicant, in accordance with the principles set out in § 6 – *Notification of RSD Decisions*.

¹⁹ This includes submissions made by Applicants’ legal representatives.

UNHCR Offices that do not have the staff resources to undertake review of first instance RSD decisions in line with the above recommendations and the established procedures may put in place **remote review arrangements** to temporarily address the gap in resources. It is recommended that Offices consult with the Regional RSD Officer and/or the RSD Section in DIP regarding the appropriateness and modalities of implementing remote review arrangements.

4.4.2 Procedures for Revising the RSD Decision

When the Protection staff member who is designated to review RSD decisions detects substantive or procedural errors with the RSD Assessment, the file should be **returned to the Eligibility Officer who prepared the RSD Assessment**, with detailed comments regarding issues that are incorrectly or inadequately addressed and directions for a complementary RSD Interview, if necessary. Any comments by the Reviewing Officer should be attached to the RSD Assessment, or should be written on the text and initialled to clearly identify the individual who made the comments. All comments should be retained on the file.

If prior to the finalization of the review of the RSD decision new information material to the Applicant's claim, such as a significant change in the Applicant's personal or contextual circumstances or the situation in the country of origin comes to light, the reviewing process should be suspended pending a revision of the RSD Assessment by the Eligibility Officer. In such cases, a complementary RSD Interview will generally be required to examine the reliability and significance of the new information.²⁰

As a general rule, changes to the RSD Assessment or decision during the review period should be made by the Eligibility Officer who heard the claim and prepared the RSD Assessment or by the Reviewing Officer where this is appropriate or more expeditious. Exceptionally referral to the RSD Supervisor will be required.

STANDARDS & GUIDELINES

RSD FILES SHOULD BE REFERRED TO THE RSD SUPERVISOR IN THE FOLLOWING CIRCUMSTANCES:

- ▶ The reviewing staff member is of the opinion that the RSD decision is erroneous or unsupported by the RSD Assessment, and the Eligibility Officer is unavailable to revise the RSD Assessment in a timely manner and within the time limits for issuing the RSD decision set out in the UNHCR Office procedures;
- ▶ The Eligibility Officer is not willing to revise an RSD decision that is, in the opinion of the reviewing staff member, erroneous or unsupported in the RSD Assessment; or
- ▶ The concerns regarding the conduct of the RSD Interview or the quality of the RSD Assessment are sufficiently serious that referral of the file to the Eligibility Officer who decided the claim is unlikely to restore the fairness, or perceived fairness, of the RSD process; this may be the case where concerns about fraud, bias or other unethical behaviour on the part of the Eligibility Officer arise.

²⁰ RSD decisions that are not subject to review should also be revised prior to issuance and notification of the Applicant.

- ▶ The RSD Supervisor may also reassign files to a different Eligibility Officer for other reasons including:
 - There is a need for a more experienced caseworker for the file;
 - There are concerns about the need to better establish rapport or trust by addressing gender issues in the case;
 - The Applicant is found to be vulnerable or suffering from the effects of trauma and requires a caseworker more suitable to addressing these issues;
 - The original caseworker does not feel s/he is able to establish sufficient rapport or trust with the Applicant;
 - Security issues necessitating a different Eligibility Officer.

In the circumstances outlined above, the RSD Supervisor should determine whether the RSD decision should be issued and any appropriate follow-up, including assigning the file to another Eligibility Officer for a Complementary RSD Interview and/or redrafting of the RSD Assessment.

When a file is referred to another Eligibility Officer pursuant to the review procedures set out above, the RSD Assessment and all notes of the Eligibility Officer who originally heard the claim should be retained on the file. A note explaining the reasons for reassigning the file to a different Eligibility Officer should also be kept on file.

When a file has been returned to an Eligibility Officer or reassigned pursuant to RSD review procedures, the RSD decision should not be issued to the Applicant until the issues identified in the review have been adequately addressed, and the RSD Assessment is approved by a Protection staff member who is authorized to review RSD decisions.

Where, as a result of the review procedures, it is not possible to issue the decision on the assigned date, the date for issuing the decision should be postponed pursuant to the procedures set out in § 4.5 – *Timelines for Issuing RSD Decisions*.

4.4.3 Procedures for Consultation with UNHCR Regional Bureau(s) and DIP on RSD Decisions

UNHCR Offices must submit first instance draft RSD decisions for **review and approval by UNHCR the Regional Bureau(s)** and, where applicable, DIP in the following types of cases:

STANDARDS & GUIDELINES

RSD DECISIONS FOR WHICH REVIEW BY THE REGIONAL BUREAU(S), AND WHERE APPLICABLE, DIP IS REQUIRED:

- ▶ Decisions to **exclude** an individual from refugee status under Article 1F of the 1951 Convention (see § 4.7.3 – *Review and Approval of Decisions to Exclude* and 10.4 – *Revocation procedures*);
- ▶ Decisions to **revoke** an individual's refugee status under Article 1F of the 1951 Convention (see § 10.2.8 – *Review of the Cancellation Decision*);
- ▶ Decisions to **cancel** an individual's refugee status that was incorrectly recognized (see § 10.2.8 – *Review of the Cancellation Decision*);

- ▶ Decisions to cease an individual's refugee status pursuant to individual **cessation** under Article 1C(1-4) of the 1951 Convention (see § 11.2.5 – *Review of Cessation Decisions*).

RSD Decisions for which Review by the Regional Bureau(s) and, where applicable, DIP may be Required:

- ▶ Review is also required for cases or caseloads specifically designated by a Regional Bureau, the Director of DIP or the Assistant High Commissioner (Protection) as well as cases which are otherwise “sensitive”.

The **Head of Office** or the **RSD Supervisor** should review the RSD decision before it is finalized and submitted for review by the Regional Bureau and, where applicable, DIP.

The following documents/information should be included in the submission of a decision for review:

STANDARDS & GUIDELINES

DOCUMENTS/INFORMATION TO BE SUBMITTED FOR REVIEW BY REGIONAL BUREAU AND, WHERE APPLICABLE, DIP:

- ▶ A copy of the completed Assessment Form(s); for cancellation, revocation and cessation decisions, the **initial** RSD Assessment should also be included alongside the Cancellation, Revocation or Cessation Assessment;
- ▶ Copies of all RSD Interview transcript(s) or, in the absence of a verbatim interview transcript, the audio/video recording of the RSD Interview; for cancellation, revocation and cessation decisions, the transcripts of the interview(s) on which the **initial** RSD decision was based should also be included alongside the transcripts for the Cancellation, Revocation or Cessation interview(s);
- ▶ Copies of the supporting documentation submitted by, or on behalf of, the Applicant;
- ▶ Any other information relevant to the RSD decision, including the RSD Application Form and other registration records where available.

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 staff member at the regional level. Any changes to the RSD decision as a result of the review by the Regional Bureau, and if necessary, DIP, 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 exclude, cancel or revoke only once this is reviewed or endorsed by the Regional Bureau and, where applicable, DIP.

Where the Regional Bureau, and where applicable, DIP has already reviewed a decision at first instance, it does not normally need to review a decision in the same case at appeal. However, where the decision at first instance is either to be **reversed at appeal** or **upheld at appeal on new material facts**, the UNHCR Office deciding the appeal should notify the designated focal point of the relevant Regional Bureau. The designated focal point will then decide if review of the decision at appeal by Regional Bureau and DIP is required.

If a review is required, it should be carried out following the same procedures as set out above. As a general rule, the decision should be reviewed by a different staff member than the staff member

who reviewed the decision at first instance, especially if the decision at first instance was reversed on appeal.

Alternative review procedures may be adopted in certain RSD operations where the Bureau and DIP determine that only cases of a specific type or exceptional nature need to be reviewed by them.

In addition, UNHCR Offices **may submit certain types of cases to the Regional Bureau(s) and, where applicable, DIP for advice.** The advice should only be sought after the UNHCR Office has used all available resources within the Office to resolve the outstanding issue. Guidance requested by a UNHCR Office should first be directed to the relevant Regional Bureau, which will then liaise with DIP as necessary. **UNHCR Offices must request guidance in borderline cases where it is uncertain whether to make a positive or a negative decision on exclusion, revocation, cancellation or cessation.**

Regional Bureaux may request advice from DIP on complex procedural or doctrinal questions. Where guidance is requested from DIP, questions relating to Article 1F of the 1951 Convention as well as in relation to cases raising complex and/or sensitive questions, requests should be directed to the Protection and National Security Section. All other questions should be directed to the RSD Section, which will either answer the question itself or refer it to another Section/Unit as necessary.

Requests for advice of the Regional Bureau(s) and, where applicable, DIP in determining individual cases should generally be reserved for the following circumstances:

- ▶ The UNHCR Office has been unable through its own efforts to obtain country of origin information that is required to assess the well-foundedness of a claim;
- ▶ The UNHCR Office requires legal assistance in interpreting the refugee definition, or its application to the particular facts of an individual claim;
- ▶ The UNHCR Office is deciding a sensitive case or claim that raises facts or issues with which the Office has not had previous experience, and which are likely to set a precedent for future claims of a similar nature.

The Director or Deputy Director of DIP may intervene in any case, at any stage of the RSD procedures where there are substantial reasons related to procedural concerns and/or the correctness of a particular RSD decision that necessitates DIP intervention.

STANDARDS & GUIDELINES

INFORMATION TO BE INCLUDED IN REQUESTS TO REGIONAL BUREAU(S) AND DIP FOR ADVICE ON INDIVIDUAL CLAIMS

- ▶ Where the decision on which advice is sought has been finalized by the UNHCR Office, a copy of the completed RSD Assessment Form, and the Office recommendation for the decision on the claim, as well as the written or audio/visual record of the RSD Interview(s) and all other information on file that is relevant to the determination of the claim;
- ▶ Where the advice of the Regional Bureau(s) and, where applicable, DIP is required to finalize the decision, the submission by the UNHCR Office requesting advice should include a thorough credibility assessment and analysis of the relevant issues and the recommendation of the UNHCR Office;
- ▶ Copies of any supporting documentation provided by the Applicant, or other information that would be relevant to the issues on which advice is sought.

All requests to the Regional Bureau(s) and DIP from UNHCR Offices for advice on the determination of individual RSD claims **should be submitted by the RSD Supervisor** or another designated Protection staff member who should ensure that the request is submitted with all the required information.

4.4.4 Procedures for Changing the RSD Decision after it is Issued

Review and revision of the RSD decision after it has been notified to the Applicant may only be made pursuant to the following established procedures:

- ▶ Appeal procedures (§ 7)
- ▶ Re-opening of the RSD case (§ 9.2)
- ▶ Cancellation/Revocation of refugee status (§ 10)
- ▶ Cessation of refugee status (§ 11)

Where a UNHCR staff member has reason to believe that an RSD decision issued by the UNHCR Office is incorrect, he/she should bring any relevant information to the attention of the RSD Supervisor, who should determine appropriate follow-up.

4.5 Timelines for Issuing RSD Decisions

UNHCR Offices should set procedures for the issuance of RSD decisions. Once the RSD Interviews are completed, Eligibility Officers and Protection staff members who are responsible for reviewing RSD Assessments should work within established timelines to ensure that RSD decisions are issued and notified in a timely manner and in accordance with the UNHCR Office procedures (see § 6 – *Notification of RSD Decisions*).

It is recommended that RSD decisions generally be issued **within three months following the RSD Interview**. The timeframes for issuance of RSD decisions should be specified in the UNHCR Office RSD procedures.

