

# Refugee Status Determination (RSD)

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## Key points

- Refugee Status Determination (RSD), is the legal or administrative process by which governments or UNHCR determine whether a person seeking international protection is considered a refugee under international, regional or national law
- In the context of a mass influx emergency, prima facie or group approaches to RSD are often preferable, especially in contexts where there is a national asylum system in place
- How or if individual RSD is considered as part of an emergency response will depend on the context:
  - When there is a national asylum system, large scale arrivals can quickly overwhelm national processing capacity. Support should be provided to assess options such as a prima facie or simplified approach to refugee recognition or temporary protection, to ensure prompt access to protection and services, as well as to prevent backlogs from accumulating.
  - Where a national asylum system is not operational, UNHCR mandate RSD case processing is usually not the most effective intervention in an emergency context. Prior to embarking on a UNHCR mandate RSD response, it should be assessed if this is the best tool to protect individuals or groups in the country
- In order to ensure that an effective RSD response, by using group or individual approaches, or an alternative status approach can be implemented (including after the emergency phase) it is critical to ensure appropriate data is collected during reception and registration procedures

## 1. Overview

In an emergency context, a key priority is to ensure access to territory and to provide immediate protection and assistance, which is often done initially through registration (see the Entry on [Emergency Registration](#)).

Once this initial access to protection and assistance has been assured, it is important to consider how a secure legal status will be provided to new arrivals and the process for granting the legal status. Such a status could either be a non-refugee status (such as temporary protection) or refugee status through a group /prima facie approach or through eventual individual RSD processing (including through a variety of processing modalities). Given the relatively time-intensive nature of individual RSD processing, if this is the approach adopted for granting status, it will be a longer-term initiative extending beyond the initial emergency phase.

Considering the issues of status at the early stages of an emergency will help to ensure that:

- National asylum systems do not become overwhelmed,
- That any eventual individual RSD processing can be done efficiently, including through a group based or prima facie approach (see the Entry on [Prima facie approach to recognition of refugee status](#)),
- UNHCR will be in a position to conduct mandate RSD if required.

The type of RSD considerations and response appropriate in an emergency context will depend on many factors, including the existence and effectiveness of a national asylum system.

## 2. Relevance for emergency operations

Even though RSD may not be the first element of an emergency response, the effectiveness of national asylum procedures has an impact on the broader protection space, including the willingness and ability of the authorities to receive new arrivals. An effective national asylum procedure may also allow the prompt implementation of prima facie or group-based status determination procedures which will enable refugees to have security of status and immediately benefit from the rights contained in the applicable conventions and instruments (see the Entry on [Prima facie approach to recognition of refugee status](#)).

Inefficiencies in the identification, registration and RSD response for individuals or groups with urgent protection risks or vulnerability, including those who are part of mixed movements, may compromise their access to protection and a durable solution. Efficient RSD procedures and accurate information about the purpose, scope and duration of RSD procedures or other forms of case processing may help to mitigate the risk of misuse of the asylum system, may reduce pull factors or discourage onward movement from the host country for other reasons, as well as reducing the insecurity of individuals or groups and UNHCR staff.

When national asylum procedures do not exist, mandate RSD recognition may be necessary to advocate against refoulement, protect refugees' rights or provide access to services. This can happen through individual case processing using differentiated case processing modalities, as feasible and desirable (see [Aide-Memoire & Glossary of case processing modalities, terms and concepts applicable to RSD under UNHCR's Mandate](#)).

## 3. Main guidance

Refugee status determination (RSD) is the process to assess and decide whether an asylum-

seeker is or is not a refugee. To be classified as a refugee, asylum-seekers must meet the eligibility criteria set out in the 1951 Convention or the 1967 Protocol, the regional refugee instruments, or national asylum legislation (See the Entries on [Refugee definition](#), [Stateless person definition](#), [UNHCR's mandate for refugees, stateless persons, and IDPs](#)). RSD is primarily the responsibility of States. In countries where national asylum authorities are responsible for the asylum process, UNHCR operations are often consulted and provide technical advice to support the analysis and decision-making process relating to the determination of refugee status including during emergency response situations. Under its mandate, UNHCR may determine refugee status in the absence of a fair and efficient national asylum system, where there is a protection benefit in so doing, either for the individual involved, a particular group or for the larger protection environment.

