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Refugee Advocacy and Support Program • Mülteci Destek Programı

**An Evaluation of UNHCR Turkey's Compliance with
UNHCR's RSD Procedural Standards**

September 2007

Helsinki Citizens' Assembly – Turkey Refugee Advocacy and Support Program

Based in Istanbul, the Helsinki Citizens' Assembly - Turkey (HCA) is an autonomous, non-governmental organization working to advance fundamental rights and freedoms, peace, democracy and pluralism. Founded in 1988, HCA is associated with a network of other "Helsinki" organizations throughout Europe. HCA has advocated for the rights of refugees for more than seven years, and in 2004 established the Refugee Legal Aid Program (RLAP). RLAP was founded by a group of lawyers and human rights advocates to provide legal assistance to the many people who arrive each year in Turkey seeking refugee status. Starting in Fall 2006, HCA expanded its work in the area of refugee advocacy, establishing the Refugee Advocacy and Support Program (RASP).

RASP is the only civic initiative in Turkey involved not only in direct legal and psychosocial services for refugees but also advocacy efforts aimed at developing the capacity of local NGOs and ensuring that domestic law and policy uphold refugees' basic human rights. The overall goals of the program are to: (1) provide legal and psychosocial services to refugees in ways that will empower them to advocate for their own rights; (2) raise awareness and sensitivity in society about the situation and rights of refugees in Turkey; (3) improve refugee protection by building the capacity of non-governmental organizations and professionals in Turkey; and (4) advocate for the development and implementation of laws, policies and practices that reflect the highest standards under international refugee and human rights law.

RASP is involved in the following areas of activity:

- Providing comprehensive, free **legal advice** to refugees (including those in detention) regarding the UNHCR refugee status determination (RSD) process and Turkish administrative requirements;
- Providing refugees suffering from the psychological effects of torture and trauma with **psychological counseling and rehabilitation**, through individual and family therapy, prescription and monitoring of medication and medical treatment;
- Providing a range of **trainings and public education tools for refugee communities**, including community public legal education sessions, interpreter trainings, and information brochures available in refugee languages;
- Supporting the **coordination and expansion of services to refugees** provided by NGOs and professionals in Turkey, through coordination meetings and trainings for NGOs and professionals, including intensive 3-day workshops for NGOs, refugees and government agencies in "satellite cities" in Turkey;
- **Monitoring and reporting on Turkish state practice** regarding the "temporary asylum" procedure, the living conditions of refugees in satellite cities, and access to the asylum procedure by those in detention and transit zones;
- **Monitoring and reporting on UNHCR BO Ankara's RSD practices** and evaluating its compliance with UNHCR's own legal guidelines and procedural standards;
- **Lobbying state officials and agencies** to adopt and implement legislation and practices upholding the highest international standards relating to the protection of refugees;
- **Raising awareness about the conditions of refugees in Turkey** through outreach to national and international media, press releases and campaigns on critical refugee issues, the publication of *Refugee Voices* – a quarterly newsletter written by refugees, field research and conference presentations.

Background

Each year, Turkey receives thousands of people from more than 40 countries worldwide seeking refugee status. Since Turkey applies a "geographical limitation" to the 1951 Refugee Convention, it only grants refugee status to people originating from European countries. The asylum claims of non-Europeans – the vast majority of applicants – are evaluated by the Ankara-based offices of the United Nations High Commissioner for Refugees (UNHCR BO Ankara). Until September 2005, there were no publicly available standards relating to the manner in which the UNHCR conducted "refugee status determination" (RSD). This meant that advocates and refugees, alike, were very much in the dark about the internal procedures UNHCR used to evaluate asylum claims. It also meant that there was no way to determine whether UNHCR employees were consistently applying their own standards.

In September 2005, the UNHCR made a significant move toward institutional transparency by publishing *Procedural Standards for Refugee Status Determination under UNHCR's Mandate*. The *Standards*, which provide detailed guidelines regarding the RSD process, empower refugees and their advocates by openly providing information about UNHCR's procedures. On a broader level, the *Standards* are an important step by UNHCR to reconcile its role as an agency that both carries out RSD and critiques governments that conduct RSD themselves.

Goals of this Report

The overall aim of this report is to assess UNHCR BO Ankara's compliance with specific aspects of the *Standards* and make relevant recommendations.¹ By assessing UNHCR's performance, we hope to highlight areas in which practices fall below, meet, or even rise above, the levels recommended in the *Standards*. In

¹ This report does not attempt to assess whether UNHCR BO Ankara's practices comply with international standards regarding RSD, or its own recommendations to state governments. While there certainly is room for such an analysis, it is beyond the scope of this report.

areas where we have identified significant gaps in compliance, we aim to emphasize the impact that these gaps have on refugee applicants and make concrete, relevant recommendations.

Our findings and recommendations are intended not only for use by UNHCR, but also for Turkey's Ministry of Interior (MOI). The MOI is increasingly conducting its own RSD as basis for granting refugees "temporary asylum status" in Turkey while they wait for decisions from the UNHCR. Moreover, MOI will take over RSD from the UNHCR once Turkey lifts its geographical limitation on the 1951 Refugee Convention, and perhaps earlier.² As UNHCR trains MOI staff, it is essential that both agencies are aware of areas in the current system that meet UNHCR's standards, and those that do not.