Where an Application raises complex issues, or requires consultation with third parties or additional research on matters that are central to the RSD decision, Eligibility Officers should be permitted to **assign a later date to issue the RSD decision**. The Eligibility Officer must obtain the approval of the RSD Supervisor, or another designated Protection staff member to assign a later date for issuing the RSD decision.

Where it is not possible to issue an RSD decision on the assigned date, the Eligibility Officer should be permitted to postpone issuing the decision after consultation with the RSD Supervisor, or another designated Protection staff member. In assessing whether a postponement should be granted, the RSD Supervisor must take into account the Applicant's circumstances and specific needs, as well as any protection risks, such as detention or *refoulement* that the Applicant may be exposed to if the issuance of the RSD decision is postponed.

Procedures relating to timelines and postponements of RSD decisions for claims determined on a priority basis are set out in § 4.9 – *Procedures for Accelerated RSD Processing*.

In any case where the timeframe for issuing the RSD decision is longer than that envisaged by the established procedures of the UNHCR Office, or where the issuance of an RSD decision must be postponed, UNHCR Offices should take all possible steps to minimize any adverse impact that the postponement may have on the Applicant. At a minimum, all efforts should be made to inform the Applicant, as soon as practicable, of the new timeframe for issuing the decision in his/her case.

The RSD Supervisor should **monitor Eligibility Officers' compliance with established timelines** for preparing RSD Assessments. As lengthy delays between the RSD Interview and the writing of the RSD Assessment may adversely affect the quality of the RSD Assessment and/or the RSD decision or expose Applicants to additional protection risks, the RSD Supervisor should ensure that Eligibility Officers do not accumulate individual backlogs of pending RSD decisions. If Eligibility Officers repeatedly postpone issuing RSD Assessments, the RSD Supervisor should take necessary steps to assist the Eligibility Officers to manage their caseloads more effectively. Where repeated postponement requests reflect an inaccurate assessment of the processing capacity of an Eligibility Officer, the RSD Supervisor should adjust individual file assignments as appropriate in accordance with the guidance in § 4.2.3 – *Supervision of Eligibility Officers*.

4.6 Procedures for Applicants in Detention

Detained individuals who wish to apply for refugee status **have the right to access UNHCR**. As a general rule, claims of detained asylum-seekers should be adjudicated promptly, where detention is based on immigration-related grounds and/or in circumstances where the Applicant is at risk of *refoulement*. Where Applicants are detained for alleged criminality, UNHCR Protection staff should consider the details of the charges and/or conviction and sentence to assess their relevance to the determination of the Applicant's eligibility for refugee status in particular, as well as the protection needs of the Applicant in the host country/country of asylum. Whenever appropriate, a protection assessment should be carried out to decide whether and when to conduct RSD for an Applicant in detention, taking into account potential protection dividends and risks arising in the specific circumstances.

UNHCR Offices should establish **specific registration and RSD procedures** for Applicants who are in detention; this includes Applicants who are in detention at the time of registration as well as those who are detained following registration or rejection of their claim for refugee status at first instance (for more guidance on appeals in detention see § 7.4.2 – *Assessing whether an Appeal Interview is Necessary*).

Each UNHCR Office should take **necessary measures in the host country/country of asylum** to ensure that detained asylum-seekers are able to have access to UNHCR staff and RSD procedures.

STANDARDS & GUIDELINES

MEASURES TO FACILITATE ACCESS TO UNHCR STAFF AND PROCEDURES FOR APPLICANTS IN DETENTION MAY INCLUDE DEMARCHES WITH THE AUTHORITIES IN THE HOST COUNTRY/COUNTRY OF ASYLUM AND OTHER RELEVANT ACTORS TO:

- ▶ ensure that detained asylum-seekers can contact UNHCR and that UNHCR staff are afforded access to them, including through the distribution of information regarding UNHCR's protection mandate and the RSD process and procedures;
- ▶ ensure the necessary conditions for conducting fair and effective RSD in detention, including access to a confidential interview setting;
- ▶ promote the fullest possible access by UNHCR staff and its partners to asylum-seekers in detention;
- ▶ promote access by asylum-seekers to legal representation, wherever available.

Wherever possible, UNHCR Offices should seek **alternatives** to conducting Registration or RSD Interviews **in detention facilities**. Where there is no available alternative, UNHCR staff should be accompanied by a UNHCR interpreter or other independent and qualified interpreter, and should take every possible measure to ensure that interview conditions preserve, to the greatest extent possible, the **Applicant's right to confidentiality** in the RSD procedures.

UNHCR staff and interpreters who conduct interviews in detention environments should have **appropriate RSD and protection experience**, including in regard to making necessary and effective interventions with detaining officials. Since working in a detention environment can be very challenging, appropriate measures should be taken to provide the necessary support and guidance, including from

a staff welfare perspective, to Eligibility Officers and RSD support staff working with Applicants in detention (see also § 4.2.3 – *Supervision of Eligibility Officers*).

The appropriateness of **accelerated RSD processing and/or processing on a priority basis** should be examined for Applicants who are detained, taking into account the reasons for and conditions of detention, as well as the Applicant's personal and contextual circumstances, in particular any specific needs he/she might have (see § 4.9 – *Accelerated RSD Processing*). Notably, a refugee status claim may need to be processed on an accelerated and/or priority basis where recognition of refugee status is required to secure the Applicant's release from detention or to prevent his/her *refoulement*.

Every effort should be made to ensure that Applicants in detention are **fully informed** regarding the RSD process and procedures as well as the rights and obligations of refugee status claimants. Applicants in detention should have **sufficient time to prepare their claim** and have access to legal representation or other forms of support wherever appropriate and available.

As a general rule, **the RSD Interview should not be conducted at the same time as registration**. A separate RSD Interview will generally be necessary in sensitive cases or cases raising complex credibility problems or exclusion concerns and which require an in-depth examination of the Applicant's claim. Certain circumstances may, however, require conducting joint registration and RSD interviews. These include instances where UNHCR has limited access to detained asylum-seekers, the detention facilities are remotely located, the UNHCR Office has limited resources, in particular in terms of experienced and trained staff, or the Applicant has urgent protection needs. Joint registration and RSD interviews must only be conducted by experienced Eligibility Officers.²¹

STANDARDS & GUIDELINES

SAFEGUARDS WHEN CONDUCTING JOINT REGISTRATION AND RSD INTERVIEWS IN DETENTION

Where it is necessary to conduct joint registration and RSD interviews in detention, the Eligibility Officer carrying out the interview should ensure that:

- ▶ information regarding the RSD process and relevant procedures, as well as information regarding the rights and obligations of refugee status claimants, is made available to Applicants in detention at the earliest opportunity and preferably ahead of the joint interview;
- ▶ the Applicant understands the RSD process and has had the opportunity to consider and present all evidence that may be relevant to the determination of the claim;
- ▶ the interview is conducted in the presence of the Applicant's appointed legal representative, where one is available, and that he/she cooperates with the legal representative in gathering the information relevant to the Applicant's claim;
- ▶ he/she liaises with UNHCR Protection staff, Implementing Partners or other non-governmental organisation(s) with access to the Applicant to gather information regarding protection needs the Applicant may have and/or follow up on protection interventions as necessary.

²¹ In exceptional cases, interviews for merged registration-RSD, RSD-resettlement or registration-RSD-resettlement processing may also be conducted in detention. For further guidance on merged RSD processing see § 4.11 – *Merged RSD Processing* and Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*.

The remote participation of an Applicant in the RSD Interview, via telephone or video-conference, will generally not be appropriate in the context of detention, save in exceptional circumstances where conducting the RSD Interview is necessary to address urgent protection needs and the Interview can be conducted in conditions that ensure the confidentiality of RSD procedures (for further guidance on remote interviewing see § 4.3.2 – *Remote Participation of an Applicant in the RSD Interview*).

Necessary arrangements should be made to notify Applicants who are in detention of the RSD decision. Rejected Applicants should be **notified of the reasons for the RSD decision**, as well as of the process and procedures for lodging an appeal, pursuant to the procedures set out in § 6.2 – *Notifying Applicants of Negative RSD Decisions*. Wherever possible, in-person counselling should be provided regarding reasons for rejection and appeal procedures. Detained Applicants who are rejected in first instance should also be given the opportunity to file an appeal application and to present their appeal in accordance with the principles set out in § 7 – *Appeal of Negative RSD Decisions*.

4.7 The Application of the Exclusion Clauses in Article 1F

4.7.1 General Principles

All UNHCR Protection staff should be aware of the criteria for exclusion from refugee protection in Article 1F of the 1951 Convention and should be trained to identify facts indicating that the applicability of the exclusion clauses should be examined in the particular case. Whether information suggesting that an individual may be excluded from international refugee protection becomes known during RSD procedures, or after an individual has been formally recognized as a refugee, UNHCR Offices should take appropriate steps to examine whether the exclusion clauses apply, including by commencing cancellation or revocation procedures, as appropriate.

Examination of the applicability of the exclusion clauses in Article 1F of the 1951 Convention must be conducted on an individual basis, under procedures that incorporate **appropriate standards for due process**. The individual concerned should be informed of the considerations that have given rise to the exclusion examination and as such may impact the outcome of the decision, at an appropriate moment during the exclusion examination, so that he/she has the opportunity to consider and respond to them.

Because of the particularly serious implications for the individual concerned, and the complex criteria that are relevant to an exclusion determination, the examination of the application of the exclusion clauses in Article 1F should only be undertaken by UNHCR Protection staff who are **knowledgeable about the relevant criteria and principles**. Wherever possible, UNHCR Offices should designate **specially trained Eligibility Officers** to adjudicate and review cases that raise exclusion issues and to provide substantive and procedural support to other UNHCR staff in processing these cases.

When facts relating to the possible application of the exclusion clauses are known before the RSD Interview, the file should be assigned to an **Eligibility Officer who has experience and knowledge regarding the application of these clauses**. If the exclusion issues do not arise until during or after the RSD Interview, the Eligibility Officer should, if necessary, seek procedural or substantive direction from the RSD Supervisor or another Protection staff member who has appropriate knowledge and experience. In such cases, it may be appropriate to pause the RSD Interview to seek the necessary advice before continuing to explore the material aspects of the Applicant's account, including those that may give rise to exclusion concerns. After the interview, the Eligibility Officer should consider whether, given the available information, a complementary interview may be necessary in order to adequately examine the exclusion issues.

If it comes to light after an individual has been recognized as a refugee that the exclusion criteria applied and the individual may have been incorrectly recognized, examination of the application of the exclusion clauses should be conducted through the **procedures for cancellation of Refugee Status** (see §10 – *Procedures for Cancellation of Refugee Status*).

If there is information indicating that an individual who has been properly recognized as a refugee, may have subsequently engaged in conduct that falls within the exclusion clauses in Article 1F(a) or (c), UNHCR Offices should undertake the necessary examination to establish if the conduct in question would bring the individual within the scope of the criteria of these exclusion clauses. Where this is established, refugee

status should be **revoked**. The procedural standards for due process when re-examining refugee status in cancellation procedures would generally be relevant and applicable in procedures for **examining the appropriateness of revocation of refugee status** (see §10 – *Procedures for Cancellation of Refugee Status*).

The recommendations that follow are intended to provide **procedural guidance** for examining the applicability of the exclusion clauses in Article 1F of the 1951 Convention. For guidance on substantive issues relating to the interpretation and application of the exclusion clauses, Eligibility staff should refer to the detailed directions provided by DIP.

4.7.2 Procedures for Examining the Application of Article 1F

The application of the exclusion clauses in Article 1F of the 1951 Convention (**exclusion of persons who are undeserving of protection**) has the effect of excluding from eligibility for refugee status an individual who is otherwise determined to be in need of refugee protection.

