

# Refugee definition

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## Key points

- The primary and universal definition of a refugee is contained in the 1951 Refugee Convention. Extended definitions are contained in regional instruments in Africa and Latin America, with the European Union having adopted a regional legal framework based on the 1951 Refugee Convention definition. Clarify which refugee definitions apply in your host country by looking at national, regional and international law that applies.
- The refugee definitions are declaratory, i.e. people are refugees as soon as they meet the criteria of a definition. As such, asylum-seekers should be treated as refugees until it is determined they are not.
- The refugee definitions apply in all situations including emergencies.

## 1. Overview

Refugee definitions provide criteria, answering the question "who is a refugee". Any person who meets the criteria under any of an applicable refugee definition as provided for in international or [regional refugee instruments](#), under UNHCR's [mandate](#), or in national legislation is a refugee. The definitions apply to individuals as well as groups of persons.

In general terms, refugees are persons outside their country of origin who are in need of [international protection](#) because of feared persecution, or a serious threat to their life, physical integrity or freedom in their country of origin as a result of persecution, armed conflict, violence or serious public disorder.

The primary and universal refugee definition is included in the 1951 Refugee Convention. Other, broader or extended, refugee definitions are notably included in the 1969 OAU Convention,

relevant in Africa, and the 1984 Cartagena Declaration, relevant in the Americas. In Europe, the European Union has not adopted a broader or extended definition but has adopted a regional framework on international protection that is based on the 1951 Convention definition of a refugee and introduces criteria for a complementary international protection status (subsidiary protection).

Refugee definitions are declaratory, i.e. a person is a refugee as soon as they fulfil the criteria contained in any of the definitions. This would necessarily occur prior to a formal determination of their refugee status by a State or UNHCR. Until such determination is made it must be assumed that those seeking international protection are refugees, even when they are classified or referred to as asylum-seekers or even migrants, and should be treated as such.

Determining whether a person is a refugee can be done through an individual refugee status determination process, or through a group determination process, for example by declaring on a prima facie basis as refugee all persons coming from a country that is at war. See also the entry on [Refugee status determination](#) ([Refugee status determination \(internal\)](#) - accessible to UNHCR staff only).

Like everyone, refugees have human rights, but being a refugee gives them specific protections, particularly from being forced to go back to their country of origin, where they are at risk of serious harm. In international law this is known as the principle of non-refoulement. See also the entry on Access to territory and non-refoulement.

## 2. Relevance for emergency operations

Refugee definitions apply both in emergency and non-emergency situations and can under no circumstances be changed, restricted or suspended.

Emergency situations, however, typically do not allow for time and resource intensive individual status determination. Group determination on the basis of a prima facie recognition of refugee status may be more suitable in emergency situations. See also the entry on [Refugee status determination](#) ([Refugee status determination \(internal\)](#) - accessible to UNHCR staff only).

When refugee status is not immediately determined, either on an individual or group basis, it is important to recall the declaratory character of the refugee definitions and to operate on the assumption that all those fleeing a situation of serious harm in their country of origin are refugees, even if this is not always formally stated, until it is determined they are not.

As such, they all enjoy protection from [refoulement](#) as well as protection of their human rights, unless restrictions apply, and - if applicable - protection under international humanitarian law.

### 3. Main guidance

The 1951 Convention relating to the Status of Refugees together with its 1967 Protocol provide the primary and universal definition of a refugee. This definition is extended by criteria contained in regional instruments and in national law, as applicable.

The 1951 Convention and its 1967 Protocol

The primary and universal definition of a refugee that applies to States is contained in Article 1(A)(2) of the 1951 Convention, as amended by its 1967 Protocol, defining a refugee as someone who:

"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national."

This definition, sometimes referred to as inclusion criteria, is complemented by so-called 'exclusion clauses' contained in Articles 1D, 1E and 1F of the 1951 Convention. While a person may meet the criteria of the refugee definition, when one of the exclusion clauses apply the person is excluded from the protection under the Convention.. Consideration of these 'exclusion clauses' will generally not be a priority in emergency situations. For completeness they are listed below:

- Article 1 D excludes those presently receiving protection or assistance from another organ of the United Nations. In reality, this concerns Palestinian refugees receiving protection and assistance from UNRWA. However, when such protection or assistance is no longer provided, the 1951 Convention will apply.
- Article 1 E excludes those presently enjoying rights normally accorded to nationals in a country where they have taken residence.
- Article 1 F excludes persons on account of having committed, or participated in the commission of, certain serious crimes or heinous acts. See also the entry on [Exclusion clauses \(article 1F\)](#).

Finally, Article 1 C describes the circumstances in which a refugee ceases to be a refugee. Cessation considerations are normally not relevant to emergency situations. When in an emergency refugees return to their country of origin despite a continued risk of persecution, they will remain refugees and of concern to UNHCR.

The above-mentioned Articles together determine who is a refugee and entitled to the rights and standards of treatment included in the 1951 Refugee Convention.

Broader refugee criteria are included in regional instruments, particularly in Africa and Latin America.

In Africa, Article I (2) of the 1969 OAU Convention governing the Specific Aspects of Refugee Problems in Africa, a binding legal instrument open to all Member States of the African Union, extends the refugee definition to:

"every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."

In Latin America, Conclusion III of the 1984 Cartagena Declaration, a non-binding instrument that nonetheless is incorporated in the domestic laws and policies of many countries in Central and South America, extends the refugee definition to:

"persons who have fled their country because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order."

In addition, UNHCR's mandate has also extended the refugee definition.

Based on UNHCR's Statute and successive UN General Assembly and ECOSOC resolutions UNHCR's competence to provide international protection to refugees encompasses individuals who meet the criteria for refugee status contained in Article 1 of the 1951 Convention and its 1967 Protocol and is extended to individuals who are outside their country of origin and who are unable or unwilling to return there owing to serious threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order. See also the Entry on [UNHCR's mandate for refugees, stateless persons and IDPs](#).

Finally, national law may also include refugee criteria.

In any operational context, national laws and policies are also important. They are usually the primary source of law for State authorities, generally serving as their first point of reference. Refugee definitions contained in international instruments to which the State is a party will generally have been incorporated into national laws and policies. It is therefore critical to be aware of and understand the national laws and policies, including the refugee definitions they include.

Sometimes - notably in statistical contexts - the word refugee is used to designate individuals or groups who have been formally recognized by States or UNHCR as entitled to [refugee status](#) following an [asylum](#) or other status-determination procedure. When this is intended, it should be clearly indicated. The clearest designation in such contexts is recognized refugee.

## **Annexes**

[Convention and Protocol relating to the Status of Refugees, 1951](#)

[OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept 1969](#)

[Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Nov 1984](#)

## **4. Links**

[Handbook on Procedures and Criteria for Determining Refugee Status and Guidelin... European Union, Regulation on standards for the qualification of third country ...](#)

## **5. Main contacts**

UNHCR Dep. Representative (Protection), UNHCR Asst. Rep. (Protection), and/or Snr Protection Officer in the country.

The UNHCR Regional Asst./Dep Rep (Protection) and/or Snr. Regional Protection Officer at the regional bureau (if applicable), who in turn will liaise as required with the Senior Refugee Law Advisor at UNHCR DIPS.