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CHAPTER 3:

Who Can Be Sponsored?

Deciding who to sponsor

Refugees who qualify as refugees under the following two refugee classes may be sponsored under the Private Sponsorship of Refugees (PSR) Program:

- ▶ The [Convention Refugee Abroad](#) Class
- ▶ The [Country of Asylum](#) Class

Many forced migrants, refugees and people in refugee-like situations want to be resettled to Canada. In order to make the best use of the limited resources available to sponsoring groups in Canada, it is important to consider the merits of a refugee case and assess whether the application will meet the criteria set by the Canadian government. Therefore, before submitting an undertaking/application to sponsor, it is important to consider whether the refugees will be **eligible** and **admissible** according to Canadian law.

The following chapter will further explain these criteria for resettlement and how to make a decision on who to sponsor.

How does a Sponsor get in contact with a Refugee?

There are two ways for a sponsoring group to get in contact with a refugee to be sponsored:

- ▶ [Visa Office-referrals](#), or
- ▶ [Sponsor-referrals](#).

In the case of **Visa Office-referrals** the refugee has already been identified as in need of protection by the UNHCR (or another referral organization overseas) and the Canadian Visa Office abroad, but requires a sponsor in Canada. In **sponsor-referred** cases, the sponsoring group has direct knowledge of particular refugees or refugee families overseas who have been brought to their attention and then makes a request to Citizenship and Immigration Canada (CIC) for sponsorship.

Visa Office-Referred (VOR) sponsorships

If your group chooses to sponsor refugees already identified by a Canadian visa office it will not be necessary for your group to consider questions of refugee eligibility. In Visa Office-referred cases, a visa officer has referred a profile to CIC's [Matching Centre](#) in Ottawa which administers an inventory of visa office-referred cases. These are refugees who have already

been provisionally accepted but require a private sponsorship before a permanent resident visa can be issued. The acceptance of these refugees to Canada is usually conditional on being matched with a sponsoring group. The Matching Centre seeks to match the refugees with sponsors through Sponsorship Agreement Holders (SAHs) or directly through sponsoring groups who have submitted a request for a refugee profile.

Submitting a request for a refugee profile does not commit your group to a sponsorship, it is simply a request for information.

Before requesting a refugee profile, your sponsoring group may want to obtain information on particular refugee groups who are in need of resettlement. Some general information can be found in this chapter. When preparing your request for a profile it is important to assess the needs of the refugee or refugee family, including settlement needs and the size of the family, in relation to the resources of your sponsoring group and that of your community. If your group is interested in sponsoring a refugee or refugee family from a particular country or with particular needs you can provide this information in the request for a refugee profile. However, keep in mind that the more specific your requested profile is, the longer the matching process could take.

If you are a sponsoring group who will be working with a SAH and are interested in sponsoring a Joint Assistance Sponsorship (JAS) case, you can find more information on the JAS program in Chapter 9.

If you are working with a SAH, your SAH representative can help match you with a VOR case that has already been interviewed. SAHs may request additional information through the Centralized Processing Office in Winnipeg (CPO-W) on Visa Office-Referred cases listed on the website and then pass it on to interested sponsoring groups. In some situations CIC will ask sponsoring groups to respond quickly if there is a need to expedite the refugee processing.

An advantage of VOR cases is that the refugees have already been found eligible and the resettlement process overseas can be relatively quick. Because the refugees have completed most of the overseas processing it is likely that they will arrive within a few months of the submission of your sponsorship. The Visa Office-referred cases normally take the UNHCR's priorities for resettlement into account. This can help in finding a more co-ordinated solution for specific refugee situations in the world or to help refugees with urgent resettlement needs.

How to request a refugee profile

Sponsoring groups can make a request for a refugee profile for the group to consider sponsoring. To start, obtain the application kit entitled [Request for a Refugee Profile](#) and complete the form contained within ([IMM 5438](#)). This should be done prior to submitting the undertaking. Following your group's submission of this form the matching centre in Canada will work with the visa offices overseas to find a profile on a refugee case that may be suited to your community.