Methodology

This report will examine aspects of the following nine rights set out in the *Standards*:

- access to information
- access to interpreters
- the right to an interview
- conduct during the RSD interview
- the right to counsel
- the rights of vulnerable refugee applicants
- access to reasons for rejection
- the right to appeal
- the right to a prompt procedure

For each of these areas, we explain the right in question, make recommendations, and rate the level of compliance by UNHCR BO Ankara as follows:

- A Full Compliance with *Standards*
- B Partial Compliance with *Standards*
- C No Compliance with *Standards*

HCA staff and interns collected the data used to examine the rights explored in this report. The information drawn upon to carry out this report includes:

- notes taken by HCA staff while representing clients at RSD interviews
- legal submissions by HCA staff to UNHCR on behalf of clients
- internal notes taken by HCA staff of interviews with clients
- other relevant information from client files, including appointment slips
- monthly case status lists sent to HCA from UNHCR

The areas selected for analysis are limited to those for which we have sufficient data. There is no discussion of provisions in the *Standards* for which we have no access to relevant information (i.e., internal operating mechanisms). The confidentiality of client identity has been preserved in all aspects of this report. The data examined for this report is from the period after the publications of the *Standards*.

UNHCR Review and Commentary

A copy of this report was submitted to UNHCR BO Ankara for review. That office's unedited comments have since been integrated into the report in order to present a balanced perspective on the areas examined.

Summary of Findings

To a great extent, UNHCR BO Ankara complies satisfactorily with the provisions of the *Standards* analyzed in this report. Significantly, unlike perhaps any other UNHCR branch office, UNHCR BO Ankara shares detailed reasons for rejection regarding HCA's clients. However, there is a very significant lack of compliance with regard to waiting times for decisions, which range from eight months to more than two years for a first instance decision. RSD processing times have, in fact, increased since the issuance of the *Standards*. This has a devastating impact on refugee applicants, since during the long waiting period, refugee applicants are provided very limited social support from the Turkish state and have no meaningful access to the labor market. Other significant concerns relate to the failure to consistently identify or prioritize the cases of torture and trauma survivors, and the occasional use of intimidating questioning techniques by some eligibility officers.

As discussed in detail below, UNHCR BO Ankara has achieved full compliance with the *Standards* in the areas of the right to counsel, right to an interview and right to appeal. There is partial compliance regarding access to information and interpreters, conduct during the interview, the rights of vulnerable applicants and access to reasons for rejection. As mentioned, there is a serious lack of compliance regarding the right to a prompt procedure.

The addition of staff and relevant training will be of particular importance in improving UNHCR BO Ankara's compliance with the *Standards*, particularly in terms of speeding up RSD processing times. Training will also have a valuable impact on the prioritization of the cases of vulnerable refugee applicants, particularly victims of torture and trauma. Access to reasons for rejection by refugee applicants and the recording of interviews by third parties are more complicated issues, since they rely on approval from UNHCR headquarters. Simple changes, such as the provision of information regarding the UNHCR RSD process as early as possible, are in process, but should be made as quickly as possible.

A summary of the report's findings and recommendations, including UNHCR BO Ankara's comments, follow.

² See, *Turkey's Action Plan for Asylum and Migration* (17 January 2005), art. 4.13.

RIGHT	GRADE	COMMENT	RECOMMENDATION	UNHCR BO ANKARA COMMENTS
Access to Information	B	Information is not provided as "early as possible," and does not include information about the UNHCR RSD process, but is limited to Turkish administrative requirements.	Brochures should be provided to refugee applicants regarding both the UNHCR and Turkish administrative requirements, including those in detention, at registration or earlier.	<i>Information leaflets, developed in coordination with the Turkish authorities, are provided at first contact with asylum seekers, in principle by the Turkish authorities as well as by UNHCR. Counseling is also provided by UNHCR staff when asylum seekers first approach the office. Agreed that information dissemination at the border should be broader.</i>
Access to Interpreters	B	Failure to provide interpreters speaking uncommon languages leads to miscommunication and delays. Female interpreters are inconsistently available. Applicants are not informed of the right to complain about the interpreter.	More resources should be allocated to hire and train qualified interpreters. Applicants should be trained, counseled and permitted to interpret when no other option is available. Applicants should be informed of the right to complain about the interpreter.	<i>Agreed that more resources are needed to hire and train qualified interpreters of both genders. Applicants are counseled regarding the complaints procedure, which relates to any aspect of their interaction with UNHCR staff.</i>
Right to Counsel	A	Access to legal representatives is always permitted at UNHCR offices. Representatives may make closing statements and relevant interruptions.	Compliance should be maintained. Applicants in detention should have access to legal representation, whenever possible.	<i>UNHCR systematically seeks access to applicants in detention and encourages HCA to do likewise. UNHCR requests access but this is not always granted; it is never granted for asylum seekers in the international transit zones of the airport.</i>
Right to Interview	A	All principal applicants may present their claims to eligibility officers.	Compliance should be maintained.	<i>Claims by spouses are also examined.</i>
Conduct During the Interview	B	Some questioning during interviews is aggressive or otherwise inappropriate, leading to miscommunications, the need for complementary interviews and appeals. Trauma and torture survivors sometimes go unidentified. Occasionally, inconsistencies are not clarified during the interview leading to negative credibility findings. Eligibility officers conduct the interview and take the transcript simultaneously, sometimes leading to errors in the transcript. The decision time frame is rarely explained.	Eligibility officers should be provided with updated training on the identification of trauma and torture survivors and questioning techniques. Interviews should either be tape-recorded or an official transcript should be taken by a third party. Applicants and their representatives should have full access to the recording or transcript. A realistic time frame for receiving an answer should be provided to the applicant at the end of the interview.	<i>UNHCR has arranged training by the Turkish Human Rights Foundation for key staff in all units on the identification of trauma and torture survivors and questioning techniques. Agreed that interviews should either be tape-recorded or an official transcript should be taken by a third party. The requirement that examiners type transcripts detracts from the overall quality of the interview. Individual examiners at UNHCR Turkey concur but this is a matter to be decided and authorized at headquarters. Agreed in principle that applicants and their representatives should have full access to the recording or transcript, but to date, field offices conducting RSD are bound by the internal Confidentiality Memorandum of 2002, which prohibits the sharing of transcripts. Agreed that a realistic time frame for receiving an answer should be provided to the applicant at the end of the interview, resources and capacity permitting.</i>

