Introductory Note to UNHCR’s Guidelines on International Protection on Prima Facie Recognition of Refugee Status

Carol Batchelor* and Alice Edwards†

A prima facie approach means the recognition by a State or UNHCR of refugee status on the basis of readily apparent, objective circumstances in the country of origin or, in the case of stateless asylum-seekers, their country of former habitual residence. A prima facie approach acknowledges that those fleeing these circumstances are at risk of harm that brings them within the applicable refugee definition.1

In June 2015, UNHCR issued a new set of guidelines on international protection concerning prima facie recognition of refugee status.

The guidelines were prompted by the limited articulation of uniform standards to guide this common practice of both States and UNHCR for over 60 years. In fact, the majority of the world’s refugees are recognized on a prima facie basis. The Guidelines explain the legal basis as well as some procedural and evidentiary aspects of applying a prima facie approach.

They are intended to serve as a guide for governments, legal practitioners, decision-makers, and the judiciary, as well as for UNHCR staff carrying out refugee status determination under its mandate or advising authorities. The Guidelines are the eleventh in the series, complementing UNHCR’s Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol (1979,

* Director, Division of International Protection, UNHCR, Geneva.
† Former Senior Legal Coordinator and Chief, Protection Policy and Legal Advice Section, Division of International Protection, UNHCR, Geneva.
1 UNHCR, Guidelines on International Protection No. 11: Prima Facie Recognition of Refugee Status, HCR/GIP/15/11, 24 June 2015, para. 1 [original footnotes omitted].
The Guidelines focus on group determination primarily, albeit they touch on how a prima facie approach may be applied in individual procedures.

In general, “prima facie” means “at first appearance”, or “on the face of it”. It is a technique most often used in group situations, for example where individual status determination is impractical, impossible or unnecessary in large-scale situations. UNHCR’s Handbook describes group determination on a prima facie basis as follows:

[s]ituations have […] arisen in which entire groups have been displaced under circumstances indicating that members of the group could be considered individually as refugees. In such situations the need to provide assistance is often extremely urgent and it may not be possible for purely practical reasons to carry out an individual determination of refugee status for each member of the group. Recourse has therefore been had to so-called ‘group determination’ of refugee status, whereby each member of the group is regarded prima facie (i.e. in the absence of evidence to the contrary) as a refugee.

Refugee status may be recognized on a prima facie basis pursuant to any of the applicable refugee definitions including:

• Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees (hereinafter “1951 Convention”).
• one of the definitions in the regional refugee instruments;
• UNHCR’s Statute and refugee mandate as further developed under the authority of the United Nations General Assembly.


3 Derived from Latin. “A case in which there is evidence which will suffice to support the allegation made in it, and which will stand unless there is evidence to rebut the allegation”: Osborn’s Concise Law Dictionary (10th edition, Thomson Sweet & Maxwell, 2005).


5 UNHCR Handbook, para. 44.

6 Prima facie recognition may also apply to Palestinian refugees pursuant to Article 1D of the 1951 Convention, in circumstances where the protection or assistance of UNRWA has ceased.

7 See, e.g., the extended regional refugee definitions in: Organization of African Unity (African Union), Convention Governing the Specific Aspects of Refugee Problems in Africa, 10 September 1969 (Art. I(2); Cartagena Declaration on Refugees, adopted at the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984, Conclusion III(3)).

8 UNHCR, “Note on the Mandate of the High Commissioner for Refugees and his Office”, October 2013, p. 3, which summarizes UNHCR’s mandate for refugees as covering “all persons outside their country of origin for reasons of feared persecution, conflict, generalized violence, or other circumstances that have seriously disturbed public order and who, as a result, require international protection.”
A prima facie approach is particularly suited to situations of large-scale arrival of refugees.

A prima facie approach may also be appropriate in relation to groups of similarly situated individuals whose arrival is not on a large-scale, but who share a readily apparent common risk of harm. The characteristics shared by the similarly situated individuals may be, for example, their ethnicity, place of former habitual residence, religion, gender, political background or age, or a combination thereof, which exposes them to risk.

The Guidelines articulate the additional following key principles:

- The decision to adopt a prima facie approach rests on an assessment, by the relevant authority in the country of asylum or, acting under its mandate, by UNHCR, that the readily apparent, objective circumstances in the country of origin or former habitual residence causing persons to leave (or stay outside their country) satisfies the applicable refugee definition.
- The decision to adopt a prima facie approach is to be made in accordance with the national legal framework.
- Prima facie recognition of refugee status is not to be confused with an interim or provisional status, pending subsequent confirmation.
- Refugees recognized on a prima facie basis benefit from refugee status in the country where such recognition is provided and enjoy the rights contained in the applicable instrument.
- A prima facie approach applied on a group basis is a recognition of refugee status. Decisions to reject require an individual assessment.
- A prima facie approach may be employed in urban, rural as well as camp or out-of-camp settings.
- Once in place, a prima facie decision applies to all persons belonging to the established beneficiary class, unless there is evidence to the contrary.
- Sur place claims may also benefit from a declaration of refugee status on a prima facie basis.
- A prima facie approach remains appropriate as long as the readily apparent circumstances prevailing in the country of origin or former habitual residence continue to justify a group-based approach to refugee status. The decision to adopt a prima facie approach, therefore, needs to be kept under periodic review, such that the on-going use of the practice is deliberative.
- A decision to end the prima facie approach does not affect the refugee status of those who have already been recognized under this approach. Nor does such a decision affect the right of asylum-seekers to apply for asylum through individual procedures.
- A prima facie approach may also be part of simplified or accelerated individual procedures based on the manifestly founded nature of a class of claims or on a presumption of inclusion.

Annexes are attached to the Guidelines providing sample decisions for Government authorities when adopting a prima facie approach for large-scale arrivals and groups of

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9 Their status would cease only in accordance with Article 1C of the 1951 Convention, see the Guidelines Chapter II. F.
similar situated individuals. Also annexed is a sample model on the decision to terminate a prima facie approach.

These Guidelines have benefited from extensive consultation with both internal and external interlocutors, including being discussed at an expert roundtable on persons fleeing conflict and other situations of violence, held in Cape Town, South Africa, in 2012. Documents relating to the roundtable are available on UNHCR’s ‘expert meeting’ webpage: <http://www.unhcr.org/3e5f78bc4.html>.

UNHCR encourages academics to become involved in our work. If you are interested in being involved in any of our forthcoming guidelines or joining our mailing list, we would welcome your engagement. Public consultation on future guidelines will be posted at: <http://www.unhcr.org/544f59896.html>.

The Guidelines on International Protection No. 11 are available online at: <http://www.refworld.org/docid/555c335a4.html>.