Due process requires that the individual be **informed of considerations that may impact the outcome of the decision**, including any information that is relevant to the exclusion determination, at an appropriate moment **during the exclusion examination**, so that he/she has the opportunity to respond to or clarify the information. 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 relevant information for cases falling within the scope of the exclusion clauses in Article 1F. The criteria and principles regarding limiting disclosure set out in § 6.2 – *Notifying Applicants of Negative RSD Decisions* are relevant to decisions to limit disclosure during exclusion examinations. Eligibility Officers should seek the guidance of the RSD Supervisor, or another Protection staff member who has knowledge and experience in exclusion 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 exclusion decision is based.

Given the particular circumstances and vulnerabilities of children, great caution should be exercised in the examination of **the application of the exclusion clauses in Article 1F to child Applicants**. Due to their young age, dependency and relative immaturity, children benefit from specific procedural and evidentiary safeguards to ensure that fair refugee status determination decisions are reached with respect to their claims (for further guidance see § 2.8 – *Children in UNHCR RSD Procedures*). The **application of Article 1F exclusion clauses to children** requires an assessment of the emotional, mental and intellectual maturity of the child to determine whether he/she had the mental capacity to be held individually responsible for a crime within the scope of Article 1F. The RSD Interview to examine these issues should be conducted by an Eligibility Officer who is also knowledgeable and experienced in interviewing children.

As a general rule, exclusion decisions should be dealt with in the context of the regular RSD procedures and not be subject to accelerated, simplified or merged processing, so that a full factual and legal assessment of the case can be made.

In cases raising exclusion considerations under Article 1F of the 1951 Convention, the Exclusion analysis needs to be presented in Part V of the RSD Assessment Form (**Annex 4.3-3**).

4.7.3 Review and Approval of Decisions to Exclude

The principles and procedures set out in § 4.4 – *Procedures for Review of RSD Decisions* are relevant to the review of exclusion determinations made in RSD procedures or Cancellation or Revocation procedures.

Decisions to exclude an individual from international refugee protection under Article 1F of the 1951 Convention, as well as decisions to cancel an individual's refugee status that was incorrectly recognized, including because an individual should have been excluded, and to revoke an individual's refugee status under Article 1F should also be reviewed by the **RSD Supervisor** or the **Head of Office**. Once a decision to exclude from refugee protection, or to cancel or revoke the refugee status of an individual, has been finalized by the UNHCR Office it must be **submitted to the Regional Bureau, and where applicable, DIP for review**, along with the completed Assessment Form, copies of all the RSD Interview Transcripts, and copies of any supporting documentation provided by the Applicant and of any other information relevant to the RSD decision. 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 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 exclude, cancel or revoke only once this is reviewed or endorsed by the Regional Bureau, and where applicable, DIP.

UNHCR Regional Bureau, and where applicable, DIP should review and approve appeal decision by UNHCR Offices in cases where the decision at first instance did not require review by them and the decision at appeal is to exclude an individual from refugee protection under Article 1F of the 1951 Convention. The review should be carried out following the same procedures as set out above.

Where the Regional Bureau, and if applicable, DIP has already reviewed a decision at first instance, it does not normally need to review a decision in the same case at appeal. However, where the decision at first instance is either reversed on appeal or upheld on appeal on new material facts, the UNHCR Office should notify the designated focal point in the relevant Regional Bureau. The designated focal point will then decide whether review of the decision at appeal is required. Where required, review by the Regional Bureau, and where applicable, DIP should be carried out following the same procedures as set out above. As a general rule, the decision should be reviewed by a different staff member than the staff member who reviewed the decision at first instance, especially if the decision at first instance was reversed on appeal.

Cases which raise complex procedural, doctrinal or interpretative issues relating to Article 1F of the 1951 Convention, 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 and DIP on RSD Decisions*).

Alternative review procedures may be adopted in certain RSD operations where the Bureau and DIP determine that only cases of a specific type or exceptional nature need to be reviewed by them.

4.7.4 Notification of RSD Decision to Exclude from International Refugee Protection

Individuals who are determined to be excluded from international refugee protection should be **informed in writing of the reasons for the decision to exclude them**, in accordance with the principles and procedures set out in § 6.2 – *Notifying Applicants of Negative RSD Decisions*. As a general rule, notification of the exclusion decision should permit the individual concerned to know the considerations, including any evidence upon which the decision was based, so as to allow them to determine whether or not to appeal the first instance RSD decision, and to inform their submissions in the appeal application.

In some cases, notably where the profile of the Applicant may give rise to security concerns for UNHCR staff or others, including witnesses, it may be **necessary and appropriate to limit disclosure** of the information that was relied upon, or other findings upon which the decision to exclude was made. The considerations and principles regarding limiting disclosure during the examination of exclusion cases set out above in § 4.7.2 – *Procedures for Examining the Application of Article 1F* are relevant to the disclosure of information in notification of decisions to exclude. As limiting disclosure of information that was material to an exclusion determination may affect the ability of the individual concerned to provide effective response or clarification in appeal procedures, the decision to limit disclosure should be made in consultation with the RSD Supervisor, or another designated Protection staff member and, where appropriate, the relevant Regional Bureau and PNSS in DIP.

4.7.5 Appeal of RSD Decisions to Exclude from International Refugee Protection

Applicants whose refugee claims are rejected because of the application of the exclusion criteria in Article 1F of the 1951 Convention should have the opportunity to appeal the negative RSD decision. The principles and procedures set out in § 7 – *Appeal of Negative RSD Decisions* are applicable to appeals against decisions to exclude an individual from international refugee protection.

If, after an individual is determined to be excluded from international refugee protection in final instance,²² reliable information comes to light to indicate that the **exclusion criteria were improperly applied or the decision to exclude may otherwise have been incorrect**, a closed file may be re-opened pursuant to the procedures set out in § 9.2 – *Re-Opening RSD Cases*.

4.7.6 Confidentiality in Exclusion Cases

Examination of the possible application of the exclusion clauses should not undermine the **right of the individual concerned to confidentiality in UNHCR RSD procedures**. Disclosure of any information about the individual, including the fact that the individual has registered with UNHCR for RSD, should only be made in accordance with UNHCR policies and standards relating to confidentiality and data protection (see § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*).

²² That means either on appeal or at first instance where the negative RSD decision has not been appealed within the prescribed timeframe for appeals. For further guidance, see § 7.2.4 – *Time Limit for Submitting the Appeal Application*.

In line with UNHCR's data protection policy, UNHCR staff should not approach the **authorities in the country of origin** to obtain information to assist the exclusion determination.

The authorities in the host country/country of asylum have the primary responsibility for providing protection and assistance to asylum-seekers and refugees on their territory, and a corresponding legitimate interest in obtaining information about persons on their territory relevant to national security, public safety and the prevention and suppression of criminal offences. In certain circumstances, it may be appropriate for the UNHCR Office to disclose information, including the fact that UNHCR has found an individual to be excluded from refugee protection, to the relevant host country/country of asylum authorities where this is necessary and justified for reasons related, for example, to staff security, public safety or the prevention and suppression of criminal offences. In all such cases, these interests must be balanced against the right of the excluded individual to privacy, including the principle of confidentiality of UNHCR procedures. Any decision to disclose such information will need to be made in accordance with UNHCR's Data Protection Policy (see § 2.1.4 – *Disclosure to Host Country/Country of Asylum Authorities*).

Furthermore, in some circumstances it may be appropriate for UNHCR Offices to share personal data or other information regarding persons of concern with a national and international law enforcement agency or a national or international court at the request of that agency or court, or on its own initiative. This may be the case if the person of concern is subject to investigation for a crime or is considered to be a victim or a witness to a crime.

Given the potential serious implications of disclosure to third parties of information relating to UNHCR exclusion determinations in individual cases for the security of UNHCR staff and the individual concerned, any such disclosure should be done in accordance with UNHCR policies and standards relating to confidentiality and data protection.²³ Requests by national and international law enforcement agencies, criminal courts or tribunals for disclosure of personal data or other information regarding individuals excluded from international refugee protection should be referred by the focal point in the Regional Bureau to relevant functional sections in DIP as well as the Legal Affairs Services (LAS) since compliance with such requests may compromise UNHCR's immunity from any interference by host States in the implementation of its mandate (see § 2.1 – *Confidentiality and Data Protection in UNHCR RSD Procedures*).

²³ For instance, transfers of personal data to a national law enforcement agency or national court must meet several conditions, including: (i) the transfer must be necessary for the purposes of the detection, prevention, investigation, or prosecution of a serious criminal offence, in particular in order to avoid an immediate and substantial risk to the safety and security of an individual or the public; (ii) the requesting law enforcement agency or court is competent in relation to the detection, prevention, investigation or prosecution of the offence in question; (iii) the transfer will substantially assist the law enforcement agency or court in the pursuit of these purposes and that the personal data cannot otherwise be obtained from other sources; (iv) the transfer does not disproportionately interfere with a data subject's or another person of concern's right to privacy or other human rights; and (v) in the case of data in relation to victims and witnesses, their consent to the transfer has been obtained (Section 6.3.2 of UNHCR's Data Protection Policy)

4.7.7 Implications of Exclusion Decisions for Family Members/Dependants

The right to family unity generally operates in favour of family members/dependants and not against them. Therefore, where the Refugee Status Applicant²⁴ is excluded, family members/dependants are **not automatically excluded** from international refugee protection as well²⁵. Independent claims for refugee status by family members/dependants should be determined separately. Such claims are valid even where the fear of persecution is a result of the relationship to the excluded individual. Family members/dependants are only excluded from international refugee protection if they themselves fall within the exclusion criteria in Article 1F of the 1951 Convention (see § 5.2.5 – *Persons Excluded from Derivative Refugee Status*).

An individual who has been excluded from obtaining refugee status pursuant to the exclusion clauses in Article 1F of the 1951 Convention cannot then rely on the right to family unity with a family member/dependant who is a recognized refugee to secure protection or assistance as a refugee (see § 5.2.5 – *Persons Excluded from Derivative Refugee Status*).

²⁴ 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.

²⁵ Cancellation on the basis of the exclusion clauses in Article 1F and revocation of the refugee status of a recognized refugee will, however, result in the termination of the derivative refugee status of family members / dependants of the individual concerned (see § 5.3.5 – *Termination of Derivative Refugee Status*).

4.8 The Application of the Exclusion Clauses in Article 1D and Article 1E

All UNHCR Protection staff should be aware of the criteria for exclusion from refugee protection in Article 1D²⁶ and Article 1E of the 1951 Convention and should be trained to identify facts indicating that the applicability of the exclusion clauses should be examined in the particular case.

Examination of the applicability of the exclusion clauses in Article 1D and Article 1E of the 1951 Convention must be conducted on an individual basis, under procedures that incorporate **appropriate standards for due process**, in accordance with the guidance set out in Unit 4 – *Adjudication of Refugee Status Claims*. Written decisions in cases raising exclusion considerations under Article 1D and Article 1E should be prepared using assessment forms developed for this specific purpose (see, for example, Annex 4.8-1 – *Article 1D Assessment Form*).

²⁶ Article 1D of the 1951 Convention contains both exclusionary and inclusionary aspects. Paragraph 1 of Article 1D generally operates to exclude from the protection of the 1951 Convention those Palestinian refugees who are receiving protection or assistance from UNRWA, while paragraph 2 of Article 1D operates to include those very same Palestinian refugees when that protection or assistance has ceased. Once it is determined that the protection or assistance has ceased, they are entitled *ipso facto* to the benefits of the 1951 Convention, i.e. no separate or additional assessment under Article 1A(2) is required for them to qualify for protection under the 1951 Convention.