RIGHT	GRADE	COMMENT	RECOMMENDATION	UNHCR BO ANKARA COMMENTS
Rights of Vulnerable Refugee Applicants	B	Not all special needs applicants – notably torture and trauma survivors – receive "accelerated RSD processing." Nor are they identified as early as possible in the procedure. Child applicants have their cases prioritized, but are not assigned a non-UNHCR guardian. UNHCR BO Ankara makes efforts to convince Turkish authorities to make age determinations and conduct mental health evaluations consistent with the <i>Standards</i> .	More effective mechanisms should be introduced for identifying torture and trauma survivors. The cases of all vulnerable applicants should be expedited. Where a component of an applicant's claim is determined by State authorities – as with age determination and mental health evaluation – UNHCR (and other NGOs, including HCA) should continue to assertively intervene to ensure that the evaluation is carried out in a manner consistent with the <i>Standards</i> .	<i>More effective mechanisms for identifying torture and trauma survivors are in progress. Please refer to comments above regarding training planned in cooperation with the Turkish Human Rights Foundation; in addition headquarters has encouraged field offices conducting RSD to make reference to the guidelines in the Istanbul Protocols. In theory the cases of all vulnerable applicants are expedited to the extent possible; some cases have been decided within a day or two. Given the number of pending cases and human resources available, not all cases can be prioritized to the extent we would wish.</i>
Access to Reasons for Rejection	B	Applicants (except minors) are provided with the standard form "check box" rejection letter, which does not provide an applicant with sufficient information to make "an informed decision" about whether to appeal or to meaningfully respond to the rejection. HCA has access to detailed reasons for rejection, but only for its own clients. Minors receive rejection letters with no "check box" or reasons for the rejection.	All applicants should be provided either with detailed reasons for rejection or a summary thereof. Reasons should be available in a language the applicant understands. If the applicant is illiterate or the reasons cannot be provided in an appropriate language, a UNHCR interpreter should read the assessment form to the rejected applicant. Minors should have access to the reasons for rejection, along with appropriate counseling.	<i>Agreed in principle, but the office currently lacks the capacity to achieve this.</i>
Right to Appeal	A	All rejected applicants may appeal. Appeals and first instance	Compliance should be maintained.	<i>Appeals are evaluated by a distinct appeal unit; files may also be reopened but this is not</i>

		decisions are made by different staffpersons. Application of the 30-day time limit is flexibly applied.		<i>automatic and is conducted only by senior protection staff.</i>
Right to a Prompt Procedure	C	Applicants wait as long as a year from the date of registration to the first RSD interview, well beyond the six-month timeline set out in the <i>Standards</i> . Many applicants wait two years or more for a decision, rather than the one- or two-month deadline specified in the <i>Standards</i> . Since the issuance of the <i>Standards</i> , waiting times have increased. Applicants are rarely informed of a time frame within which decisions will be issued. They are never informed ahead of time if a decision will be issued late.	In June 2007, three new staff people were hired to deal with the backlog of cases and a "results" website was launched to provide cases status information. UNHCR BO Ankara should continue to hire necessary staff where resources permit. In light of the very difficult social and economic conditions faced by refugee applicants in Turkey, applicants should not wait longer than six months from registration until the RSD interview and three months for a decision. Applicants should be advised of a realistic time frame if a decision will be issued late.	<i>Well noted. Three national UN Volunteer staff have been recruited and temporary assistance in country of origin information research and support in legal analysis has been introduced. The overall backlog of cases pending in all instances has been reduced from 3555 as of 31 December 2006 to 3063 as of August 2007. The reduction is significant because the number of new cases has increased over the year with the increasing number of Iraqi asylum seekers. We hope the downward trend in the backlog will continue. UNHCR is aware that the requirement to register in satellite cities is onerous and has raised this with the authorities; meanwhile, absent an alternative, the office must counsel asylum seekers to respect relevant provisions of Turkish law, while trying to address the multiple practical challenges inherent in managing a caseload spread over 26 different towns.</i>

