

## Practical Recommendations and Good Practice to Address Protection Concerns in the Context of the COVID-19 Pandemic

### 1. Introduction

The COVID-19 pandemic is presenting States in Europe with an extraordinary and unprecedented public health emergency. In response, States are taking necessary and legitimate measures to prevent the spread of the virus and to protect their populations. Some of these measures have been taken within the framework of a declared state of emergency, based on specific national provisions governing emergency situations.

In response to the exceptional nature of the current crisis and the related challenges faced by States, this paper aims to offer Governments a set of practical considerations and concrete advice to enable an effective response to the pandemic while at the same time respecting international refugee law and standards.<sup>1</sup> These considerations and advice also apply to stateless populations in relation to access to documentation or statelessness determination procedures.

This paper draws on evolving State practice in Europe and beyond, as well as UNHCR's own operational experience in managing the arrival of asylum-seekers and refugees in complex emergencies, including in epidemics.

The recommendations proposed in this document may also assist States in adapting systems to the evolving situation and preventing the accumulation or reconstitution of registration and refugee status determination (RSD) backlogs and an increase in the number of persons with unclear or irregular status for a prolonged period of time. Such actions may also support a progressive normalization of the situation, once the public health emergency is over.

UNHCR country offices are available to provide technical support to their governmental counterparts in this regard and to adapt the recommendations in this paper in accordance with the specific situation in each State. Such support can come in tandem with or be complemented by that of other stakeholders, such as the European Asylum Support Office (EASO).<sup>2</sup>

### 2. Ensuring access to territory while protecting public health

The COVID-19 pandemic requires States to implement exceptional measures to curb the spread of the virus and to protect public health, including in the event of arrivals of asylum-seekers at their borders. Such measures are in the interest of all, including asylum-seekers themselves.

In the current context, UNHCR therefore recommends the consideration of the following measures to manage the arrival of asylum-seekers in a safe manner:<sup>3</sup>

- **Medical screenings or testing**, which may entail visual observation, measurement of body temperature, questionnaires for travellers, and/or the presentation of health certificates, as well as medical and laboratory examination by medical personnel, conducted in a non-discriminatory

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<sup>1</sup> The legal framework for access to territory and asylum in the context of COVID-19 is set out in UNHCR's Key Legal Considerations on access to territory in the context of the COVID-19 response of 16 March 2020, available at: <https://www.refworld.org/docid/5e7132834.html>, and will not be covered here.

<sup>2</sup> For an overview of the types of support EASO can offer, see: <https://easo.europa.eu/operational-support/types-operations>

<sup>3</sup> Management of ill travellers at Points of Entry (international airports, seaports, and ground crossings) in the context of COVID-19, available at: <https://apps.who.int/iris/bitstream/handle/10665/331512/WHO-2019-nCoV-POEmgmt-2020.2-eng.pdf>

manner and in line with guidance of the World Health Organization (WHO) and national health authorities.

- **Quarantine** in the form of a preventive and timebound (normally 14 days) separation from the rest of the population, implemented in a non-discriminatory and proportionate manner, as a measure to monitor potential symptoms and ensure early detection of the virus.<sup>4</sup>
- Where entry bans or border closures are implemented, **an explicit exemption for asylum-seekers should be considered**, combined with the enhanced health measures already set out above. Where asylum-seekers wish to enter from another EU Member State or Schengen-associated State, any entry refusal should be coordinated with that State to ensure that the individual has access to asylum in that State. Where a general exemption is not in place, at a minimum, access to territory should be granted in individual cases ensuring compliance with the principle of *non-refoulement*.

These alternative measures protect public health while ensuring access to territory for persons seeking international protection and protecting them against the risk of *refoulement*. In this regard, UNHCR recognizes the emerging State practice in many European countries of providing for an explicit exemption for persons seeking international protection from border closures and entry bans. Border closures may also be detrimental to public health interests, as they may increase irregular movements, further complicating authorities' efforts to curb and respond to the pandemic.

#### State practice examples:

Mandatory quarantine at the border is in place for new arrivals in many European States, including **Croatia, Czech Republic, Greece, Ireland, Italy, Malta, Moldova, Poland, Serbia and Slovenia**. In **Denmark**, quarantine is only applied when medically indicated.

Temperature measurements and other types of medical screenings are also ongoing, including in **Austria and Malta** for example.