4.9 Accelerated RSD Processing

4.9.1 General

UNHCR Offices should develop, in consultation with the Regional RSD Officers and DIP, Accelerated RSD Processing procedures to which Applicants can be referred when there are **compelling protection reasons** to process the claim on a priority basis and/or within shorter timeframes. UNHCR Offices may also develop Accelerated RSD Processing procedures for Applicants whose **claims are likely to be manifestly well-founded**²⁷ or **manifestly unfounded**.²⁸

Accelerated RSD Processing procedures involve an **acceleration or shortening of all or some timelines in the RSD process**. They can incorporate processing on a priority basis, **reducing waiting periods** at one or all stages of the RSD procedures and / or **shortening timelines** for the issuance of RSD decisions. It should be noted that cases may be prioritized for processing without otherwise being subject to Accelerated RSD Processing timelines.

Accelerated RSD Processing does not involve a simplification of any aspect of the substantive determination of the refugee status claim, nor a merging of case processing steps, such as registration or resettlement. Accelerated RSD Processing can be applied in the context of Simplified RSD Procedures, where appropriate (see § 4.10 – *Simplified RSD Processing*).

All Applicants whose cases are processed through Accelerated RSD Processing procedures must have an **RSD Interview**, at which a UNHCR Eligibility Officer will examine all facts or statements relevant to the refugee claim and prepare an individual **RSD Assessment**.

As a general rule, the timeframes for processing under accelerated RSD procedures should not be shortened beyond what is reasonable to allow the Applicant to adequately prepare and present information in support of his/her claim, and, to the extent possible, to obtain legal representation.

²⁷ Manifestly well-founded claims are refugee status claims which, on their face, clearly indicate that the Applicant meets the refugee definition under the 1951 Convention or under UNHCR's broader refugee criteria. This may be because the Applicant falls into the category of individuals for whom a presumption of inclusion or a prima facie approach applies, or because of particular facts arising in the individual's RSD application (see Annex 4.9-1 – *Aide-Memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination under UNHCR's Mandate*).

²⁸ 'Manifestly unfounded' claims are claims for refugee status (i) clearly not related to the criteria for refugee status, or which are (ii) clearly fraudulent or abusive. A claim can be considered "clearly fraudulent" only if the Applicant makes what appear to be false allegations of a material or substantive nature relevant for the determination of his/her status and the claim clearly does not contain other elements which warrant further examination. False statements do not in themselves make the claim "clearly fraudulent", nor does it mean that the criteria for refugee status may not be met.

A manifestly unfounded claim should be distinguished from asylum claims that are likely to be unsuccessful but that are genuinely made. Claims submitted by applicants from a particular country or profile may have, in the past or at present, very low recognition rates. This does not, however necessarily imply that such claims are 'clearly' not related to the criteria for refugee status or that applicants from that country or profile are not acting in good faith. The terms "manifestly unfounded" and "manifestly well-founded" do not refer to a procedure but rather to concepts which inform the channelling of claims based on certain well defined criteria, into accelerated or simplified RSD procedures (see Annex 4.9-1 – *Aide-Memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination under UNHCR's Mandate*).

Measures for **early identification** of Applicants who should be considered for Accelerated RSD Processing should be incorporated into UNHCR procedures for reception and registration (see § 3.4 – *Applicants with Special Needs*). Referral to Accelerated RSD Processing may, however, be undertaken at any stage in the RSD process, including at the appeal stage (see § 7 – *Appeal of Negative RSD Decisions*).

4.9.2 Appropriate Cases for Accelerated RSD Processing

Accelerated RSD Processing may be considered for the following categories of cases/caseloads:

STANDARDS & GUIDELINES

CATEGORIES OF CASES/CASELOADS WHICH MAY BE SUITABLE FOR ACCELERATED RSD PROCESSING:

- ▶ Claims likely to be Manifestly well-founded;
- ▶ Claims likely to be Manifestly unfounded; and
- ▶ Claims by Applicants with specific needs or manifestly in need of a protection intervention, including but not limited to:
 - Individuals who may be subject to immediate refoulement, arbitrary arrest or detention in the host country/country of asylum, or who may have other serious legal or protection needs;
 - Survivors of torture or trauma (including survivors of gender-based violence), who are suffering from ongoing mental or physical health problems;
 - Women who are at risk in the host country;
 - Elderly asylum-seekers without support in the host country;
 - Asylum-seekers with physical or intellectual disabilities or suffering from mental health conditions without necessary support in the host country;
 - Asylum-seekers who require urgent medical assistance;
 - Certain child Applicants, in particular children who are unaccompanied or otherwise separated from their parents or other primary legal or customary caregivers (see § 2.8 – *Child Applicants in RSD Procedures*). Young adults of 18 years of age or slightly older may also have needs and vulnerabilities akin to those of child Applicants and their claims may, thus, warrant a similar approach.

UNHCR staff should exercise discretion in identifying **other Applicants** who are manifestly in need of a protection intervention and whose claims should be determined on an accelerated and/or priority basis, bearing in mind that accelerated processing may in some cases be detrimental to the ability and/or willingness of Applicants to provide their account.

Claims considered to likely be manifestly unfounded, but which upon further examination present indications of being well-founded, can continue to be processed under accelerated RSD procedures, if they otherwise meet the set criteria for processing on an accelerated basis.

4.9.3 Oversight of Accelerated RSD Processing Procedures

Procedures for Accelerated RSD Processing should include **effective identification and referral mechanisms** and **appropriate controls**, including the requirement that all individual referrals to Accelerated RSD Processing be submitted for review and approval by the RSD Supervisor, or a designated Protection staff member who has supervisory responsibility in RSD procedures.

UNHCR Offices may develop and implement procedures for Accelerated RSD Processing for particular caseloads and/or profiles **in consultation with** the Regional RSD Officers and relevant functional sections and Regional Bureaux in Headquarters (for further guidance on conditions for implementation of Accelerated RSD procedures see Annex 4.xx – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

The RSD Supervisor should be responsible for oversight of procedures for Accelerated RSD Processing and should ensure the effectiveness and integrity of the referral system.

4.9.4 Procedures for Accelerated RSD Processing

Applicants manifestly in need of a protection intervention and Applicants with specific needs should be referred to Accelerated RSD Processing on a **case-by-case basis**. For claims that are likely to be manifestly well-founded or manifestly unfounded, where Accelerated RSD Processing procedures apply to a specific caseload or profile in accordance with established procedures, **no individual referral is necessary**.

UNHCR staff who identify Applicants manifestly in need of a protection intervention and Applicants with specific needs whose claims should be determined on a priority basis should promptly refer the case to a Protection staff member authorized to approve cases for Accelerated RSD Processing. The staff member who refers the case should complete a **Referral Memo for Accelerated RSD Processing (Annex 4-3)**, which should outline the details of the Applicant's vulnerability in the host country and, wherever possible flag the referral in the UNCHR electronic case management system. Copies of any counselling notes or available medical reports or other relevant documents should be attached to the Referral Memo for Accelerated RSD Processing.

The Protection staff member who is responsible for reviewing referrals to Accelerated RSD Processing should **assess the protection needs of the referred Applicant**, based on all available information, and should determine whether referral to Accelerated RSD Processing is appropriate.

If the designated Protection staff member approves the referral, he or she should add any additional relevant information, sign the Referral Memo for Accelerated RSD Processing, and make a **recommendation for the time limit within which the RSD Interview should be scheduled**. In setting a time limit for the RSD Interview, the Protection staff member should take into account whether the Applicant needs specific support or assistance to enable his/her meaningful participation in the Interview and adjust the timeframe accordingly.²⁹ The cover of the file should be marked to indicate that the file is being processed under the Accelerated RSD Processing procedures.

²⁹ For instance, unaccompanied or separated child Applicants of young age, victims of trauma and Applicants with intellectual disabilities or mental health conditions may require longer processing timeframes to allow for other protection interventions or several RSD Interviews may be necessary to facilitate a meaningful participation of the Applicant in the RSD process and a correct determination of the claim.

The RSD Interview for Applicants manifestly in need of a protection intervention and Applicants with specific needs referred to Accelerated RSD Processing should be scheduled for the first available date within the time limit recommended in the Referral Memo for Accelerated RSD Processing.

As a general rule, scheduled interviews by Applicants who have been approved for Accelerated RSD Processing **should not be rescheduled by UNHCR**. Where rescheduling is unavoidable, it should be done in consultation with the RSD Supervisor, or another designated Protection staff member. Changes to scheduled interview dates, either by UNHCR or at the request of the Applicant concerned should be noted on the Applicant's file and/or the electronic case management system in place in the UNHCR Office.

Office procedures for Accelerated RSD Processing should include **timelines for issuing the RSD decision for claims determined under these procedures**. It is recommended that decisions **for claims heard under Accelerated RSD Processing** procedures generally be **issued as soon as possible, and in any case no longer than one month**, following the completion of the RSD Interview unless the Protection staff member who approves the referral indicates on the Referral Memo for Accelerated RSD Processing that a shorter or longer period would be appropriate.

Where it is not possible to issue the RSD decision on the date specified in the Referral Memo for Accelerated RSD Processing, the Eligibility Officer who conducted the RSD Interview must consult with the RSD Supervisor, or another designated Protection staff member, to obtain authorization to defer the issuance of the RSD decision and to determine an appropriate alternative date.

Where it becomes apparent during the Accelerated RSD process that a claim presents complex factual or legal issues, including exclusion concerns, which cannot be dealt within a shortened timeframe, the case may be processed according to the timeframes for regular RSD procedures or, if the processing is not only accelerated but also simplified, the case may be referred to regular RSD procedures for a full examination and assessment of the claim (see § 4.10 – *Simplified RSD Processing*).

4.9.5 Appeals by Applicants Rejected under Accelerated RSD Processing

Applicants whose claims were determined under Accelerated RSD Processing but were rejected may appeal the negative RSD decision in accordance with the appeal procedures set out in § 7 – Appeal of Negative RSD Decisions. Whether to process the appeal application on a priority or accelerated basis should be decided on a case-by-case basis.

4.10 Simplified RSD Processing

4.10.1 General Considerations

UNHCR Offices may develop procedures for simplified RSD Processing for particular caseloads and/or profiles with a view to increase the efficiency of RSD case processing. UNHCR Offices should consult with the designated focal points in the relevant Regional Bureau(s) and the functional sections in DIP, regarding the development and implementation of simplified RSD procedures (for further guidance see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

Simplified RSD is a process whereby one or more aspects of Regular RSD is simplified with a view to permit greater case-processing efficiency.

STANDARDS & GUIDELINES

SIMPLIFICATION OF THE RSD INTERVIEWING OR ASSESSMENT WRITING MAY BE ACHIEVED THROUGH VARIOUS MEANS, INCLUDING:

- ▶ pre-populating the RSD Assessment Form with legal analysis and/or country of origin information (COI) for a particular caseload or profile;
- ▶ developing RSD Assessment Forms tailored to the examination and/or assessment of the core elements of the claim for a particular caseload or profile. It is recommended that caseload- or profile-specific RSD Assessment Forms follow a similar structure of analysis as the regular RSD Assessment Form;
- ▶ conducting RSD interviews focusing only on core elements of the claim, such as area of origin, ethnicity or religion, as relevant for the application of the presumption of inclusion; or
- ▶ a combination of the above.

The adoption of Simplified RSD procedures requires a significant investment in the development of caseload-specific tools for the examination and assessment of the claim, as well as RSD staff with knowledge of the specific caseload and with skills and experience to make accurate decisions in an abbreviated examination.