*The application forms can be found at:
<http://www.cic.gc.ca/english/information/applications/ref-profile.asp>*

Once you have received a match and you decide to proceed, the formal application process will start.

Sponsorship application and refugee forms are further discussed in detail in chapters 4 and 5 of this handbook.

Sponsor-referred sponsorships

If your group has knowledge of a particular refugee who you would like to sponsor it is important to consider the refugees' personal stories and particular circumstances before making the commitment to sponsor. The relevant Canadian Visa Office will not have identified the individual as being in need of protection yet. In addition, not all refugees are eligible for resettlement to Canada. It is therefore important to assess if the person to be sponsored is likely to be in need of protection and eligible and admissible for resettlement to Canada. Sponsorship applications should not be submitted for someone unlikely to meet the eligibility criteria. More information on who is eligible to be sponsored can be found below.

Although it is the Visa Officer's mandate to accept or refuse refugee sponsorship applications, it is important for the sponsoring group to carefully review the details of the refugee's situation before submitting a Sponsorship Undertaking to CIC or their SAH (as in the case of Constituent Groups).

An advantage of sponsor-referred sponsorship is that the sponsoring group has a better knowledge of the background of the applicant. Often there are friends, family or community networks in Canada who can help with the integration process or who can act as co-sponsors. The disadvantage is that the eligibility process can be complex and can take a long time, even years for some visa offices.

Eligibility

Eligibility is one of two factors in the refugee selection decision with admissibility being the other factor. Refugee sponsorship is a solution of last resort and thus the applicant must show that he or she has attempted all the other durable solutions as discussed in Chapter 1. The following is taken into consideration when determining if someone is **eligible** to be sponsored as a Privately Sponsored Refugee:

Does the refugee(s) meet the requirements of one of the two refugee classes as laid out in Canada's Immigration and Refugee Protection Regulations (IRPR)?

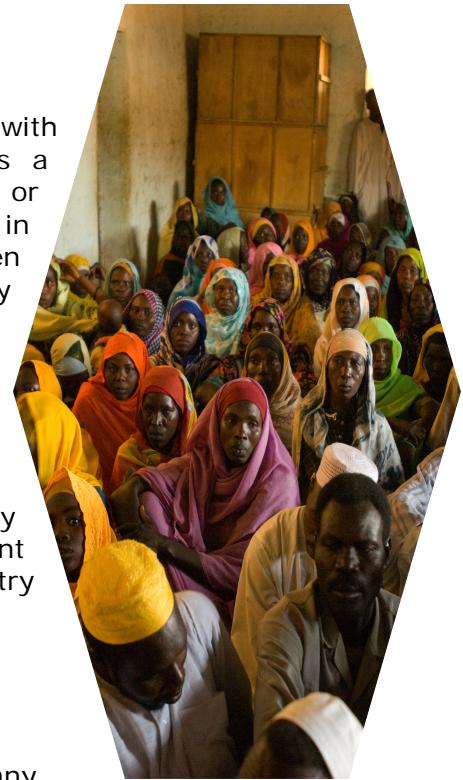
The two classes, as described in [IRPR](#), for persons who may qualify for Canada's refugee and humanitarian resettlement program are the Convention Refugee Abroad Class and the Country of Asylum Class.

These classes and designations are defined as follows:

Convention Refugee Abroad Class

A member of the Convention Refugee Abroad Class is any person who:

- ▶ is outside their home country, or the country where they normally live, and cannot return to that country because of a well-founded fear of persecution based on:
 - race,
 - religion,
 - political opinion,
 - nationality, or



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- membership in a particular social group, such as women or people with a different sexual orientation.
- ▶ is outside Canada
- ▶ does not have a prospect of any other durable solution within a reasonable period of time

Country of Asylum Class

A member of the Country of Asylum Class is a person:

- ▶ who is outside of his or her country of citizenship or habitual residence;
- ▶ who has been, and continues to be, seriously and personally affected by civil war or armed conflict or who has suffered massive violations of human rights; and
- ▶ for whom there is no possibility of finding any other adequate solution to his or her situation within a reasonable period of time.