RSD status can be conducted in many ways including group (often prima facie) procedures, simplified, merged or accelerated procedures.

### **RSD Response in Mass Influx Emergencies**

In mass influx emergencies, the goal is to ensure access to protection and assistance as quickly as possible. In such circumstances, a focus on initial registration is of primary importance (see entry on emergency registration). Then, consideration should be given as to whether recognition of refugee status through the application of a prima facie approach is possible if relevant conditions are met (see the Entry on [Prima facie approach to recognition of refugee status](#)) or providing temporary protection (see the Entry on [Temporary protection](#)) may be better options if these are available within the national legal framework. Since individual RSD procedures are likely to take time, they are often not the most efficient and strategic protection tool to prioritize in the initial onset of an emergency.

### **Immediate response in the emergency phase**

After access to territory is assured, it is important to quickly assess and define whether, and what type of, RSD response will be advocated or implemented at a later stage to ensure adequate planning. The decision about whether and what type of RSD response should be made based on a situational analysis. The information required for a situational analysis includes relevant and reliable country of origin information, information about the population(s) seeking international protection and causes of flight as well as information on the national legislative framework. This information can be obtained from a desk review, country of origin information research, and through registration and protection interviews.

A decision about the modality to be used to establish legal status requires a consideration of the following parameters amongst others:

- National legal framework for RSD (including the available of group-based recognition of status), other protection mechanisms as well as applicable legal framework for migration.
- The profile of the population, including reasons for flight, and their international protection needs.
- Uniformity of the need for international protection and the possibility to differentiate between persons in need of international protection and others, or otherwise the possibility

- to differentiate between broad categories of persons in need of international protection.
- Political and practical willingness to adopt a prima facie approach to recognition, a temporary protection arrangement, or an individual RSD response using differentiated case processing modalities.
- The capacity (human, material and infrastructure) available to implement the different responses and what sort of enhancements would be necessary.

### **Activities to be implemented in all approaches to the determination of status**

Regardless of the modality for the determination of status chosen, protection colleagues should work closely with relevant authorities in the national asylum systems or UNHCR colleagues in mandate UNHCR operations to undertake the following activities:

- Identify and appropriately channel persons unable to request asylum or otherwise inadmissible for asylum, including:
  - Persons who may be nationals of the receiving country.
  - Active combatants/fighters, who should be disarmed and separated from civilians by the host country authorities. Such persons are not admissible into asylum procedures, as their status is incompatible with the civilian and humanitarian nature of asylum. (See Entry on [Civilian and humanitarian character of asylum](#)).
- Support registration procedures to appropriately collect, record and analyze information to facilitate the implementation or planning of an RSD response. The data collected during registration can either lead to a recognition of refugee status (if using a prima facie approach) or will facilitate the decision making about the case processing modalities to be implemented.
- Design and implement an effective and confidential data and individual case management system, through close coordination with the registration team (See the Entry on Emergency registration.) The system should be coordinated appropriately with the authorities and other relevant actors to ensure alignment with existing government or UNHCR case management systems.
- Design and implement referral and prioritization procedures for referrals including to and from RSD. Such procedures need to be developed with other functional units and external partners, including [community-based protection](#) teams, medical teams, protection counsellors, family tracing staff, and those responsible for BIA and BID procedures, to make sure that cases are promptly referred.
- Ensure there are suitable facilities for case processing that provide confidentiality. Facilities for case processing should possess at minimum: individual interview and counselling rooms; support equipment (including computers and internet access); arrangements for security of the process; a child-friendly waiting area; and controlled access.
- Ensure that asylum-seekers and refugees are regularly informed of the purpose, scope and duration of RSD activities. In planning for information activities, cooperate with other UNHCR teams, the national asylum authorities and external partners to design and implement mass information campaigns and to determine which messages are passed when and by who. The information activities should include anti-fraud and integrity messaging which should progressively be worked into an anti-fraud plan. In addition to an information campaign, establishment of individual and group counselling should be considered. It is further important to keep all relevant partners well informed about

asylum, refugee and migration processes. (See the Entry on [Emergency information management coordination](#) and [Accountability to Affected Populations \(AAP\)](#)).