The methodology and tools introduced to improve efficiency in processing cases in simplified RSD procedures should be designed in a manner that ensures that reliable and sufficiently detailed information is available to UNHCR to assess the core elements of the refugee claim and to identify possible credibility or exclusion concerns (see § 4.3 – *The RSD Interview and Assessment*).

4.10.2 Appropriate Cases for Simplified RSD Processing

The adoption of Simplified RSD procedures can increase the efficiency of RSD processing and may be appropriate for certain caseloads or Applicants with specific profiles.

STANDARDS & GUIDELINES

CATEGORIES OF CASELOADS / PROFILES THAT MAY BE CONSIDERED FOR SIMPLIFIED RSD PROCESSING:

- ▶ Caseloads / profiles to whom a *prima facie* approach applies;
- ▶ Caseloads / profiles with high recognition rates (such as caseloads/profiles where a Presumption of Inclusion can be applied) and a high prevalence of similar claims, which allows for focused interviewing and/or the use of templates with pre-populated legal analysis and/or COI;
- ▶ Caseloads / profiles with very low recognition rates and a high degree of similarity in claims, which allows for focused interviewing and/or the use of templates with pre-populated legal analysis and/or COI. For caseloads where there is a high rate of rejection, special attention must always be given to the specific facts of the case in order to identify any reasons why an individual may, nevertheless, be eligible for recognition as a refugee despite the normally high rejection rates.

STANDARDS & GUIDELINES

SIMPLIFIED RSD PROCEDURES SHOULD NOT BE USED FOR:

- ▶ caseloads which do not have a high degree of homogeneity;
- ▶ claims that raise credibility and/or exclusion concerns, or are otherwise considered to be complex or sensitive; or
- ▶ claims that clearly raise elements other than those in the caseload / profiles to whom the simplified RSD procedures are designed to apply.

When identified, such cases should be referred to regular RSD procedures (for further guidance see in § 4.10.4 – *Procedures for Simplified RSD Processing*).

Wherever possible, screening mechanisms should be put in place to ensure appropriate channelling of cases into Simplified RSD Procedures.

4.10.3 Oversight of Simplified RSD Processing Procedures

Procedures for Simplified RSD Processing should include **an effective referral mechanism to Regular RSD procedures** and **appropriate controls**, including a requirement that the procedures are regularly reviewed to ensure that the quality and fairness of decision-making is not affected by the adoption of Simplified RSD Processing.

The RSD Supervisor should be responsible for the oversight of the procedures for Simplified RSD Processing and should ensure their effectiveness and integrity. To this aim, the RSD Supervisor should develop **tools for the implementation of Simplified RSD procedures**, such as focused interview guidance for the caseload or profiles concerned, and caseloads and/or profile-specific templates for the assessment of claims, and should regularly review and update such tools as necessary.

4.10.4 Procedures for Simplified RSD Processing

Simplified RSD processing requires an individual examination of the merits of the refugee status claim and, as such, needs to afford Applicants all the procedural safeguards set out in the RSD Procedural Standards.

In cases where a *prima facie* approach or a presumption of inclusion applies, and which are, as such, appropriate for processing under simplified RSD procedures, **refugee status may exceptionally be recognised on the basis of the information gathered at registration and through the RSD Application Form alone** without conducting an individual RSD Interview, provided that the information available is sufficient to establish the material facts of the claim and that no credibility or exclusion concerns arise (see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR’s Mandate*).³⁰

The interviewing strategy adopted in these procedures should allow Applicants to present sufficiently detailed information on their profiles, activities and experiences, and should enable UNHCR to identify credibility, exclusion or security concerns (see § 4.3 – *The RSD Interview and Assessment*).

Where **credibility and/or exclusion concerns** arise in relation to a claim, which would otherwise have benefitted from a *prima facie* approach or a presumption of inclusion and which would otherwise have been appropriate for processing under simplified RSD procedures, or where the claim is otherwise **sensitive or complex**, the case should be **referred to regular RSD procedures**. This will enable an in-depth and full examination and determination of the claim. If credibility and/or exclusion concerns in relation to a claim arise in the course of an interview under simplified RSD procedures, or if it becomes apparent that the case is complex or sensitive during the course of such an interview, the Eligibility Officer may, if feasible and appropriate, continue the interview if he/she has the knowledge and experience to examine the refugee status claim in full or may refer the case to regular RSD processing in accordance with set procedures. Where credibility and/or exclusion concerns or the fact that the case is complex or sensitive become apparent at the RSD assessment stage, the case should be referred to regular RSD procedures. In such cases, a Complementary Interview will generally need to be conducted to examine all relevant aspects of the claim. The Complementary Interview and the RSD assessment may be carried out by the same Eligibility Officer, if he/she has the appropriate knowledge and experience, or may be assigned to a different Eligibility Officer.

All RSD decisions reached through simplified RSD processing should be subject to review in accordance with the procedures set out in § 4.4 – *Procedures for Review of RSD Decisions*.

Refugee status claims processed under simplified RSD procedures may be subject to accelerated processing in accordance with the principles set out in § 4.9 – *Accelerated RSD Processing*.

To ensure the integrity of procedures and quality of UNHCR decision-making, it is recommended that staff members with substantial knowledge and experience of RSD are assigned to simplified RSD processing, including at the reviewing stage (see § 4.2 – *Qualifications, Training and Supervision of Eligibility Officers*). This would facilitate the identification of potential credibility issues and/or exclusion concerns, as well as allow for an expeditious examination in full of the claim without the need for referral to a different Eligibility Officer.

³⁰ In such cases, the written RSD Application may be considered as having afforded the procedural standard of the Applicant’s ‘right to be heard’ and the interview may be foregone.

4.10.5 Appeals of Claims Rejected under Simplified RSD Processing

Applicants whose claims were determined under Simplified RSD Processing and were rejected may appeal the negative RSD decision through the normal appeal procedures (see § 7 – *Appeal of Negative RSD Decisions*). As a general rule, refugee status claims rejected under Simplified RSD Processing should not be subject to accelerated procedures on appeal, unless the claims were rejected in accelerated procedures for manifestly unfounded claims (see § 7.2.4 – *Time Limit for Submitting the Appeal Application*).

4.11 Merged RSD Processing

Where individual RSD provides the best means to achieve protection for persons of concern to UNHCR, but where regular or simplified RSD does not provide the best protection impact for the largest number of asylum-seekers, UNHCR Offices may implement merged RSD case processing modalities aimed at increasing the efficiency of individual case processing by merging procedural steps, notably registration and RSD or RSD and resettlement, while still maintaining high quality decision-making (see § 4.11.1 – *Merged Registration-RSD Processing* and § 4.11.2 – *Merged RSD-Resettlement Processing*). In assessing the appropriateness of implementing merged RSD procedures for particular cases or caseloads, UNHCR Offices should take into account the impact the proposed case processing modality is likely to have on the protection environment and protection delivery in the host country / country of asylum.

Since a **determination of eligibility for refugee status is a significant component of merged RSD case processing modalities**, their implementation must ensure the integrity and fairness of the process, as well as the quality of RSD decisions, in accordance with the **procedural safeguards** set out in these RSD Procedural Standards. In this respect, particular consideration should be given to the necessary safeguards for processing claims by unaccompanied and separated children, as well as other Applicants with specific needs or vulnerabilities (see § 2.8 – *Children in UNHCR RSD Procedures*, and § 3.4 – *Applicants with Special Needs*). The methodology and tools introduced to improve efficiency in processing cases through merged RSD procedures should be designed in a manner that ensures that reliable and sufficiently detailed information is available to UNHCR to assess the core elements of the refugee claim and to identify possible credibility, exclusion or security concerns.

Furthermore, merged RSD case processing modalities must be implemented with sufficient flexibility to adapt to changes in the nature of the caseload and/or type of case profiles or the operational context, and must contain mechanisms to identify individual cases not suitable for processing under a merged RSD case processing modality and refer them to regular RSD or another appropriate case processing modality. Where merged RSD case processing modalities are in place, UNHCR Offices should also consider whether changes in the situation in the country of origin affect the appropriateness of the use of merged RSD case processing.

4.11.1 Merged Registration-RSD Processing³¹

a. General Considerations

Merged Registration-RSD is a process whereby the registration and RSD stages are effectively merged and where the information collected during the expanded registration interview serves as the basis for recognition of refugee status. The aim of the Merged Registration-RSD process is to capture in one interview, at what would normally be the registration stage, the **Applicant's biographical data and other information generally gathered during registration**, as well as **information relating to the eligibility**

³¹ Merged Registration-RSD was formerly referred to as “Enhanced Registration”. This term is no longer in use and should be distinguished from what is known as “Individual Enhanced Registration” which is a “collection of data in addition to individual registration data elements for the purposes of facilitating specific protection case management and/or programming interventions that does not result in an individualized recognition of refugee status.”

of the Applicant for international refugee protection. The additional information gathered during the merged registration-RSD Interview will generally encompass information regarding the core elements of the Applicant's claim, such as nationality and place of origin, the Applicant's profile and reasons for flight, as well as information relating to possible exclusion considerations.³² Information regarding the **Applicant's vulnerabilities or specific needs** may also be gathered at this stage.

The information gathered through merged Registration-RSD processing is generally used to recognize Applicants as refugees in an individual process. The information is also used to identify cases that give rise to credibility problems regarding the core elements of the claim or exclusion concerns and refer them for processing under regular RSD procedures for a full examination of the claim.³³

The information gathered during the merged Registration-RSD process can also be used to facilitate referral to other forms of protection interventions as necessary.

The effectiveness of Merged Registration-RSD processing is contingent on a number of factors, including the nature of the caseload and the possibility to identify objectively verifiable exclusion triggers; the experience and training of the Protection staff involved; the degree to which the interview and assessment tools used are detailed and adapted to the caseload; and the rate of processing.

UNHCR Offices may develop and implement merged Registration-RSD procedures for particular caseloads and/or profiles requires. Introduction of such procedures requires consultation with the designated RSD and registration focal point(s) in the Bureau(s), and relevant entities in DIP (RSD and/or PNSS) and IMRS (for further guidance on conditions for implementation of Merged Registration-RSD procedures see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

b. Appropriate Cases for Merged Registration-RSD Processing

Merged Registration-RSD processing can significantly increase the rate of individual case processing by reducing the number of personal interviews conducted with an Applicant. However, it also reduces the ability of UNHCR to identify and examine credibility or exclusion concerns, as well as other issues that may affect the integrity of the process, such as fraud. UNHCR Offices should take measures to mitigate the resulting risks. As such, merged Registration-RSD processing should be **nationality, caseload or profile-specific** and only be used in the following circumstances:

³² It should be noted that refugee status claims processed under simplified RSD procedures to which a prima facie approach or a presumption of inclusion applies may also exceptionally be recognized on the basis of the information gathered at registration and through the RSD Application Form alone without conducting an individual RSD Interview, provided that the information available is sufficient to establish the material elements of the claim and that no credibility or exclusion concerns arise (see § 4.10 – *Simplified RSD Processing*).

³³ If appropriate, cases giving rise to credibility and/or exclusion concerns may be deprioritized in accordance with pre-defined criteria. See Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*.

CATEGORIES OF CASELOADS THAT MAY BE CONSIDERED FOR MERGED REGISTRATION-RSD PROCESSING:

- ▶ Caseloads for which a *prima facie* approach applies; and
- ▶ Caseloads for which a high presumption of inclusion applies,

where it is feasible and/or advisable to conduct a form of verification of the information provided, in particular in respect to the Applicant's nationality, place of origin, ethnicity, religion and/or other aspects of the Applicant's profile relevant to the application of the *prima facie* approach or of the presumption of inclusion, as well as elements that may amount to exclusion triggers.

c. Procedures for Merged Registration-RSD Processing

Procedures for Merged Registration-RSD processing must include **effective referral mechanisms to regular or simplified RSD procedures**, as appropriate, and other protection interventions. They should also incorporate **appropriate procedural safeguards and controls**, including a requirement that the procedures are regularly reviewed to ensure that they are still appropriate given the nature of the caseload and operational context and that the quality and fairness of decision-making is not affected by the adoption of Merged Registration-RSD Processing.