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Once it has been determined that the refugee(s) fit into one of Canada's refugee classes the following questions should be considered:

- i. Can the refugee **return** home in safety and dignity because the situation in the home country has changed in a meaningful and lasting way?
- ii. Does the refugee have a prospect to reside and **integrate** in the current country where they are located, with rights similar to those of nationals? *This does not necessarily entail the refugee receiving citizenship.*
- iii. Does the refugee have an opportunity for resettlement in another country?

If the answer to all these questions is no, then it would seem that resettlement to Canada would be a viable option.

It is important that you consider under which category a case could qualify for sponsorship. If applicants are outside of their own country consider the Convention Refugee Abroad Class and then examine the Country of Asylum Class. The factsheet *Case Assessment Chart* in this handbook may be useful in helping you determine under which category a case may qualify and subsequently ensuring that you have considered the refugee's story and circumstances before submitting your case.

An immigration officer at a Canadian visa office overseas will make the final decision as to whether someone meets the eligibility requirements set out in Canadian law. The visa officer of the visa post where the refugee's application has been filed will make the eligibility decision based on the applicant's file, supporting documentation submitted by the applicant and the sponsoring group, additional information available to the officer (such as country condition updates) and a personal interview with the applicant.

Groups of Five and Community Sponsors can only sponsor applicants who are recognized as refugees by either the United Nations High Commissioner for Refugees (UNHCR) or a foreign state. Proof of this recognition (UNCHR Refugee Certificate – Mandate Letter of Protection or a foreign state recognition document) is required upon submission of the sponsorship application.

Adaptability

While protection is the overriding goal of the PSR program, refugees will also be assessed on their ability to resettle successfully in Canada. In making this assessment the visa officer will consider whether the refugee has relatives (or a sponsor) in Canada, the refugee's ability to speak or learn to speak English or French and the potential for employment and resourcefulness. When a family unit is applying, the settlement potential of all family members is assessed as a single determination. The visa officer is looking to determine the likelihood that the person will be able to provide for themselves and their dependants and not rely on social assistance once they have been in Canada for over 5 years.

Exception: Refugees deemed by the visa officer to be in **urgent need** of protection or in **vulnerable circumstances** will *not* be assessed on their ability to establish.

Assessing eligibility and strengthening a case

The importance of a good assessment prior to the sponsorship undertaking and during the sponsorship process cannot be underestimated. The assessment can help in getting to know the background of the refugee. It can help a sponsoring group decide whether to proceed with the sponsorship process. A timely assessment can avoid spending unnecessary resources for the sponsoring group and the Canadian authorities, and avoid false hopes for the refugee and his or her relatives. A positive assessment can be a strong motivation for a sponsoring group to support a refugee and to try to strengthen and advocate the case during the determination process at the visa office.

The assessment of eligibility is not an easy task. There are many elements which are of importance: the situation in the country of origin, the background of the refugee, the criteria under the two refugee classes, the availability of other durable solutions, the adaptability of the refugee and special circumstances to consider a refugee vulnerable. A significant complicating factor is that the group often does not have the opportunity to interview the applicant. In refugee cases the interview is a key source of information. If possible, sponsoring groups are encouraged to contact the applicant to learn more about their current circumstances and details on why they fled their country of origin and cannot return.

For an assessment the sponsoring group can use various sources including, but not limited to:

- ▶ the refugee
- ▶ family and friends of the refugee in Canada
- ▶ a referral organization
- ▶ the country packages of the [Immigration and Refugee Board](#)
- ▶ reports of human rights organizations such as [Amnesty International](#) and [Human Rights Watch](#);
- ▶ databases containing country of origin information, such as UNHCR's [Refworld](#)

Based on this and other information the sponsoring group can make an assessment of the refugee's needs for protection and resettlement. Relevant questions are for example:

- ▶ Is the refugee's account consistent with the information on the country of origin?
- ▶ Is the refugee's account generally consistent and credible?
- ▶ Is there any evidence which can support the refugee's eligibility?
- ▶ Is the refugee individually at risk?
- ▶ Could the refugee have found protection in his/her own country?
- ▶ Are other durable solutions available to the refugee?