1. Access to Information

The *Standards* provide that certain information should be provided to refugee applicants "as early as possible in the RSD process, and before the RSD interview" (section 3.1.3). This information includes:

- The criteria for refugee status and family unity (derivative) status
- Rights and responsibilities of asylum seekers and refugees, including limits on durable solutions the consequences of recognition, and relevant information about host country laws
- Application procedures, including appeal procedures and references to assistance that may be available at different stages, and supporting documents that may be required
- Procedures for registering family members and the rights of accompanying family members to file their own refugee applications
- UNHCR confidentiality rules
- The right to request interviews be conducted by staff member of the same gender as the applicant
- Information about complaint procedures

Grade: B – Partial Compliance with Standards

Analysis: UNHCR BO Ankara generally provides information orally, rather than in writing, and does so normally on the day of the RSD interview, rather than before the interview or "as early as possible" as the *Standards* require. UNHCR BO Ankara has begun to provide information brochures at registration, but the brochures were drafted by MOI and only explain Turkish administrative requirements, not the UNHCR RSD procedure. Applicants are not always informed about the refugee criteria, procedures for family unity, durable solutions policies, confidentiality rules, or the availability of complaint procedures.

Recommendations: UNHCR BO Ankara should provide information brochures to refugee applicants as soon as they come into contact with the UNHCR – e.g., at registration or earlier. The brochures should explain UNHCR's RSD procedure as well as Turkish administrative requirements. The information should be made available in the most common refugee languages (Farsi, Arabic, Somali, English, French, Amharic, Tigrinya, Tamil, and Sinhalese). Efforts should be made to distribute the brochures to potential refugee applicants held in detention in Foreigners' Department "Guest Houses" and police stations throughout Turkey.

UNHCR BO Ankara Comments: The practice is to provide information as early as possible. Information leaflets, developed in coordination with the Turkish authorities, are provided at first contact with asylum seekers, in principle by the Turkish authorities as well as by UNHCR. Counseling is also provided by UNHCR staff when asylum seekers first approach the office. Agreed that information dissemination at the border should be broader. Information about the refugee criteria, procedures for family unity, durable solutions policies, confidentiality rules, and the availability of complaint procedures should be systematically provided and to our knowledge is provided. Further review may be needed to assure information is always given. UNHCR's own information brochures are now being translated.

2. Access to Interpreters

The *Standards* provide that refugee applicants "have access to the services of trained and qualified interpreters at all stages of the RSD process" (section 2.5.1). They further require field offices to make "every effort" to provide female interpreters for female applicants. Applicants with concerns should be able to make a confidential complaint about the interpreter in question (section 2.5.1). Only in cases where no UNHCR interpreter is available, are applicants permitted to use the services of their own interpreter (section 2.5.1). Asylum seekers and refugees who are not qualified and trained UNHCR interpreters may only provide interpretation when there is no other means of communicating with the applicant, and only during initial reception procedures (section 2.5.2). Legal representatives are prohibited from acting as interpreters (section 2.5.2). Interpreters are prohibited from participating in credibility assessment or decision-making regarding the refugee claim, "except as it relates to the use of language and dialect by the Applicant" (section 2.5.4).

Grade: B – Partial Compliance with Standards

Analysis: UNHCR BO Ankara often does not provide qualified, trained interpreters to applicants who speak languages not commonly spoken among the majority of applicants. Pursuant to the *Standards*, UNHCR BO Ankara will allow an applicant to bring in his or her own interpreter. However, more often than not, the proposed interpreter has a pending refugee claim, which disqualifies the person from interpreting. There are two resulting scenarios: applicants are either forced to explain their claims in another language, which often leads to miscommunications; or, if they speak no other shared language with UNHCR staff, their claims are indefinitely postponed (e.g., although there is a significant caseload of Peulh- and Ibo-speaking applicants, since there are no interpreters who speak those languages, their cases are frozen).

Moreover, since the implementation of the *Standards*, the availability of trained, qualified interpreters in mainstream language has been somewhat sporadic. Since a few UNHCR eligibility officers speak Farsi and Arabic, there is rarely a shortage of interpreters in these languages. Unaccountably, however, at various times there has been no properly trained French-speaking interpreter. In addition, until recently, there was no female Somali interpreter, which was a critical deficiency, especially since so many claims by Somali women include incidents of gender-based violence. In addition, applicants are not generally informed of their right to complain about the interpreter. On a more positive note, HCA legal advisors have never been asked to act as interpreters during RSD interviews. Nor is it apparent that interpreters have been allowed to participate in credibility assessment or decision-making regarding refugee claims.

Recommendations: The right of an applicant to have meaningful access to the RSD process should outweigh UNHCR's security or administrative concerns regarding the employment of refugee applicants as interpreters. In situations where no UNHCR interpreter is available, and where the applicant consents, refugee applicants

should be carefully counseled and trained to provide interpretation on an *ad hoc* basis. More efforts and/or resources should be allocated to ensure that sufficient numbers of qualified interpreters are trained, and in particular, that female interpreters are available in all mainstream languages. Applicants should be informed as early as possible of their right to complain about an interpreter and any relevant procedures they should follow to do so.