Applicants whose claims are processed through merged Registration-RSD procedures should be **provided information regarding the process and procedures**, at the earliest opportunity in the process. Their rights and obligations, as well as possible outcomes of the process, should also be explained to them at the beginning of the merged Registration-RSD Interview. Applicants should have access to **adequate interpretation**, where needed, and their preference regarding the sex of the interpreter should be accommodated to the extent possible.

To ensure the integrity and fairness of the process and in order to facilitate the review of decisions taken through merged Registration-RSD processing, merged Registration-RSD Interviews should be recorded in full. This can be done through a variety of means, including maintaining a verbatim transcript, audio recording of the entire interview or a combination thereof.

Applicants whose claims are processed through merged Registration-RSD procedures do not have a right to be legally represented since the process does not result in a rejection of applications for refugee status. Wherever possible and in the interest of the integrity and fairness of procedures, UNHCR Offices may accommodate the participation of appointed legal representatives in the merged Registration-RSD process. Applicants whose claims are referred to regular or simplified RSD procedures have the right to be legally represented in accordance with the principles set out in § 2.7 – *Legal Representation in UNHCR RSD Procedures*.

Given that merged Registration-RSD processing can lead to recognition of refugee status, the **staff conducting interviews and making recommendations in individual cases should have appropriate training and experience in RSD**.³⁴ In particular, they should have knowledge and experience with the

³⁴ Merged registration-RSD procedures may be conducted by Registration staff with the appropriate knowledge and experience.

relevant caseload, and receive at least basic training on interviewing and RSD. The procedures should also put in place adequate quality control safeguards, such as random checks and interview shadowing.

In order to ensure consistency and quality of decision-making, decisions to recognise refugee status should be periodically **reviewed by experienced RSD staff**, or at a minimum by senior Registration staff who have been trained in RSD. Furthermore, it is recommended that RSD staff provide routine oversight of the merged registration-RSD procedures.

Applications for refugee status cannot be rejected through merged Registration-RSD procedures. Where a recommendation to recognise refugee status cannot be made on the basis of the available information, because the case gives rise to credibility and/or exclusion concerns, the case should be **referred to regular or simplified RSD procedures**, as appropriate, for a full examination of the claim in accordance with the RSD Procedural Standards.

4.11.2 Merged RSD-Resettlement Processing

a. General Considerations

Merged RSD-Resettlement is a case processing modality in which the RSD and resettlement processes are merged, most commonly by conducting one, combined, RSD and resettlement interview resulting only in a completed Resettlement Registration Form (RRF) instead of both an RSD Assessment Form and an RRF. Although no separate RSD decision is issued, **merged RSD-Resettlement procedures involve a formal recognition of refugee status for cases referred for resettlement** by UNHCR.

UNHCR Offices may develop and implement merged Resettlement-RSD procedures for particular caseloads and/or profiles requires. Introduction of such procedures requires consultation with the designated RSD and resettlement focal point(s) in the Bureau(s), and relevant entities in DIP (RSD and/or PNSS) and the Resettlement and Complementary Pathways Service (for further guidance on conditions for implementation of Merged Registration-RSD procedures see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

b. Appropriate Cases for Merged RSD-Resettlement Processing

Merged RSD-Resettlement processing is primarily aimed at resettlement and can significantly increase the rate of individual case processing by reducing the number of personal interviews conducted with an Applicant. However, it also reduces the ability of UNHCR to identify and examine credibility or exclusion concerns, as well as other issues that may affect the integrity of the process, such as fraud. As such, merged RSD-Resettlement should not be used in the absence of a **high presumption of inclusion** or the **availability of resettlement places dedicated to that particular caseload**. It should also be **nationality or caseload specific**.

The implementation of Merged RSD-Resettlement processing is premised on the following conditions being met.

CONDITIONS FOR IMPLEMENTATION OF MERGED RSD-RESETTLEMENT PROCESSING:

- ▶ The existence of a large caseload of individuals in need of international protection whose claims benefit from a high presumption of inclusion;
- ▶ The existence of resettlement quota agreed with Resettlement States specifically for that caseload;
- ▶ The Resettlement States' endorsement of the decision to submit cases for resettlement on the basis of RRFs prepared through Merged RSD-Resettlement procedures;
- ▶ A shortfall in regular individualized case processing capacity to meet current and future resettlement targets; and
- ▶ The existence of identification and/or screening mechanisms to identify within the larger caseload the cases which are (i) most in need of and meeting all criteria for resettlement, and (ii) suitable for processing in Merged RSD-Resettlement processing.

Even when the conditions for introducing Merged RSD-Resettlement procedures are met and when the use of such procedures has been approved for a specific nationality/caseload, **Merged RSD-Resettlement procedures should not be used for determining complex claims for international protection, sensitive cases, or claims raising credibility issues or exclusion concerns.**

Exceptionally, for reasons relating to UNHCR's lack of geographical proximity to persons of concern or other reasons severely limiting UNHCR's access to individuals for whom resettlement is deemed the most appropriate durable solution, Merged RSD-Resettlement can be used for smaller caseloads or individual cases. The latter may include, for example, Applicants in detention to whom UNHCR has limited access and who are at risk of *refoulement*.³⁵

c. Procedures for Merged RSD-Resettlement Processing

Procedures for Merged RSD-Resettlement processing must include **effective referral mechanisms to regular RSD procedures**, as appropriate, for cases identified for processing through merged procedures but subsequently found not to be suitable for such processing for reasons identified below.³⁶ They should also incorporate **appropriate procedural safeguards**, including procedures for review and endorsement of recommendations to refer for resettlement and **effective mechanisms for supervision and oversight of procedures**. Procedures for merged RSD-Resettlement processing must be reviewed on a regular basis to determine whether they are still appropriate given the nature of the caseload and operational context. UNHCR Offices should establish standard operating procedures specifically designed and adjusted for the operational context.

Applicants whose claims are processed through merged RSD-Resettlement procedures should be **provided information regarding the process and procedures**, at the earliest opportunity in the process, preferably at the identification or screening for resettlement stage. Their rights and obligations, as well as

³⁵ Similarly, merged registration-RSD-resettlement processing may be appropriate in such circumstances (see also § 4.6 – *Procedures for Applicants in Detention*).

³⁶ Cases giving rise to credibility and/or exclusion concerns may also be deprioritized in accordance with pre-defined criteria. See Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*.

possible outcomes of the process, should also be explained to them at the beginning of the merged RSD-Resettlement Interview. Applicants should have access to **adequate interpretation**, where needed, and their preference regarding the sex of the interpreter should be accommodated to the extent possible.

As a general rule, the same principles apply to merged RSD-Resettlement procedures as the regular RSD interview. The interviewing strategy adopted in these procedures should allow the applicants to present sufficiently detailed information on their profiles, activities and experiences in their free account, and should enable UNHCR to identify credibility, exclusion or security concerns (see § 4.3 – *The RSD Interview and Assessment*).

To ensure the integrity and fairness of the process and in order to facilitate the review of decisions taken through merged RSD-Resettlement processing, merged RSD-Resettlement Interviews should be recorded in full. This can be done through a variety of means, including maintaining a verbatim transcript, audio recording of the entire interview or both.

Given that a referral for resettlement under merged RSD-Resettlement processing entails a formal recognition of refugee status, the **staff conducting merged RSD-Resettlement procedures, including reviewing staff, should have appropriate RSD and resettlement training and experience** (see § 4.2 – *Qualifications, Training and Supervision of Eligibility Officers*).

Applicants whose claims are processed through merged RSD-Resettlement procedures do not have a right to be legally represented since the process does not result in a rejection of applications for refugee status. Wherever possible and in the interest of the integrity and fairness of procedures, UNHCR Offices may accommodate the participation of appointed legal representatives in the merged RSD-Resettlement process, in accordance with its established procedures. Applicants whose claims are referred to regular RSD procedures have the right to be legally represented in accordance with the principles set out in § 2.7 – *Legal Representation in UNHCR RSD Procedures*.

Applications for refugee status should not be rejected through merged RSD-Resettlement procedures. Cases in merged RSD-Resettlement procedures that are **found not to be suitable for merged processing for reasons relating to credibility or exclusion concerns, complexity, unresolved family unity issues, or other reasons** should be **referred to regular RSD** for a full examination of the claim in accordance with the RSD Procedural Standards.³⁷ Exceptionally, where referral to RSD procedures is not possible and UNHCR must reach a decision on a refugee status claim through merged RSD-resettlement or merged registration-RSD-resettlement procedures, as it may be the case for Applicants in detention, a negative RSD decision may be appealed in accordance with the principles set out in § 7 – *Appeal of Negative RSD Decisions*.

³⁷ In specific contexts, a case may be deprioritized from processing in merged RSD-Resettlement procedures based on set criteria. Deprioritization means that a case will not be processed until such time as the protection situation changes or the deprioritization criteria change. Deprioritization does not as such affect other protection interventions nor does it pre-empt the outcome of any decision-making process (for further guidance, see Annex 4.9-1 – *Aide-memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD) under UNHCR's Mandate*).

Annexes

Annex 1: List of Additional Resources

Notice: The list below highlights the UNHCR policy resources and guidelines that are relevant to RSD adjudication in UNHCR RSD procedures. 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.

Guidelines on International Protection:

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 1: Gender Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/3d36f1c64.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 2: "Membership of a particular social group" within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/3d36f23f4.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the "Ceased Circumstances" Clauses)*, available at: <https://www.refworld.org/docid/3e50de6b4.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 4: "Internal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/3f2791a44.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/3f5857684.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 6: Religion Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/4090f9794.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 7: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, available at: <https://www.refworld.org/docid/443679fa4.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/4b2f4f6d2.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/50348afc2.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 10: Claims to Refugee Status related to Military Service within the context of Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/529ee33b4.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 11: Prima Facie Recognition of Refugee Status*, available at: <https://www.refworld.org/docid/555c335a4.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION NO. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions*, available at: <https://www.refworld.org/docid/583595ff4.html>

UNHCR, *GUIDELINES ON INTERNATIONAL PROTECTION No. 13: Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees*, available at <https://www.refworld.org/docid/5a1836804.html>

Other material:

UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, April 2019, HCR/1P/4/ENG/REV. 4, available at: <https://www.refworld.org/docid/5cb474b27.html>

UNHCR, *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, available at: <https://www.refworld.org/docid/3f5857d24.html>

UNHCR *Guidelines on the Application in Mass Influx Situations of the Exclusion Clauses of Art. 1F of the 1951 Convention relating to the Status of Refugees*, available at: <https://www.refworld.org/docid/43f48c0b4.html>

International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law (external)*, available at: <https://ihl-databases.icrc.org/customary-ihl/eng/docs/home>

International Criminal Court (ICC), *Elements of Crimes*, 2011, ISBN No. 92-9227-232-2, available at: <https://www.refworld.org/docid/4ff5dd7d2.html> (external), available at: <https://www.refworld.org/docid/4ff5dd7d2.html>

UNHCR, *Note on the Interpretation of Article 1E of the 1951 Convention relating to the Status of refugees (external)*, available at: <https://www.refworld.org/docid/49c3a3d12.html>