Eligibility is only the first step in determining whether a person qualifies for resettlement to Canada as a refugee. The next step after a positive decision on eligibility involves screening.

Admissibility

Once a refugee has received a positive eligibility determination they must undergo an admissibility screening in order to be accepted for resettlement to Canada. This includes medical, criminality and security checks. The sponsoring group is often not in the position to assess inadmissibility.

Medical check

The refugee and **all** dependants must complete a medical examination in order to determine whether any family member has a medical condition that presents a danger to Canadian public health or safety. In the case of resettled refugees medical screening is not as strict as in other immigration programs and most applicants would not be disqualified for a medical reason. Even people with serious medical conditions or disabilities who might require extensive treatment in Canada could still qualify to come as refugees if the other criteria are met. However, people who are considered a health threat to the Canadian public are not permitted to settle in Canada as sponsored refugees.

Security and criminality checks

The refugee and all of his or her dependants who are 18 years of age and over are subject to a security check and a criminality check to verify information in the application and to ensure that the applicant is not inadmissible under these criteria.



Refugees are criminally inadmissible to Canada if they have been convicted of serious crimes or have **committed acts** or omissions. In general it is difficult to know if a crime committed outside of Canada would still be considered a criminal offence in Canada as this involves comparing elements of Canadian law with those of the foreign jurisdiction. As a sponsor your job is not to undertake this determination as this assessment will be conducted by the Canadian Government. However, if you are aware that the refugee you would like to sponsor has been convicted of a crime or is a fugitive from a legitimate legal prosecution, you may want to take this into consideration before submitting the case. It should be noted that the Geneva Convention indicates that states should not impose penalties on refugees on the grounds of illegal entry to a state. The Geneva Convention is meant to give protection against such treatment, but it does exclude persons from protection when they have committed crimes against humanity or serious common crimes (so-called 'non-deserving' cases).

*For a list of designate entities according to the Department of Public Safety visit:
www.publicsafety.gc.ca/prg/ns/le/cle-eng.aspx*

People who pose a risk to Canada's security are not allowed to enter the country. Refugees who are deemed to have been members of terrorist organizations are excluded from settling in Canada. People who have committed serious human rights violations, crimes against humanity or war crimes are also not admissible. Additionally, the Canadian government has **designated certain regimes** as perpetrators of gross human rights violations.

Senior officials of designated regimes are consequently considered inadmissible to Canada.

There may be long delays involved in the security check process, especially if there are concerns about membership in an organization that is suspected of being involved in terrorist acts or war crimes.

Family members and dependants

In case of a refugee family, only the principal applicant needs to be eligible for private sponsorship – his or her family members will get a derivative status. In the context of refugee resettlement, *family members* include:

- ▶ the spouse or **common law partner** of the principal applicant;
- ▶ **dependent children** of the principal applicant or of his/her spouse or common law partner; and
- ▶ **dependent children of dependent children**.

A dependent child is the biological/adopted child of the principal applicant or the applicant's spouse/common law partner, and is under 19 years of age **or** is 19 and over but depends on the parent financially since before the age of 19 and is unable to be financially self-supporting due to a physical or mental condition.

While eligibility can be derived from the principal applicant, EACH adult family member needs to be found admissible.

In addition, **de facto dependants** need to qualify as refugees as they do not automatically get a derivative status from the principal applicant. In fact, a separate application must be submitted for each de facto dependant.

De facto Dependents are considered part of the refugee family unit but do not meet the family member definition. A de facto dependant may or may not be a blood relative, but must be dependent on the family unit.

Frequently Asked Questions

- ❖ ***If the refugees are recognized by the UNHCR, do they still need to have an interview with a Canadian visa officer?***

The Canadian government, similar to other states, conducts its own eligibility assessments. This means that, even if an individual is accepted as a refugee in need of resettlement by the UNHCR, they will still have to go through the same process with a visa officer overseas and could even be rejected.