UNHCR BO Ankara Comments: "UNHCR often does not provide qualified interpreters" is something of an exaggeration. Granted identifying qualified interpreters in some languages including Peulh, Ibo and Tamil has posed a serious challenge. However, for the great majority of the caseload, speaking Arabic, Farsi, Kurdish, Tigrinya, Amharic, Somali (including dialects) and French, UNHCR has qualified and trained interpreters and in some cases examiners fluent in the languages. UNHCR is constantly, actively seeking qualified female interpreters, but the lack of adequately qualified female Somali speakers in Turkey is a constraint that it is not always possible to overcome, particularly in view of UNHCR's restrictions on the use of asylum seekers or rejected asylum seekers as interpreters. Recognized refugees may be and have been employed as interpreters. Agreed that more resources are needed to hire and train qualified interpreters of both genders. Applicants are counseled regarding the complaints procedure, which relates to any aspect of their interaction with UNHCR staff.

3. Right to Counsel

The *Standards* allow refugee applicants to obtain the assistance of legal representatives and advisors (section 4.3.3). Applicants may have a legal representative accompany them to their RSD interviews provided that they submit a standard consent form. The legal representative may make brief remarks at the close of the interview. The *Standards* further provide that the representative should in general not interrupt the interview except in the case of "breaches of procedural fairness that could not be adequately addressed or remedied if they were raised in closing submissions" (section 4.3.3). UNHCR does not require that representatives be accredited lawyers to participate in its RSD procedures. However, non-accredited lawyers should have a "working knowledge" of refugee law and RSD procedures, experience assisting asylum seekers, and knowledge of the applicant's claim (section 4.3.3). UNHCR's policy allows field offices to develop an accreditation system to regulate legal representation in UNHCR RSD procedures.

Grade: A – Full Compliance with Standards

Analysis: HCA has been sending its legal advisors to observe and represent clients during RSD interviews at UNHCR BO Ankara since 2004. UNHCR BO Ankara has never opposed a request by HCA to provide legal representation during an RSD interview at UNHCR offices.³ It has not implemented an accreditation system to regulate legal representation, but does require that a representation agreement be signed by the client. UNHCR eligibility officers allow HCA representatives to make brief remarks at the close of the interview and clarify misunderstandings when necessary.

Recommendations: Compliance should be maintained. In addition, however, HCA legal advisors should be permitted to represent clients during interviews with clients held in detention. Aside from the fact that representation in this circumstance is required by the *Standards*, it will familiarize MOI officials who attend or conduct detention interviews with legal representation and show that the UNHCR supports an applicant's right to a legal advisor in all circumstances.

UNHCR BO Ankara Comments: UNHCR would be pleased to see greater involvement by HCA with persons of concern in detention and encourages HCA to follow up in seeking access to their clients in detention. UNHCR systematically seeks access to applicants in detention. UNHCR requests access but this is not always granted; it is never granted for asylum seekers in the international transit zones of the airport.

4. Right to an Interview

The *Standards* provide that "principal applicants" have the opportunity to "present their claims in person in an RSD Interview with a qualified Eligibility Officer" and that "under no circumstances should a refugee claim be determined in the first instance on the basis of a paper review alone" (section 4.3.1). The *Standards* further state that claims considered "manifestly unfounded" should not be decided "on the basis of a document review alone" (section 4.6.4).

Grade: A – Full Compliance with Standards

Analysis: All principal applicants are given the right to present their claims to UNHCR BO Ankara eligibility officers. "Manifestly unfounded" claims also appear to be decided on the basis of an interview.

Recommendations: Compliance should be maintained.

UNHCR BO Ankara Comments: Spouses are interviewed separately to assure that their individual claims and/or protection concerns are adequately addressed.

5. Conduct During the RSD Interview

The *Standards* call on eligibility officers to create an environment of "trust and respect" during the RSD interview (section 4.3.5). They further recommended that introductory issues (such as RSD interview procedures, confidentiality, the applicants' obligations to cooperate and tell the truth, the right of the applicant

³ However, UNHCR recently asked that an HCA legal advisor not represent a minor client who was interviewed in detention to avoid possible conflict with the MOI official who conducted the interview.

to make preliminary comments or ask questions) be addressed systematically in the beginning of the interview (section 4.3.5). Interviewers should use open-ended questions in interviewing asylum seekers, and avoid interrupting them unnecessarily (section 4.3.6). The *Standards* also require that interviewers provide applicants an opportunity to clarify or explain any gap or inconsistency during the interview, but not in a confrontational manner. Further, if an applicant is not allowed to explain a gap in his or her testimony it cannot be used later to reach a negative credibility decision (section 4.3.6). UNHCR staff are required to maintain a "detailed transcript" of RSD interviews, including the questions asked and answers given (section 4.3.8). At the end of the interview, the interviewer should ask the applicant whether he or she would like to add anything, inquire about protection issues, and read back elements of the transcript most relevant to the claim or that are unclear (section 4.3.11). The interviewer should also explain the next steps in the process, including how and when the applicant will receive a decision, and the consequences of a positive or negative decision (4.3.11).

