

# UNHCR and individual refugee status determination

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**Determination of refugee status is a critical first step in meeting the protection needs of those requiring international protection and is one of UNHCR's core functions.**

Refugees may be recognised as such either on a group basis (*prima facie*) or individually. The vast majority of the world's refugees are recognised by way of a *prima facie* group determination, based on an evaluation of the situation in the country of origin which gave rise to their leaving. This article, however, focuses on individual refugee status determination (RSD).

Individual RSD is used primarily in situations of mixed flows, when it is necessary to distinguish refugees from other migrants. It may be carried out by states and/or UNHCR. It is preferable, however, that RSD be conducted by states as it is governments which are responsible for ensuring that refugees on their territory are treated in accordance with international standards, subject to supervision by UNHCR as required by its protection mandate. 102 of the 146 states signatories to the 1951 Convention and 1967 Protocol have established national procedures.

Where states have not yet acceded to the international refugee instruments or have not yet established effective national procedures, UNHCR may have to step in and undertake individual RSD. Through conducting RSD, UNHCR can determine whether asylum seekers qualify for international protection.

In 2007, UNHCR was involved in refugee status determination in 68 countries. Over 90% of the RSD work in terms of applications received and decisions rendered was carried out in 15 countries; the largest operations were in Kenya, Malaysia, Turkey, Somalia, Egypt and Yemen. Between 2003 and 2006, applications to UNHCR increased by 48%. In 2007, UNHCR received 75,690 applications (12% of global asylum applications) and rendered 51,200 decisions.

The growth in UNHCR's role in conducting RSD has brought with it a number of challenges, some faced by states and some unique to UNHCR. The first is to ensure adequate and appropriate staffing. UNHCR has 140 staff devoted full-time to RSD, and another 150 part-time. The ratio of staff to the number of asylum applications received by UNHCR is far less than in most national systems in Europe or North America, for example. In addition, half of the 140 full-time staff are on short-term contracts which, in view of the resulting high turnover, has a negative impact on efficiency and increases training demands. Expert RSD supervision is also required in all of these operations. Having staff spread across the globe

makes consistency – and provision of training – a challenge. There are also issues of ensuring that decisions are made in a timely manner plus concerns about staff security, integrity of the system and burnout. Finally, while in some countries the attitudes towards asylum seekers and refugees are very positive, in others the protection environment can be quite negative, rendering UNHCR's RSD work even more challenging.

In view of these obstacles and limited resources, UNHCR has made and continues to make efforts to strengthen and improve RSD under its mandate, and to strive for high quality 'first-instance' decisions<sup>1</sup> – ie to ensure the early identification of those in need of international protection, as well as of those who do not need or deserve it.

## Improving UNHCR's RSD operations

A number of initiatives have been taken to ensure quality, efficiency and consistency in UNHCR's RSD operations. These include the publication in 2003 of Procedural Standards for Refugee Status Determination under UNHCR's Mandate<sup>2</sup> (designed to harmonise procedures globally) and a comprehensive training programme for all staff responsible for conducting or supervising RSD; in 2008, this course was provided in six regions of the world.

Efforts have also been made, in line with the commitments made in the Agenda for Protection,<sup>3</sup> to ensure adequate staffing in RSD operations. We provide substantive advice from UNHCR headquarters to the field and have issued Eligibility Guidelines relating to different 'caseloads' of asylum seekers.<sup>4</sup> These guidelines, along with legal, policy and country-of-origin (COI) information from relevant and reliable sources, are disseminated globally through UNHCR's Refworld.<sup>5</sup> UNHCR recently launched a Community of Practice of RSD Supervisors and Officers to consolidate legal advice and to provide a forum for peer-to-peer discussion and exchange of best practices. Regional RSD officers have been posted in five regions of the world to help improve quality, consistency and productivity, as well as to work on capacity building with governments. Finally, regional meetings have been held to deal with inconsistent approaches to similar cases.

Like states, UNHCR occasionally faces sudden increases in the number of asylum applications to specific offices. This has required UNHCR to develop strong case-management techniques which are shared as best practices among offices. Furthermore, UNHCR has instituted an RSD Deployment Scheme under which experienced RSD consultants and UN Volunteers can be deployed to offices facing a dramatic and sudden upsurge in applications. In 2008, 15 operations were assisted through this scheme.

UNHCR has also developed strategic partnerships with governments with many years of experience in

RSD. Experts from the Immigration and Refugee Board of Canada have provided training to staff in selected UNHCR offices, and staff from the Office Français de Protection des Réfugiés et Apatrides (French Office for the Protection of Refugees and Stateless People, OFPRA)<sup>6</sup> have been deployed to assist in processing cases. In partnership with the International Association of Refugee Law Judges,<sup>7</sup> UNHCR has been able to involve judges in countries with developing asylum systems in helping to further build capacity.

This brings us full circle. While UNHCR strives to conduct RSD to the highest standards, it also continues its efforts to encourage states to take up this quintessential government function, with appropriate UNHCR participation.

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1. The term 'first instance' means the first decision, as opposed to decisions at appeal level. It describes the first stage of the RSD process.

2. Online at <http://www.unhcr.org/publ/PUBL/4316f0c02.html>

3. UNHCR, *Agenda for Protection*, October 2003. 3rd edition. Online at: <http://www.unhcr.org/refworld/docid/4714a1bf2.html>

4. See for example those issued for Iraqi asylum seekers, online at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46deb05557>

5. <http://www.refworld.org>

6. <http://www.ofpra.gouv.fr>

7. <http://www.iarlj.org>