UNHCR, *Guidance Note on Extradition and International Refugee Protection (external)*, available at: <https://www.refworld.org/docid/481ec7d92.html>

UNHCR, *Note on Diplomatic Assurances and International Refugee Protection (external)*, available at: <https://www.refworld.org/docid/44dc81164.html>

UNHCR, IOM/FOM-019/2010 *on Revision of Procedural Standards for Refugee Status Determination under UNHCR's mandate: Headquarters review of exclusion, revocation, cancellation and cessation decisions (internal)*, available at: <https://bit.ly/2lZTRsf>

UNHCR, *Note on Burden and Standard of Proof in Refugee Claims*, 16 December 1998, available at: <https://www.refworld.org/docid/3ae6b3338.html>

UNHCR, *Beyond Proof, Credibility Assessment in EU Asylum Systems: Full Report*, May 2013, available at: <https://www.refworld.org/docid/519b1fb54.html>

UNHCR, *The Heart of the Matter – Assessing Credibility when Children Apply for Asylum in the European Union*, December 2014, available at: <https://www.refworld.org/docid/55014f434.html>

UN Office of the High Commissioner for Human Rights (OHCHR), *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”)*, 2004, HR/P/PT/8/Rev.1, available at: <https://www.refworld.org/docid/4638aca62.html>

UN High Commissioner for Refugees (UNHCR), *Key Procedural Considerations on the Remote Participation of Asylum-Seekers in the Refugee Status Determination Interview*, 15 May 2020, available at: <https://www.refworld.org/docid/5ebe73794.html>

Annex 2: UNHCR RSD-focussed Learning Programmes

Current training opportunities with an RSD focus or significant RSD component include:

TRAINING

RSD INDUCTION PROGRAMME

The Refugee Status Determination (RSD) Induction Programme is aimed at providing a harmonised and efficient induction process for new Eligibility Officers and other RSD decision-makers. It is designed to provide staff who are new to RSD with an understanding of the contextual, procedural and legal framework for RSD, as well as an introduction and exposure to the skills required for conducting RSD. The programme is an essential functional training programme for UNHCR personnel who are responsible for conducting RSD. The eLearning component of the programme is accessible to any UNHCR staff member, as well as external learners, and can be completed independently.

TRAINING

RSD LEARNING PROGRAMME

The RSD Learning Programme is one of several initiatives to ensure that UNHCR staff responsible for examining and deciding refugee claims have the necessary knowledge, skills and resources to do so, and to support supervisors in fulfilling their responsibility for the training of staff who carry out RSD. The RSD Learning Programme has been developed as a mandatory functional training for UNHCR staff who are responsible for carrying out or supervising RSD. It is also appropriate and recommended for staff whose responsibilities require them to play an active role in building capacity in new or developing national asylum systems. Resettlement (RST) staff who are required to elaborate individual eligibility analysis or to process particularly complex cases may also benefit from the RSD Learning Programme.

TRAINING

INTERVIEWING LEARNING PROGRAMME (ILP)

The ILP is designed for UNHCR staff involved in individual case processing in order to deepen their knowledge in the area of interviewing by applying an interviewing methodology based on the PEACE interview model and adapted to UNHCR's context. The programme provides support, guidance, tools and techniques related to interviewing to improve the quality and efficiency of information-gathering in UNHCR interviews, and thereby contributes to enhancing the quality and correctness of decisions.

TRAINING

COUNTRY OF ORIGIN INFORMATION (COI) ELEARNING

This course focuses on the role of COI in refugee status determination and the application of quality standards for COI in RSD procedures. Learners will be guided through a case study that will illustrate and discuss the challenges faced when researching and using COI in RSD procedures. The COI eLearning is an integral part of the RSD Induction Programme, but also accessible independently, including by external learners.

TRAINING

WORKING WITH LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PERSONS IN FORCED DISPLACEMENT

Developed by UNHCR and IOM, the training focuses on the protection of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons of concern for staff members as well as the broader humanitarian community. The training contains learning modules on terminology, international law, operational protection, resettlement and refugee status determination (RSD), all with a focus on practical guidance for UNHCR offices and, possibly, partner organizations.

Information on all training programmes listed above is available through UNHCR Learn & Connect. For up-to-date RSD and other protection learning opportunities, please consult the UNHCR Global Learning Centre.

Annex 3: RSD Interview Preparation Checklist

KEY CONSIDERATIONS

APPLICANT'S CAPACITY/FITNESS FOR INTERVIEW:

- ▶ Identify factors that may affect the Applicant's capacity to understand the procedures and/or participate in the RSD Interview (e.g. mental or physical health issues, age, experiences of trauma, etc.) and consider appropriate approaches to facilitate their understanding of and participation in the RSD procedures and process;
- ▶ Identify any other factors relating to the Applicant's individual and contextual circumstances that may affect the Applicant's ability to recall and recount, and consider appropriate lines of questioning and interviewing techniques;
- ▶ Identify any specific needs the Applicant may have (e.g. physical disabilities, hearing or speech impairments, young age, etc.) and make the necessary arrangements to accommodate them.

KEY CONSIDERATIONS

APPLICANT'S CLAIM:

- ▶ Identify information relating to the Applicant's identity;
- ▶ Identify information relating to aspects of the Applicant's claim that are likely to be relevant for the determination of refugee status, including travel routes, family composition, as well as any elements that may trigger exclusion considerations;
- ▶ Draw up a tentative chronology of relevant events and a family tree, where relevant;
- ▶ Review all information already submitted by the Applicant (e.g. identity/travel documents, marriage certificate, arrest warrants, military or medical records, etc.) or otherwise available, including information from family members or information gathered in the course of previous asylum application(s), if any;
- ▶ Obtain files from other UNHCR Offices, where relevant;
- ▶ **Credibility:** Based on the information available,
 - Consider whether the Applicant's statements and documentary evidence are internally consistent;
 - Consider whether the Applicant's statements are consistent with statements of family members/witnesses or COI;
 - If inconsistencies arise, consider possible scenarios, including distortion factors that might explain discrepancies or inconsistencies, and plan how to address them during the Interview.

In order to facilitate the examination of the Applicant's claim and help establish an interview plan, consider how the available information may be relevant to the criteria of the refugee definition and what other areas of the Applicant's account may need to be further explored during the interview. In doing so, you may want to refer to the questions below:

- ▶ **Outside the country of nationality or habitual residence**
 - Is the Applicant outside his/her country of nationality or habitual residence?

▶ **Well-founded fear of persecution**

- What and who does the Applicant fear?
- According to COI, does the Applicant face other risks if he/she were to return to the country of nationality or habitual residence?

▶ **State willingness and ability to protect:**

- If the Applicant claims past persecution did he/she seek and obtain State protection, and if not, why not?
- Does COI indicate that State authorities are not willing or able to protect the Applicant or similarly situated individuals?

▶ **Reasons for persecution:**

- Are the reasons for persecution or refusal to protect for reasons of the Applicant's race, nationality, religion, membership in a particular social group and/or political opinion?

▶ **UNHCR's broader refugee criteria:**

- Is there a situation of generalised violence or events seriously disturbing public order in the Applicant's country of nationality or habitual residence?

▶ **Internal flight or relocation alternative:**

- If persecution is feared at the hands of the State authorities, do the State authorities have *de facto* control over the entire territory of the Applicant's country of nationality or habitual residence?
- If persecution is feared at the hands of non-State agents, is there an area of prospective relocation that is practically, legally and safely accessible?
- Could the Applicant live a relatively normal life without undue hardship in the area of prospective relocation?

▶ **Exclusion under Article 1F:**

- Is there any information which raises the possibility that the Applicant may have been involved in activities that may bring him/her within the scope of the exclusion clauses in Article 1F?
- If so, are there aspects related to the Applicant's profile, his or her circumstances and/or the context of any potentially excludable acts that require examination with a view to enabling UNHCR to fully assess all relevant factual and legal questions?

▶ **Inclusion and exclusion under Article 1D:³⁸**

- Is the Applicant a "Palestine refugee", "displaced person", or a "descendant" within the meaning of Article 1D?
- Is/was the Applicant receiving, or eligible to receive, UNRWA's protection or assistance?
- Has UNRWA's protection or assistance ceased and, if so, why? What are the reasons why the Applicant has left his or her place of residence, and what keeps him or her from returning there?

³⁸ Since the assessment of the Applicant's circumstances may result in a finding that he/she does not fall within the scope of Article 1D, and that his/her claim for refugee status will, therefore, need to be examined in light of the refugee criteria in Article 1A(2), it is advisable to cover all aspects of the Applicant's life which are material to the possible existence of a well-founded fear of persecution linked to a 1951 Convention ground.

► Exclusion under Article 1E:³⁹

- Does the Applicant qualify for a status in the host country/country of asylum which carries rights akin to those of citizenship?
- Does the Applicant has a regular or permanent status in the country of former residence and enjoys rights akin to those of citizenship?
- Are these rights currently effective and available? Do these rights provide protection against *refoulement* as well as the right to return, reenter, and remain in the country of current or former residence?

³⁹ During the RSD Interview, it will be necessary to examine any aspects of the Applicant's claim which are relevant to the existence of a well-founded fear of persecution related to a 1951 Convention, as the question of exclusion under Article 1E would arise only if the person meets the inclusion criteria in Article 1A(2) of the 1951 Convention.

Annex 4: RSD Assessment Form



REFUGEE STATUS DETERMINATION (RSD) RSD ASSESSMENT FORM

RSD ASSESSMENT FORM

UNHCR office:	RSD Case NO.:
Interviewer(s):	Date of Interview(s):
Eligibility Officer:	
Interpreter(s):	Language of Interview:

Applicant's Basic Bio-Data

Full Name:	
Nationality:	If stateless, country (countries) of former habitual residence:
Date of Birth:	Ethnicity:
Sex:	Religion:

PART 1 – SUMMARY OF THE CLAIM

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

PART II – MATERIAL FACTS

II-1 Please identify the material elements relevant to the Applicant's claim and, for each of them, set out the Credibility Assessment with regard to the 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): *Applicant's identity, nationality, ethnicity*

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 Applicant's claim have been established, please proceed to Part III.

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

PART III – INCLUSION ASSESSMENT – 1951 CONVENTION / 1967 PROTOCOL

Well-Founded Fear

III-1 Considering the established material facts, relevant COI, and the experience of similarly situated individuals in the country of nationality or, if stateless, former habitual residence is there a reasonable possibility that the Applicant would experience harm if returned to that country?

Yes:

No:

If YES, please explain and specify the kind(s) of harm identified.

If NO, please explain and proceed to Question III-5.

Persecution

III-2 Does the harm, which has been determined to be reasonably possible in the event of the Applicant's return to the country of nationality or, if stateless, former habitual residence, constitute persecution?

Yes:

No:

If YES, please explain why the harm(s) identified amount to persecution.

If NO, please explain and proceed to Question III-5.

Reasons for Persecution

III-3 Is the persecution identified in III-2 for reasons of one or more of the grounds in the 1951 Convention/1967 Protocol?

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Yes: No:

*If **YES**, please select the relevant ground(s), specifying whether real or imputed. Please provide an explanation why the persecution is for reasons of **(each of) the ground(s) selected**.*

*If **NO**, please explain and proceed to Question III-5.*

- Race
- Religion
- Nationality
- Membership of a particular social group
- Political opinion

Availability of Internal Flight or Relocation Alternative

III-4 Can the Applicant (determined to have a well-founded fear of persecution for reasons of one or more of the Convention grounds in the country of nationality or, if stateless, former habitual residence) return and/or relocate to any part of that country where he or she could reasonably live without fear of persecution or undue hardship?