Grade: B – Partial Compliance with Standards

Analysis: Most UNHCR BO Ankara eligibility officers make consistent efforts to conduct interviews in an atmosphere of trust and respect. There has been a marked improvement in the tone maintained during interviews since the introduction of the *Standards*. There are however, notable exceptions, when interviews have involved questioning techniques that are aggressive, condescending, culturally or otherwise inappropriate, and which elicited feelings of humiliation, fear or confusion in the applicant. This almost always has led to miscommunications, and the need for complementary interviews or appeals.

Moreover, introductory issues are not consistently addressed in the beginning of the interview, or at all, in some cases. Eligibility officers usually provide applicants an opportunity to clarify or explain any gap or inconsistency during the interview, but again, not consistently. There have been instances, as a result, where the assessment form has revealed that elements which have not been clarified during the interview have led to negative credibility findings.

UNHCR eligibility officers take their own "detailed transcript" of RSD interviews, but since they are required to conduct the interview and take a transcript at the same time, usually with an interpreter, not all questions and responses can be effectively transcribed. Moreover, eligibility officers on occasion type the transcript in English while conducting the interview in Turkish, increasing the opportunity for making mistakes in the transcript. At the end of the interview, eligibility officers usually ask the applicant whether he or she would like to add anything, but not in every interview. They also generally inquire about protection issues, though trauma and torture survivors sometimes go unidentified. Interviewers inconsistently explain the next steps in the RSD process, and almost never explain when the applicant should receive a decision on his or her claim. Without any idea of when to expect a decision, combined with a lack of social support while waiting, many applicants experience serious anxiety and depression, while others feel compelled to travel illegally to Europe, risking danger to themselves and accompanying family members.

Recommendations: In order to standardize the treatment of refugees and information provided to them during RSD interviews, eligibility officers should be provided with updated training. Training should include a focus on the identification of trauma and torture survivors and questioning techniques. A realistic time frame for receiving an answer should be provided to the applicant at the end of the interview. (See a more detailed discussion of time frames at point 9, below.) Eligibility officers should not be required to take an interview transcript. Instead, interviews should either be tape-recorded or an official transcript should be taken by a third party. Applicants and their representatives should have full access to the recording or transcript.

UNHCR BO Ankara Comments: UNHCR has arranged training by the Turkish Human Rights Foundation in August and September 2007 for key staff in all units on the identification of trauma and torture survivors and questioning techniques. Agreed that interviews should either be tape-recorded or an official transcript should be taken by a third party. (Transcripts are always taken in English, even if conducted in another language.) The requirement that examiners type transcripts detracts from the overall quality of the interview. Individual examiners at UNHCR Turkey concur, but this is a matter to be decided and authorities at headquarters. Agreed in principle that applicants and their representatives should have full access to the recording or transcript, but to date, field offices conducting RSD are bound by the internal Confidentiality Memorandum of 2002, which prohibits the sharing of transcripts. Agreed that a realistic time frame for receiving an answer should be provided to the applicant at the end of the interview, resources and capacity permitting.

6. Rights of Vulnerable Refugee Applicants

The *Standards* call for applicants with special needs or vulnerabilities to be identified at registration or as early as possible. The *Standards* identify the following main categories of special needs (section 3.4.1 and 4.6.3):

- Persons manifestly in need of protection intervention (i.e. those who may be subject to immediate *refoulement*, arbitrary arrest or detention, or who have other urgent protection needs in the host country)
- Victims of torture and persons suffering from trauma
- Women with special needs or who are at risk in the host country
- Certain child applicants (under 18 years) / Unaccompanied and separated children
- Elderly asylum seekers without support in the host country
- Disabled asylum seekers without necessary support
- Asylum seekers who require urgent medical assistance

Special needs applicants are to receive “accelerated RSD processing,” which involves reduced waiting periods and shortened timelines for decisions (section 4.6.1). The *Standards* require that accelerated cases receive decisions one week after the RSD interview (section 4.6.5).

With regard to child applicants, the *Standards* provide that RSD should be done in an age appropriate manner and carried out by staff with knowledge and experience (section 3.4.5). Their cases should be assessed on a priority basis and decisions should be made in the best interests of the child (section 3.4.5). With regard to “age determination,” the *Standards* hold that if the child has no identity documents, the age provided should be accepted (section 3.4.5). Where there are reasons to believe the applicant may be an adult, the *Standards* provide that reasonable efforts should be made to assess the applicant’s age (section 3.4.5). Any doubt should be resolved in favor of the child (section 3.4.5).

Pursuant to the *Standards*, refugee applicants with mental illness or disabilities should be assessed to determine if they can understand the RSD process (section 3.4.7). Asylum seekers suffering serious physical or mental illness should be referred for a medical examination and treatment (section 3.4.8).

