

Refugee Status Determination Strategy Kakuma Refugee Camp Kenya

Introduction

Refugee Status Determination (RSD) is a vital part of protection as it is a determining factor in whether a person seeking international protection can be recognized as a refugee in the country of asylum. UNHCR is currently in the post-transition stage following the transfer of all RSD activities to the Refugee Affairs Secretariat (RAS) in Kakuma refugee camp. While RAS is expected to take full-charge of RSD activities, UNHCR will continue to exercise part of its mandate by providing technical support and expertise, and building the capacity of RAS to ensure the quality and sustainability of the process. UNHCR furthermore supports the Refugee Appeal Board (RAB) which has been set up to deal with appeals for negative decisions by the Commissioner for Refugee Affairs.

This strategy is informed by the Letter of Intent (LOI) which was signed between UNHCR and DRA (now referred to as RAS) and the work plan for transition of RSD responsibilities to the Government of Kenya¹.

Guiding Principles

UNHCR implements RSD procedures based on the following principles:

- **Do no Harm:** Conducting actions, procedures and programmes in a way that does not put the persons of concern at further risk of harm, especially as a result of unintended consequences.
- **Equity:** Promoting an inclusive and non-discriminatory approach to the refugee status determination process of persons of concern, irrespective of their nationality, race, religion, political views, and sexual orientation, social or other status and place of residence.
- **Confidentiality:** Adhering to confidentiality guidelines during the refugee status determination process when UNHCR and Government conduct. Refugee status determination should be fair, transparent and efficient adhering to confidentiality guidelines at all stages of the process. The systematic sharing of information and data of persons of concern must be subject to data protection safeguards.
- **Community-based Approach.** The strategy needs understanding and support by community to ensure that RSD addresses the protection needs and vulnerabilities of applicants, raise awareness on the process, understand the importance of refugee status determination for all community members in order to be legal in the country of asylum and receive protection.
- **Fair (and efficient):** RSD procedures and decision making is in line with due process standards laid out in the Kenya refugee Act and Regulations and other international standards for RSD procedures and substance of decisions. RSD applications should be processed in a transparent RSD process and the most timely and efficient manner possible. Staff responsible for RSD have adequate qualifications, training and supervision to effectively carry out their duties.

¹ Letter of Intent between the Department of Refugee Affairs and UNHCR on the Process of Gradual Assumption of the Responsibility for Refugee Status Determination by the Government of Kenya, September 2015

Strategic Objectives

UNHCR will focus on the following five strategic objectives to ensure the effective continuance of RSD activities following the transition from UNHCR to RAS.

Objective 1: More refugees will have access to fair and quality asylum and refugee status determination (RSD) procedures.

The key challenge to RSD activities in Kakuma refugee camp include the current RSD backlog which stands at 9,374 cases comprising of 23,671 individuals who are awaiting refugee status determination interviews². UNHCR is currently in the post-transition phase of the handover process of RSD activities to RAS in Kakuma refugee camp. While RAS is fully in charge of RSD procedures, UNHCR continues to provide technical support to ensure that activities are harmonized, efficient and of quality, and transparent procedures are maintained at all times. In exercise of its supervisory role, UNHCR will ensure the application of the provisions of the 1951 Convention and its 1967 Protocol by monitoring the procedures and criteria applied and intervene on behalf of persons of concern where appropriate. UNHCR and RAS further plan to implement a strategy to address the Kakuma caseload backlog as this will be beneficial to all persons of concern who are yet to undergo the refugee status recognition process.

The activities that UNHCR and RAS undertake may include:

- Refugee Status Determination should be physically, socially, affordable, and accessible to all asylum seekers upon arrival in a territory
- Coordinate with RAS in developing comprehensive RSD SOPs that will include effective physical and electronic filing procedures;
- Conduct periodic analysis of RSD case-processing methodologies review possibilities to ensure more efficient processing depending on the level of presumption of eligibility, including for asylum-seekers from South Central Somalia and Oromo ethnicity;
- Provide technical assistance for the implementation of such methodologies in particular accelerated and simplified RSD processing;
- Develop a strategy to integrate quality assurance as an integral part of the RSD procedures and structure of RAS;
- Conduct joint evaluation reviews on a quarterly basis of ongoing RSD activities including issuance of essential documentation;
- Establish and operationalize RSD intranet as a Country of Information platform and documents repository;
- Provide infrastructure for RAS staff such as office space and accommodation, and acquisition of supplementary material;
- Sensitise relevant stakeholders, including refugees, on RSD responsibilities and legal aid in the RSD context;
- Support RAS to take lead on scheduling, individual case management, decision endorsement and issuance;
- As part of technical support, UNHCR can assist RAS to develop strategies to manage and reduce RAS Kakuma backlog and processing timeline;

² Kakuma Operation RSD Backlog report as of 18 August 2017.

- Provide technical advice to support RAS to identify alternatives to individual RSD for select groups of asylum-seekers as appropriate;
- Under exceptional circumstances and through clear intake procedures conduct mandate RSD and where require document refugees and asylum-seekers under mandate procedures;
- Advocate and support legal aid organizations to support asylum-seekers in the RSD procedures
- Provide technical and logistical support to the RAB during the sessions implemented in Kakuma and at a later stage a potential full time RAB office.