Yes: No:

Please explain with reference to relevant COI and proceed to Question III-5.

Conclusion on Inclusion under 1951 Convention / 1967 Protocol

III-5 Does the Applicant fall within the inclusion criteria in Article 1(A)2 of the 1951 Convention/1967 Protocol?

Yes:

No:

If YES, please proceed to Part V.

If NO, please proceed to Part IV.

PART IV – INCLUSION ASSESSMENT – UNHCR’S BROADER REFUGEE CRITERIA

To be completed only if the Applicant does not fall within the criteria for inclusion under the 1951 Convention/1967 Protocol in Part III

IV-1 If the Applicant does not fall within the inclusion criteria in the 1951 Convention/1967 Protocol, is he/she outside his/her country of nationality or, if stateless, former habitual residence, and unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or other events seriously disturbing public order?

Yes: No:

If YES, please explain and proceed to Part V.

If NO, please explain and then proceed to Part VI.

PART V – APPLICATION OF THE EXCLUSION CLAUSES

V-1 Is there any information in the 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:

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 explain and continue the analysis under Question V-2.

V-2 Is there information indicating that the Applicant was/is associated with acts which may fall within the scope of the exclusion clauses in Article 1F(a), (b) or (c) of the 1951 Convention?

Yes: No:

Please provide a factual outline for each situation/scenario/event involving acts which may fall within the scope of Article 1F, clearly identifying, for each trigger situation/scenario/event, the act (or acts) which may fall within the scope of Article 1F. Assess whether the available information reliably establishes a link between the Applicant and these acts.

*If **YES**, please proceed to Question V-3.*

*If **NO**, please proceed to Question V-7.*

Legal Qualification of the Acts Identified

V-3 Do the acts identified under Question V-2 fall within the scope of Article 1F (a), 1F(b) or 1F(c)?

Yes:

No:

For each act identified under Question V-2, please set out your analysis in light of the legal criteria as per the relevant sub-clause of Article 1F.

*If **YES**, please proceed to Question V-4.*

*If **NO**, please proceed to Question V-7.*

Individual Responsibility

V-4 Has the Applicant incurred individual responsibility for the acts in question?

Yes:

No:

Please identify, in relation to each of the acts identified as falling within the scope of Article 1F, the relevant mode of individual responsibility and set out your analysis in light

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of the applicable requirements with regard to the Applicant's conduct (actus reus) and state of mind (mens rea).

*If **YES**, please proceed to Question V-5.*

*If **NO**, please proceed to Question V-7.*

V-5 Are there circumstances negating individual responsibility of the Applicant?

Yes:

No:

Please examine whether the circumstances give rise to a defence, or whether there are reasons why the Applicant should no longer be considered excludable.

*If **YES**, please proceed to Question V-7.*

*If **NO**, please proceed to Question V-6.*

Proportionality

V-6 Does the seriousness of the Applicant's criminal conduct outweigh the consequences for the Applicant if excluded from refugee protection?

Yes:

No:

Please explain.

Conclusion on the Exclusion Assessment

V-7 Does the Applicant fall within the scope of Article 1F of the 1951 Convention?

Yes:

No:

If YES, Please check the relevant ground:

- 1F (a) Crime against peace, a war crime, or a crime against humanity
- 1F (b) Serious non-political crime committed outside the country of refuge prior to entering that country
- 1F (c) Acts contrary to the purposes and principles of the United Nations

PART VI – RECOMMENDATION

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

Select the applicable paragraph and delete all others.

- The Applicant meets the criteria set out in Art. 1 A of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and should be recognized as a refugee.
- The Applicant is outside of his/her country of nationality or, if stateless, former habitual residence and is unable to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or other events seriously disturbing public order. The Applicant should be recognized as a refugee pursuant to UNHCR’s broader refugee criteria.
- The Applicant does not meet the criteria for international refugee protection under UNHCR’s mandate, and the claim should be rejected.
- The Applicant is excluded from international refugee protection pursuant to Art. 1 F of the 1951 Convention and the claim should be rejected.

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

Annex 5: Applicability of Article 1D of the 1951 Convention Assessment Form



APPLICABILITY OF ARTICLE 1D ASSESSMENT FORM

APPLICABILITY OF ARTICLE 1D OF THE 1951 CONVENTION ASSESSMENT FORM

UNHCR office:	RSD Case NO.:
Interviewer(s):	Date of Interview(s):
Eligibility Officer:	
Interpreter(s):	Language of Interview(s):

Applicant's Basic Bio-Data

Full Name:	
Country (countries) of Nationality:	Country (countries) of former habitual residence:
Date of Birth:	Place of Birth:
Ethnicity:	Religion:
Sex:	

PART 1 – SUMMARY OF THE CLAIM

- I-1 Please summarize briefly the information regarding the place of birth and history of displacement of the Applicant and his/her parents and grandparents, as well as the reasons provided by the Applicant for leaving the country of nationality or former habitual residence and for being unwilling or unable to return there. Please also summarize the information provided by the Applicant relating to his/her connection to an UNRWA area of operations, as well as any form of protection and assistance received by him/her or his/her family members from UNRWA, including any issued documentation.

PART II – MATERIAL FACTS

II-1 Please identify the material elements relevant to the Applicant's claim and, for each of them, set out the Credibility Assessment with regard to the 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): Applicant's identity, nationality, ethnicity

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 Applicant's claim have been established, please proceed to Part III.

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

If, at this stage, your conclusion is that the Applicant has not credibly established that he or she is Palestinian, then the case should be assessed using the regular RSD Assessment Form. For this purpose, please copy Part I and II into the regular RSD Assessment Form.

PART III – APPLICABILITY OF ARTICLE 1D OF THE 1951 CONVENTION

Is the Applicant a Palestinian within the personal scope of Article 1D?

III-1 Was the Applicant, as a result of the 1948 Arab-Israeli conflict, displaced from that part of Mandate Palestine which became Israel and has been unable to return there?

Yes: No:

If YES, please explain and proceed to Question III-4.

If NO, please explain and proceed to Question III-2.

III-2 Was the Applicant, as a result of the June 1967 and subsequent hostilities, displaced from the Palestinian territory occupied by Israel since 1967 and has been unable to return there?

Yes: No:

If YES, please explain and proceed to Question III-4.

If NO, please explain and proceed to Question III-3.

III-3 Is the Applicant a descendant of persons described in Questions III-1 and III-2 above?

Yes: No:

If YES, please explain with reference to the answers to Questions III-1 and III-2 above and proceed to Question III-4.

If NO, please explain and proceed to Question III-4.

III-4 Based on the answers above, does the Applicant fall within the personal scope of Article 1D?

Yes:

No:

If YES, please proceed to Question III-5 below.

If NO, please proceed to Part VI.

Has UNRWA’s protection or assistance ceased for any reason?

III-5 Are there any objective reasons outside the control of the Applicant that prevent him or her from (re-)availing him/herself of the protection or assistance of UNRWA in the UNRWA’s area of operation where the Applicant used to receive (or is eligible to receive) UNRWA protection or assistance? These include threats to life, physical security or freedom or other serious protection-related issues and/or practical, legal or safety barriers to return.

Yes:

No:

If YES, please explain and proceed to Question III-6.

If NO, please explain and proceed to Question III-6.

III-6 In light of the above, does the Applicant fall within the scope of the second paragraph of Article 1D (“inclusion clause”)?

Yes:

No:

There is no need to provide further explanation under this question.

If YES, please proceed to Question IV-1.

If NO, please proceed to Part VI.

PART IV – APPLICATION OF THE EXCLUSION CLAUSE IN ARTICLE 1E

IV-1 Has the Applicant been recognized by the competent authorities of the country in which he/she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country?

Yes: No:

If YES, please explain and proceed to Part V.

If NO, please explain and proceed to Part VI.

PART V – APPLICATION OF THE EXCLUSION CLAUSES IN ARTICLE 1F

V-1 Is there any information in the 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:

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 explain and continue the analysis under Question V-2.

V-2 Is there information indicating that the Applicant was/is associated with acts which may fall within the scope of the exclusion clauses in Article 1F(a), (b) or (c) of the 1951 Convention?

Yes: No:

Please provide a factual outline for each situation/scenario/event involving acts which may fall within the scope of Article 1F, clearly identifying, for each trigger situation/scenario/event, the act (or acts) which may fall within the scope of Article 1F.



Assess whether the available information reliably establishes a link between the Applicant with these acts.

*If **YES**, please proceed to Question V-3.*

*If **NO**, please proceed to Question V-7.*

Legal Qualification of the Acts Identified

V-3 Do the acts identified under Question V-2 fall within the scope of Article 1F (a), 1F(b) or 1F(c)?

Yes:

No:

For each act identified under Question V-2, please set out your analysis in light of the legal criteria as per the relevant sub-clause of Article 1F.

*If **YES**, please proceed to Question V-4.*

*If **NO**, please proceed to Question V-7.*

Individual Responsibility

V-4 Has the Applicant incurred individual responsibility for the acts in question?

Yes:

No:

Please identify, in relation to each of the acts identified as falling within the scope of Article 1F, the relevant mode of individual responsibility and set out your analysis in light of the applicable requirements with regard to the Applicant's conduct (actus reus) and state of mind (mens rea).

*If **YES**, please proceed to Question V-5.*

*If **NO**, please proceed to Question V-7.*

V-5 Are there circumstances negating individual responsibility of the Applicant?

Yes: No:

Please examine whether the circumstances give rise to a defence, or whether there are reasons why the Applicant should no longer be considered excludable.

If YES, please proceed to Question V-7.

If NO, please proceed to Question V-6.

Proportionality

V-6 Does the seriousness of the Applicant's criminal conduct outweigh the consequences for the Applicant if excluded from refugee protection?

Yes: No:

Please explain.

Conclusion on the Exclusion Assessment

V-7 Does the Applicant fall within the scope of Article 1F of the 1951 Convention?

Yes: No:

If YES, Please check the relevant ground:

- 1F (a) Crime against peace, a war crime, or a crime against humanity
- 1F (b) Serious non-political crime committed outside the country of refuge prior to entering that country

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- 1F (c) Acts contrary to the purposes and principles of the United Nations

PART VI – RECOMMENDATION

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

Select the applicable paragraph and delete all others.

- the Applicant falls within the personal scope of Article 1D of the 1951 Convention. However, since the protection or assistance afforded by UNRWA (or that he/she was eligible to receive) is not considered to have ceased within the meaning of paragraph 2 of Article 1D, he/she is not entitled to the benefits of the 1951 Convention.
- the Applicant falls within the personal scope of Article 1D of the 1951 Convention. Since UNRWA’s protection or assistance has ceased, the Applicant is *ipso facto* entitled to the benefits of the 1951 Convention.
- the Applicant is not a "Palestine Refugee", a "displaced person", or a “descendant” of either of these two categories. As such, he/she does not fall within the personal scope of Article 1D of the 1951 Convention. The Applicant’s claim should be examined under the eligibility criteria in Article 1A(2) of the 1951 Convention using the regular RSD Assessment Form.
- the Applicant does not meet the criteria for international refugee protection under UNHCR’s mandate, and the claim should be rejected.
- the Applicant is excluded from international refugee protection pursuant to Art 1E of the 1951 Convention and the claim should be rejected.
- the Applicant is excluded from international refugee protection pursuant to Art. 1 F of the 1951 Convention and the claim should be rejected.

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

Annex 6: Aide memoire & Glossary of Case Processing Modalities

Aide memoire & Glossary of Case Processing Modalities, Terms and Concepts Applicable to Refugee Status Determination (RSD under UNHCR's Mandate), available at:

<https://www.refworld.org/docid/5a2657e44.html>



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