### **Specific Considerations for an Individual RSD Response**

In contexts where a prima facie approach is not feasible and individual RSD processing is required, an RSD strategy and a budgeted operational plan need to be developed. These documents would require close support to government counterparts and/or close liaison with management and programme to ensure it is included in general operational plans, budgets and staffing and funding mechanisms.

The strategy and operational plan should:

- address all or selected individuals or groups taking into account the context and broader protection response framework.
- indicate the applicable processing modality in order to gain efficiency as provided under the States' regulatory framework or in UNHCR mandate operations the procedures found in [Procedural Standards for Refugee Status under UNHCR's Mandate](#) and the [UNHCR Aide-Memoire and Glossary of Case Processing Modalities](#).
- include first instance, appeals, and the reopening of cases.
- align with the overall protection, durable solution and RSD strategy in the country.
- include clear but realistic results and outcomes and the linked staffing component, including the need for sufficient management to ensure adequate supervision and coaching.
- include measures to avoid burnout of staff.
- include priority anti-fraud measures, including integrity messaging, in the general RSD strategy and plan.

In developing and implementing an RSD response for UNHCR or providing advice to national asylum authorities, protection staff can consult the [Procedural Standards for Refugee Status under UNHCR's Mandate](#) or its checklist to ensure that all critical elements of an RSD response are being considered.

### **Specific Considerations in a Mandate RSD Context**

UNHCR Mandate RSD case processing is only conducted if it is the best tool to protect individuals or groups in the country of asylum or to implement a solution (see the Entry on [Resettlement](#)) and it is not possible for them to have their case determined by a national asylum procedure. The decision on whether conducting RSD under UNHCR's mandate is required, is taken based on the situational analysis, particularly considering the protection context.

### **Post emergency phase**

The implementation of RSD processing will in most situations continue in the post emergency phase in line with the strategy and operational plan defined during the emergency phase.

## RSD checklist

- Collect information about the causes of the population movement.
- Define whether, and what type of, an RSD response (group-based / prima facie approach or individual) or temporary protection response will be advocated for or implemented at a later stage to ensure adequate planning.
- In situations where individual RSD processing is required, draft an RSD strategy and a budgeted operational plan.
- Operationalize individual RSD processing.

## 4. Standards

Average processing time (in days) from registration to first instance asylum decision

This Core Outcome indicator measures the average number of days from the date of completion of registration of the asylum application to the date of notification of first instance asylum decision for all persons who were notified of a first instance RSD/asylum decision during the reporting period.

Proportion of people undergoing asylum procedures who have access to legal representation

This Core outcome indicator is defined as the proportion of people undergoing asylum procedures who can exercise the right to engage the services of qualified legal representatives to represent them in asylum procedures, at their own cost or on a pro bono basis, where such services are available.

Proportion of people undergoing asylum procedures who have access to an effective appeal mechanism after first instance rejection of their claim

This Core Outcome indicator is defined as the proportion of individual applicants undergoing asylum procedures who have access to an effective appeal mechanism after first instance rejection of their claim.

## Annexes

[UNHCR, Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status](#)

[under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, 2011](#)

[UNHCR, Procedural Standards for Refugee Status Determination under UNHCR's Mandate, 2020](#)

[UNHCR, Aide-Memoire & Glossary of case processing modalities, terms and concepts applicable to RSD under UNHCR's Mandate, 2017](#)

## **5. Main contacts**

Contact in the Division of International Protection (HQ), the Asylum Systems & Determination Section for questions related to this entry.