- ❖ ***What are the benefits of registration with the UNHCR?***

The UNHCR provides many different registration types which vary from country to country. In general it is important for the refugee to register with the UNHCR upon arrival in the country of asylum. This will provide them with an ID document as well as access to basic necessities. At this time the refugees can also indicate that they would like to have a Refugee Status Determination (RSD) interview. If they are successful in their RSD interview they will then receive documentation that indicates they are recognized as Convention Refugees, under the mandate of the UNHCR. This provides them with the possibility of being referred by the UNHCR to resettlement countries.

Remember: Refugees sponsored by Groups of Five or Community Sponsors must have refugee status recognition from either the UNHCR or the state

authorities of the country of asylum in order for the refugee sponsorship application to be accepted for consideration.

Even if an applicant has been determined to be a refugee by the UNHCR, Canadian authorities will still make their own determination of whether or not the applicant qualifies for private refugee sponsorship

❖ ***What if the sponsor wants to identify a refugee already in Canada to be sponsored under the Private Sponsorship Program?***

Unfortunately refugees already in Canada are not eligible to be sponsored. They can make a claim to have their case heard by the Immigration and Refugee Board (IRB).

❖ ***Are there any other reasons why someone might not be eligible for resettlement?***

In addition to being inside Canada, the following people do not qualify for private sponsorship:

- People who were the subject of a previous sponsorship application and were refused, unless
 - their circumstances have changed;
 - new information, which was not presented in the previous application has come to light; or
 - Canadian laws affecting the case have changed.
- Persons who have other durable solution, such as voluntary repatriation or local integration in the current country of residence;
- Persons who have not been recognized as refugees by either the UNHCR or state authorities in the country of asylum (if sponsors are a Group of Five or a Community Sponsor).

❖ ***How can a sponsor determine if the refugee(s) is able to stay in their current country of asylum?***

Although a sponsor will not make the final determination on a refugee's ability to stay in their current country of asylum, they could make a preliminary assessment by asking the refugee about their status in the country of asylum. Answers to questions such as: do they have an ID document issued by the country of asylum; what rights do they have in that country; are they able to work; can their children go to school; can they move around freely within that country or is there an encampment policy; will assist in providing more information regarding the refugee's current situation. CIC's [Operational Manual 5](#) provides a [guide for assessing local integration as a durable solution](#), which sponsors can use to screen whether there is a possibility of local integration in the country of asylum. Additionally, information online regarding country conditions can also be of assistance.

❖ ***What if the refugee is in a European country?***

Signatories to the international convention, protocol and treaties regarding refugees are deemed to be able to provide local remedies to refugees residing on their soil. In general, European and other Western democratic countries are presumed to have effective refugee protection systems.



If a refugee is integrated and established in the first country of asylum, resettlement to Canada is not an option. If refugees can live in safety and independently with human and civil rights, such as the right to marry, practice their religion, own property, work and have access to education, housing, etc. as laid out in the Convention, they will not qualify for resettlement. For a visa post to consider the application of a refugee residing in one those countries it requires that the applicant provides documents of the last non-

appeal-able rejection verdict(s), and documents containing all arguments of the local immigration authorities against the refugee's resettlement in that country.

The acceptance rate of rejected refugees in Europe applying for resettlement to Canada is minimal. However, making a sponsorship application in some cases may delay deportation because some European countries postpone deportation pending the outcome of the Canadian sponsorship process.

Summary

To help avoid refusals based on eligibility, carefully review the details of the refugees' narrative and supporting documents before signing a sponsor-referred sponsorship. Be aware that many sponsorships are refused because the circumstances have changed in the refugees' country of origin or their country of asylum, and they are considered to have another durable solution. If you conclude that the refugees' situation would not qualify under any of Canada's refugee programs submitting a sponsorship will only result in disappointment for them and your sponsoring group. Your group should be aware that even though refugees may be found to be **eligible**, they may be determined **inadmissible** to Canada for medical, security or criminal reasons. Refusals are difficult to accept and, unfortunately, there is no formal appeal mechanism. Therefore, it is important to seriously consider all cases before proceeding with a sponsorship.