



# UNIT 9

Procedures for File  
Closure / Re-opening

# PROCEDURES FOR FILE CLOSURE / FILE RE-OPENING

## 9.1 Closing RSD Files

- Applicants who do not attend their RSD Interview and do not contact UNHCR to reschedule the RSD Interview within the six weeks following the date of the scheduled RSD Interview, should be deemed to have **abandoned the refugee claim**. Procedures for closing RSD files should include procedures for bringing forward and closing abandoned files.
- UNHCR Offices should establish procedures to permit Applicants to submit a formal **withdrawal of an RSD Application** and to request and receive appropriate counselling in this process. The RSD files of Applicants who withdraw their RSD Application under established procedures should be closed.
- If an **Applicant does not exercise the appeal right** within an established time limit, the RSD decision in first instance should be considered final and the file should be closed. In accordance with the requirement for flexibility in considering appeal applications that are received after the appeal filing deadline, files of rejected Applicants should not be referred for file closure within the six weeks following the expiry of the appeal deadline.
- Claims that are **rejected on appeal** should be considered to be final and should be referred to file closure procedures.
- If UNHCR receives reliable evidence to establish that an Applicant is **deceased** or has been legally **naturalized** in the host country or in a third country, the Applicant's file should be closed.
- **Administrative procedures** for closure of RSD files and appropriate storage requirements should be set out in the file management procedures of each UNHCR Office (see § 2.2.6 - *Storing and Archiving Closed RSD Files*).

## 9.2 Re-opening RSD Files

- UNHCR Offices should adopt procedures for processing Applications by individuals who have closed files with UNHCR to determine whether file re-opening is appropriate.
- Applicants whose claims **have been withdrawn before the first instance decision** and who subsequently seek to apply for RSD should have their RSD file re-opened and should be referred to first instance RSD procedures.
- Offices should adopt a flexible approach to the **re-opening of closed files that were considered to be abandoned** after the Applicant failed to attend the first instance RSD Interview or to contact the UNHCR Offices within the six weeks following the scheduled RSD Interview. Requests to re-open the file and to reschedule the missed RSD Interview should generally be granted unless an Applicant has missed several scheduled RSD Interviews without a valid explanation, and there is good reason to believe the Applicant is not acting in good faith. Given the potential protection implications of denying an RSD Interview to an Applicant who has registered with the UNHCR Office, decisions not to re-open the file should only be made in exceptional cases and only with the authorization of RSD Supervisor. The reasons for the decision not to reassign an RSD Interview should be clearly noted on the Applicant's file.

- As a general rule, Applications for RSD by persons whose refugee claims have been **duly examined and rejected under UNHCR RSD procedures, and whose files have been closed**, should not have their claim re-examined. This would include Applicants who have failed to exercise the right to appeal a negative RSD decision within an established period. However, in certain cases, it may be appropriate to re-open a closed file and to refer the individual to RSD procedures.
- In the case of **rejected Applicants who did not file an appeal application** and whose claims were subsequently closed, if the Office is not able to establish that the Applicant was duly notified of the negative decision and the relevant appeal deadline the file should be re-opened for the purpose of examining the appeal.

### Appropriate Cases for Re-opening of Claims Rejected in Final Instance:

- There is reliable evidence of a **significant change in the personal circumstances** of the Applicant or the conditions in the Applicant's country of origin that may substantially affect eligibility for refugee status, including under criteria for a sur place claim;
- UNHCR receives **reliable and material new evidence** indicating that the claim may have been improperly decided. If the new evidence was available to the Applicant at the time of the previous RSD Interviews, he/she should provide a credible and reasonable explanation for having failed to provide it to UNHCR;
- There is **serious reason to believe that the claim was improperly decided** and/or that grounds for eligibility for refugee status were not adequately examined or addressed. If the Applicant did not exercise the appeal right, the file should generally not be re-opened unless the Applicant is able to provide a valid and credible explanation for having failed to do so.

In the cases referred to above, the file should be re-opened and referred to RSD procedures.

- Procedures for re-opening of RSD files of Applicants who were rejected in final instance, should include a **screening of the Application** by an Eligibility Officer or other member of the Protection staff, who should assess whether the established criteria for re-opening an RSD file are met, and make a recommendation. A recommendation to re-open a closed RSD file must be reviewed and **approved by the RSD Supervisor**, or another Protection staff member authorized to approve the re-opening.
- As a general rule, applications for re-opening should not be rejected without some form of screening procedure. Where, the volume of Applications for file re-opening received by a UNHCR Office exceeds the operational capacity to conduct effective screening, the UNHCR Office should assess all procedural or other factors that may be contributing to the high volume, and consult with the relevant Bureau and DIP to coordinate an appropriate response.