Grade: B – Partial Compliance with Standards

Analysis: UNHCR BO Ankara identifies and recognizes some, but not all of the enumerated “special needs” cases. In particular, victims of torture or trauma are not generally provided with access to “accelerated RSD processing.” Some torture survivors continue to wait for decisions two years or more after first approaching UNHCR. No significant efforts are made to identify or treat victims of torture or trauma “at registration or as early as possible,” as required by the *Standards*.

Child applicants’ cases are consistently assessed on a priority basis. Generally, though not in every case, interviews conducted by UNHCR staff are carried out in an age appropriate manner. The age determination process, however, is primarily carried out by the MOI, in a manner that falls well below the *Standards*.⁴ However, UNHCR BO Ankara tends to resolve borderline cases regarding age determination in favor of the child even in circumstances where Turkish authorities do not. Generally, the UNHCR has attempted to intervene with Turkish authorities to ensure that the best interests of the child are preserved throughout the age determination process. These efforts are not always successful.

Applicants with mental illness or disabilities are generally not identified early enough in the process. Refugee applicants suffering serious physical or mental illness are referred for medical examinations and treatment by Turkish medical providers. However, as with minors, when applicants with mental health issues come into contact with Turkish state authorities, their rights are often violated. For example, when an applicant with severe mental health problems was evaluated by a public hospital without the use of a necessary interpreter, the hospital determined that he had no mental health vulnerabilities. As a result, the applicant has not received necessary medical treatment, may be a danger to himself or others, and will receive no support throughout the RSD procedure.

Recommendations: UNHCR BO Ankara should introduce more effective mechanisms for identifying victims of torture and trauma as soon as they make contact with UNHCR. UNHCR staffing shortages clearly make it difficult to accelerate the cases of all vulnerable applicants. However, the lack of infrastructure and rehabilitation resources in satellite cities make trauma and torture victims particularly vulnerable during the long wait for a determination on a first instance refugee claim. In order to meet the minimum requirements of the *Standards*, UNHCR BO Ankara must make significant efforts to accelerate the cases of torture and trauma survivors. Where a component of an applicant’s claim is determined by State authorities – as with age determination and mental health evaluation – UNHCR (and other NGOs, including HCA) should continue to assertively intervene to ensure that the evaluation is carried out in a manner consistent with the *Standards*.

UNHCR BO Ankara Comments: UNHCR’s policy and practice at reception and registration is to identify vulnerable cases and provide treatment, counseling and protection (including accelerated decision making). Training, which is planned, as well as greater capacity, are the best ways to address gaps in identification of such cases. It is noted that several vulnerable cases are identified each week and their cases are prioritized in consultation with the RSD officer; but the office does not have the capacity to process all such cases as quickly as is desirable.

7. Access to Reasons for Rejection

The *Standards* provide that UNHCR notify refugee applicants of positive or negative refugee status decisions by letter, in writing (section 6.4). Notification should permit rejected applicants to make an informed decision about whether an appeal is appropriate and to focus appeal submissions on relevant facts and issues (section 6.4). According to UNHCR policy, this is to be done using a standard form letter in which UNHCR officials check the box of the appropriate category of reasons for rejection. As a “best practice,” the *Standards* state that UNHCR staff should provide specific facts or explanations below each applicable reason for rejection. The explanations should include sufficient details to permit the applicant to learn:

- the evidence submitted by the applicant that was considered to be insufficient or was not accepted by the decision-maker, and a summary explanation of why evidence was rejected;

⁴ For example, children are held in custody by the Children’s Police in very poor conditions until their age is determined; they are not informed of the procedures that they will undergo; the determination is made only on the basis of a bone test (not in combination with psychological tests); there is no application of a “margin of error” to the test results; and borderline assessments are not resolved in favor of the child.

- the reason why the accepted facts do not make the applicant eligible for refugee status (section 6.4).

Grade: B – Partial Compliance with Standards

Analysis: All applicants are provided with the standard form rejection letter, with a check mark next to the reason why their case has been rejected. This letter alone does not provide an applicant with sufficient information to make “an informed decision” about whether to appeal the rejection or to meaningfully respond to the specific reasons why his or her case was rejected. In December 2005, UNHCR BO Ankara began to regularly allow HCA to review the assessment forms drafted by eligibility officers, which provide detailed reasons for rejection. While this is a significant step toward procedural fairness and complying with the *Standards*, only HCA clients have access to their assessment forms, when in fact, all refugee applicants should have access to this information. It should also be noted that minor applicants are provided with an entirely different rejection letter, which does not include the standard check boxes. There is no provision in the *Standards* that would allow for this, and no explanation has been provided as to why this more limited rejection letter is issued to minors.

Recommendations: All refugee applicants should be provided with a photocopy either of the entire assessment form or a detailed summary of the assessment. If possible, the assessment form should be available in both English and a language that the applicant understands. In the event that an applicant is illiterate or the assessment form cannot be provided in a language understood by the applicant, UNHCR BO Ankara should provide access to an interpreter to read the form to the rejected applicant. At a minimum, children applicants should be provided with the standard form rejection letter. If possible, minors should also have access to the reasons for rejection, so long as appropriate counseling is provided.

UNHCR BO Ankara Comments: Agreed in principle, but the office currently lacks the capacity to achieve this. Notification of detailed reasons for rejection, either through counseling or a detailed letter, are desirable, but the office has not yet been able to develop a reliable, efficient and accurate means to achieve this.

