

Refugee Status and Refugee Status Documents

What is Refugee Status?

Refugee status is a form of protection under international, regional or national law that may be granted to an individual that meets the definition of a refugee.

The **internationally accepted definition of a refugee** is found in the 1951 Convention relating to the Status of Refugees (as amended by the 1967 Protocol) (hereafter, 1951 Convention). Article 1 A (2) of the 1951 Convention defines a refugee as:

"A person who owing to a 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 as a result of such events, is unable or, owing to such fear, is unwilling to return to it."¹

Certain regional conventions, i.e. the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration, have expanded on the definition provided by the 1951 Convention. However, these conventions are only applicable within Africa and Central America, Mexico and Panama.²

What is a Refugee Status Document and Who Needs It?

A refugee status document confirms that an individual has been recognized as a refugee in the country they are currently located, and constitutes proof of refugee status.

The country where the individual is located is commonly referred to as the country of asylum or host country.

The United Nations High Commissioner for Refugees (UNHCR) and/or the government of the country of asylum/host country issues the refugee status document.

Generally, in order to be granted refugee status, an individual must satisfy the definition of a refugee provided by Article 1 A (2) of the 1951 Convention (see above).

Refugee/s being sponsored by Groups of Five and Community Sponsors **MUST**:

- ✓ Have been granted refugee status; and,
- ✓ Submit a copy of his/her refugee status document with the refugee sponsorship application package.

Refugee/s being sponsored by Sponsorship Agreement Holders (SAHs) **ARE NOT** required to have refugee status and do not have to submit a copy of his/her refugee status document with the application package.

Note: Only the Principal Applicant (PA) is required to have refugee status and submit a copy of his/her refugee status document. Dependent spouses/common law partners and children under the age of 19 that are listed on the PA's application do not need to have refugee status or submit refugee status documents.

IMPORTANT: *De facto* dependents must submit his/her own refugee status document, and cannot rely on the refugee status of the PA.

¹ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <http://www.refworld.org/docid/3be01b964.html> [accessed 17 August 2016]

² See, Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa* ("OAU Convention"), 10 September 1969, 1001 U.N.T.S. 45, available at: <http://www.refworld.org/docid/3ae6b36018.html> [accessed 30 August 2016]; and, Regional Refugee Instruments & Related, *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, available at: <http://www.refworld.org/docid/3ae6b36ec.html> [accessed 30 August 2016]

SAHs submitting applications without refugee status documents must ensure that the refugee/s being sponsored satisfy the Convention Refugee Abroad Class or the Country of Asylum Class definitions.

Note: Refugee status documents must be valid at the time of submission and be from the country where the refugee/s are currently located, i.e. the country of asylum or host country. Refugee status documents that have expired, or that are not from the country of asylum or host country, will not be accepted by ROC-O.

IMPORTANT: The temporary exemption for Syrian and Iraqi nationals from having to provide a copy of his/her refugee status document when being sponsored by Groups of Five and Community Sponsors ended in January 2017.

How Does Someone Get a Refugee Status Document?

In order to obtain a refugee status document, and be recognized as a refugee, an individual must go through a legal or administrative process called **Refugee Status Determination (RSD)**.

RSD is the process by which UNHCR, or the government of a country, determines whether the person seeking protection is considered a refugee under international, regional or national law.

RSD typically involves an interview, a series of interviews, or hearing with a representative from UNHCR or the government of the country where the refugee/s are currently located. For example, in Canada the Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB) conducts RSD in the form of a hearing. In the UK and the US, RSD is conducted in the form of an interview.

In situations of mass displacement, UNHCR or the government of a country may not have the resources and/or capacity to conduct individual interviews or hearings. In these situations, refugee status is granted on a *prima facie* basis.

A *prima facie* approach means that individuals are recognized as refugees, and granted refugee status, on the basis of readily apparent objective circumstances in the country of origin.³ **Note:** individuals recognized as refugees on a *prima facie* basis still need to include a copy of his/her refugee status document with the application package.

Who Conducts RSD in _____?

Who conducts RSD in a particular country is dependent on a number of factors, including: whether the country is a signatory to the 1951 Convention and the 1967 Protocol; whether the country has a functioning and fair RSD procedure; and, international relations and politics.

In any given country, RSD may be conducted by: UNHCR; the government of a country; jointly by UNHCR and the government of a country; in parallel by UNHCR and the government of a country; or jointly and in parallel by UNHCR and the government of a country.

Please consult the following resource compiled by RSTP for more information on who conducts RSD in a specific country: <http://www.rstp.ca/wp-content/uploads/2017/01/RSDs-by-country-updated-January-2017Final.pdf>

³ UN High Commissioner for Refugees (UNHCR), *Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status*, 24 June 2015, HCR/GIP/15/11, available at: <http://www.refworld.org/docid/555c335a4.html> [accessed 16 August 2016]

What do Refugee Status Documents Look Like?

Refugee status documents vary by country, and may take the form of a letter, a card or a certificate. There is no standard format or type.

Typically, a refugee status document will specifically state that the individual has been **recognized as a refugee**, or has **refugee status**, and will either be issued by UNHCR, the government of a country, or both.

If you are unsure as to whether the document the refugees you are sponsoring have is a refugee status document, please contact RSTP using our details below and we will be able to verify the document for you.

Are Asylum Seeker Certificates, Refugee Registration and Refugee Claimant Documents or Ration Cards Accepted?

Asylum seeker certificates, refugee registration cards or documents, refugee claimant cards or documents, and ration cards, regardless of whether they are issued by UNHCR or the government of the country where the refugee/s are located, **ARE NOT** accepted as valid proof of refugee status by Resettlement Operations Centre – Ottawa (ROC-O).

When an individual submits a formal request for protection, UNHCR, or the government of the country of asylum/host country, may issue the individual with an asylum seeker certificate or refugee registration document to show that the individual has: registered with them; has a pending refugee claim; and, is waiting for his/her claim for refugee status to be determined via the RSD process.

Terminology:

An asylum seeker, refugee applicant or refugee claimant is an individual who has fled his/her country; has formally submitted a request for protection with UNHCR or the government of a country; and, is waiting to complete the RSD process.

A failed asylum seeker (FAS) is an individual who has been through the RSD process; and, has received a negative decision, i.e. his/her claim for protection has been refused.

A refugee is an individual who has gone through the RSD process; and, has received a positive decision, i.e. his/her claim for protection was accepted, they have been recognized as a refugee, and issued with a refugee status document.

Refugee Sponsorship Training Program (RSTP)

Tel: 416.290.1700, 1.877.290.1701

Fax: 416.290.1710

E-mail: info@rstp.ca Website: www.rstp.ca

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