Objective 2: Build capacity of RAS staff in providing services to persons of concern

Due to the demand of RSD work, high turnover of RAS staff and newly recruited staff like case workers/reviewers, UNHCR and RAS will ensure to build and strengthen the capacity of RAS staff in order to timely and with quality respond in the RSD process. UNHCR will build the capacity of RAS and its staff to provide these capacity development and independently implement them.

The activities that UNHCR and RAS undertake may include:

- Provide induction training for new RAS RSD staff;
- Provide training and legal advice in the RSD context to existing and newly recruited RAS core staff, consistent with newly developed SOP;
- Support the development of staff performance and training evaluation tools to maintain quality service delivery;
- Train and coach the reviewers on quality checks and review processes;
- Build the capacity of RAS staff on identification and referral of persons with specific needs;
- Support RAS staff on working with and managing interpreters;
- Build capacity of RAS staff on TAC preparation and TAC profile drafting;
- Enhance RAS staff capacity to ensure compliance with data policy standards and procedures;
- Develop training modules for standard trainings in the RSD context;
- Advocate with GLC to make accessible to RAS RSD staff required trainings on management skills
- Train and coach RAS staff to be trainers for trainings.

Objective 3: The RSD intake procedures respond to the protection and vulnerability needs of asylum-seekers and persons with specific needs are identified during the RSD process and in a timely manner referred for protection services

RSD is a requirement for some advanced assistance services and durable solutions. With the timeframes in RSD it is critical that RSD is part of a clear referrals network with clearly defined intake procedures and vulnerability criteria so as to ensure that the needs persons with specific needs can be addressed in a timely manner and with integrity. RSD provides a unique opportunity for RAS to identify refugees with heightened protection risks and/or specific needs and refer them to the protection services.

The activities that UNHCR and RAS undertake may include:

- Define the referrals network between RAS, UNHCR and other partners both in terms of referrals getting into RSD as well as referrals to other protection and assistance actors;

- Define clear intake procedures into RSD in SOPs which include clear vulnerability criteria and realistic processing timelines;
- Establish procedures to monitor the adherence to the intake procedures, vulnerability criteria and timelines;
- Provide continuous training to RAS staff on identification methodologies of persons and groups with specific needs based on updated country of origin information;
- Strengthening interview techniques with persons with specific needs, including children, unaccompanied and separated children, children in or at risk of early marriage, persons with disabilities, survivors of SGBV, survivor of sexual exploitation and abuse, ex-child soldiers, LGBTI/SOGI;
- Referring refugees with heightened protection risks to protection partners;
- Flagging the case number of refugees with heightened protection risks in the common databases in a systematic manner respecting the confidentiality principle;
- Identifying persons who have witnessed grave violations of children's and woman's rights in situations of armed conflict;
- Provide expeditious processing of cases with specific needs.

Objective 4: Refugees benefit from RSD procedures strengthened with anti-fraud measures

RSD processes might be vulnerable to fraud and hence the need to explore and implement measures to ensure the integrity of the process through fairness, transparency and accountability at all stages of the process. RAS staff implementing RSD activities are required to adhere to high standards of integrity and professionalism at all times.

The activities that UNHCR and RAS undertake may include:

- Design and implement a fraud-awareness on-going training sessions for RAS staff;
- Ensure anti-fraud visibility materials in all languages are present at all interview and counseling sites;
- Examine the fraud vulnerability assessment checklist tool with all RAS staff and address gaps;
- Review the RSD processing flows and SOPs and implement recommendations to adjust the process flows with an aim of reinforcing fraud prevention measures;
- Introduce CCTV monitoring of all interview rooms as well as recording of audio during the interviews;
- Enhance awareness amongst the community on established fraud reporting mechanisms for both RAS and UNHCR;
- Provide training on PSEA for RAS staff;
- Increase awareness amongst refugees on prevention of sexual abuse and exploitation.

Objective 5: Improved data and information management between UNHCR and Government of Kenya in accordance with data sharing agreement

ProGres database is crucial as it improves the collection, sharing and use of information on refugees and other persons of concern. This system also makes it easier for UNHCR and RAS staff to conduct refugee status determination and provide or refer vulnerable cases for further assistance, and other interventions.

The activities that UNHCR and RAS undertake may include:

- Support the development of ProGres reports to replace excel lists used in the RSD process (scheduling, monitoring of backlogs at different levels, and urgent case processing);
- Provide ongoing training on use of BIMS for identification purposes and proGres for quality data collection;
- Strengthen knowledge and information management mechanisms to monitor RSD trends;
- Develop data transfer and data sharing agreement for RSD procedures to ensure personal data protection and security.

Strategic Approaches

Partnerships and Coordination

Working in partnership with the Government of Kenya, RAS and RAB, to develop comprehensive refugee status determination strategies, relevant SOPs, policies and other guidance in accordance with international standards. Work in partnership with legal aid providers to support the quality and efficiency of the RSD process and work in partnership with organizations addressing needs of vulnerable refugees for an efficient and responsive referral system, in and out of the RSD process.

Linkages between Registration and RSD, also other Units

Registration and documentation directly impact RSD activities therefore close coordination and cooperation between the two sectors will ensure effective and secure data sharing policies and procedures. UNHCR and RAS will develop data transfer and sharing standard operating procedures which will be streamlined into RSD activities during the transition and post-transition phase.

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