8. Right to Appeal

UNHCR recognizes that all rejected applicants have the right to appeal, but limits the independence of the appeal. The *Standards* provide that an appeal be determined by an eligibility officer other than the one who heard the claim in first instance (section 7.1.1). The *Standards* allow for a time limit on appeals of not less than 30 days after the applicant was notified of his or her first instance rejection (section 7.2). However, these time limits must be applied flexibly and files should not be closed if appeals are submitted within six weeks of the deadline (section 7.2). Generally, appeals may be granted based upon new evidence, or on errors of fact or law (section 7.4). However, they do not require as much detail be given in decisions to reject appeals as first instance applications (section 7.5). Applicants who are rejected on appeal or who do not exercise their right to appeal generally have their files closed (section 9.1).

Grade: A – Full Compliance with Standards

Analysis: All rejected applicants are given the opportunity by UNHCR BO Ankara to appeal. An appeal is always evaluated and determined by a different staff person than the one who made the decision in the first instance. UNHCR BO Ankara is very flexible with regard to the 30-day time limit for filing an appeal, and regularly accepts “late” appeal submissions. While applicants’ cases are closed if the appeal right is not exercised, they are quite regularly reopened if there is a future request for an appeal or reopening.

Recommendations: Compliance should be maintained.

UNHCR BO Ankara Comments: Appeals are evaluated by a distinct appeal unit; files may also be reopened but this is not automatic and is conducted only by senior protection staff.

9. Right to a Prompt Procedure

The *Standards* are specific in their call for UNHCR offices to set strict timelines to schedule RSD interviews and to issue decisions. An applicant must be given a date for his or her RSD interview not more than **six months** from the date of registration (section 3.5.3). At the end of the RSD interview, applicants should be advised of a date that the decision will be issued (section 4.3.11). The *Standards* require that decision be issued within **one month** of the RSD interview, or **two months** if the case is complex (section 4.5). If a decision can’t be issued on the assigned date, a one month extension can be granted (section 4.5). If the decision is delayed, UNHCR should inform applicant to minimize inconvenience. Timelines should be established for issuance of appeal decisions, as well. The determination of appeals should be made in a prompt manner (section 7.5).

Grade: C – No Compliance with Standards

Analysis: The waiting times applicants face at UNHCR BO Ankara are so long as to constitute a complete lack of compliance with the *Standards*. As an initial matter, it takes applicants some time to register since they must travel to Ankara to register and can only do so after first getting an appointment. After registering, applicants can wait for **a year** from the date of registration to the first RSD interview. Applicants whose cases have not been accelerated can expect to wait at least **eight months**, and even **two years or more**, to get a decision after the RSD interview. Applicants are rarely if ever informed of a time frame within which decisions will be issued and are never told in advance if a decision will be issued late.

When applicants try calling the UNHCR to find out the status of their claims, the phone lines are regularly busy. To resolve the lack of access to case information, however, UNHCR BO Ankara launched a webpage in June 2007 (<http://results.unhcr.org.tr/>), which provides applicants with the latest information about their case

status. However, for those applicants who learn from the webpage that their cases have been rejected, there is no information about the appeal procedure or the reasons for rejection. This lack of appropriate counseling could have a negative emotional impact on refugee applicants. On a positive note, HCA was informed by UNHCR BO Ankara that three new staff were hired in June 2007 to deal with the backlog of cases.

The waiting time with the UNHCR, combined with the restriction of freedom of movement of refugee applicants in Turkey, the lack of meaningful access to the labor market and very limited social assistance provided by Turkish authorities, creates tremendous emotional distress, sometimes leading to severe psychological side effects.

Recommendations: While UNHCR BO Ankara has been open about its attempts to correct this situation and its general lack of resources, the excessive waiting times must be resolved by any means possible. We are hopeful that waiting times can be drastically reduced and recommend that applicants wait no longer than six months from registration to the RSD interview and three months for a decision. Even when decisions will be issued late, applicants should be advised of a realistic time when a decision will be issued. This will be a great support to applicants. It will also save hours of time expended by the UNHCR, HCA and other agencies counseling refugee applicants about how long it will take to issue decisions on their claims.

UNHCR BO Ankara Comments: Well noted. Measures in place to reduce the backlog of interviews and pending decisions as well as reducing the waiting time at all stages that have been introduced recently include the recent recruitment of three national UN Volunteer staff as well as temporary assistance in country of origin information research and support in legal analysis. The overall backlog of cases pending in all instances has been somewhat reduced at time of writing from a grand total of 3555 cases as of 31 December 2006 to 3063 cases. The reduction is significant because the number of new cases has substantially increased over the year with the increasing number of Iraqi asylum seekers. We hope that the downward trend in the backlog of pending cases will continue. It should also be noted that UNHCR is aware that the requirement to register in satellite cities is onerous for refugees and asylum seekers and has raised this with the authorities; meanwhile, absent an alternative, the office must counsel asylum seekers to respect relevant provisions of Turkish law, while trying to address the multiple practical challenges inherent in managing a caseload spread in over 26 different towns.