Explicit exemptions for asylum-seekers from entry bans and border closures are provided for by **over 20 countries in Europe**. At regional level, an exemption for persons seeking international protection was also included in the travel restrictions set out by the EU Commission's communication of 16 March 2020.<sup>5</sup>

### 3. Maintaining basic registration and documentation

WHO's recommendations to combat COVID-19 include, in particular physical distancing and enhanced hygiene measures. While not recommended by WHO as such, many States have also implemented restrictions on specific activities. As these measures affect the functioning of many State services, modalities for registration and documentation of asylum-seekers, refugees or stateless persons, which are essential to establish or extend legal stay and access to services, can be adapted to maintain effective systems and prevent the accumulation of backlogs in asylum and statelessness determination procedures (see also section 5):

- To minimize the risks to both government personnel and asylum applicants, the **registration process can be simplified and focus only on the recording of essential data and the**

<sup>4</sup> WHO, Considerations for quarantine of individuals in the context of containment for coronavirus disease (COVID-19), available at: [https://www.who.int/publications-detail/considerations-for-quarantine-of-individuals-in-the-context-of-containment-for-coronavirus-disease-\(covid-19\)](https://www.who.int/publications-detail/considerations-for-quarantine-of-individuals-in-the-context-of-containment-for-coronavirus-disease-(covid-19))

<sup>5</sup> EC, Communication on Temporary Restrictions on Non-Essential Travel to the EU, 16 March 2020, available at: <https://ec.europa.eu/transparency/regdoc/rep/1/2020/EN/COM-2020-115-F1-EN-MAIN-PART-1.PDF>

**identification of specific needs.** In order to further streamline and frontload the registration processing, this can take place immediately upon arrival or identification, in conjunction with the medical screening.

- **Enhanced hygiene measures for in-person registration may include additional protective equipment, regular disinfection and adapted facilities or installations** (such as plexiglass shields) to prevent transmission. Lines and waiting rooms should be managed to facilitate physical distancing, ensuring the availability of hand-washing facilities and sanitizers.
- **While not suitable in all circumstances, the written or electronic submission of registration requests** provides a practical solution for situations where national health guidelines prohibit any direct contact. When needed, the processing of such requests can be supplemented by remote modalities (video or teleconferencing) to ascertain the identity of the applicant and to clarify any aspect of the request. While identity management is a challenge during remote processing, facial recognition can be conducted during a videoconference, including by comparison with any identity documents (submitted to the authorities in electronic form), where such documents are available. The videoconference can also capture an image for the individual's file and for further reference. Thereby, data protection considerations should apply.
- **Support to the applicant to submit a registration request, provided either by phone, online or through cultural mediators where available,** will enhance the quality of requests and facilitate timely processing. Legal aid partners can also assist by supporting the applicant in drafting written applications to the authorities, thereby creating a formal record of their intention to register and to apply for asylum.
- **The issuance and/or extension of documentation can be fully automatized,** for example through email, online services in individual cases or declared as a general emergency measure. Such documentation, including evidence of registration, should ensure legal stay and access to services, including health services. This is also essential from a public health perspective, as it facilitates the inclusion of asylum-seekers, refugees and stateless persons in the national response to the current situation. In addition, to prevent statelessness risks, the issuance of birth certificates should continue. Where such services are suspended for newly-borns, a birth notification issued by a health facility should be considered sufficient proof of identity and legal stay until civil registration authorities resume their services.

#### State practice examples:

A number of States have maintained the pre-registration or registration of asylum-seekers, including **Austria, Georgia, Germany, Iceland, Ireland, Italy, Liechtenstein, Moldova, Slovakia, Slovenia and Switzerland.**

Moreover, many States have maintained the issuance of documentation to ensure legal stay and access to services. In **Bosnia Herzegovina,** for example, an attestation of "intention to seek asylum" and in **Germany** temporary residence permits continue to be issued to new arrivals for these purposes.

In **Portugal,** in light of present difficulties to obtain or renew necessary documents, the Government decided to extend the validity of all documents, including those related to the asylum status and residence permits, which expired after 24 February 2020 until at least 30 June 2020. Similarly, in **Ireland,** permissions that are due to expire before 20 May are automatically renewed for a period of two months on the same conditions. In **Italy,** stay permits that expired between 31 January and 15 April, are valid until 15 June 2020. **Poland** has also taken exceptional measures to extend residence permits that were due to expire.

In other States, innovative approaches have been implemented to allow asylum-seekers the possibility to submit online applications for asylum, appeals and/or documentation (including renewals), such as in

**Malta** and **Azerbaijan**. Similar approaches have been applied to applications for statelessness determination, such as in the **United Kingdom**.

In **Germany**, the Federal Office for Migration and Refugees has changed its policy of accepting applications in person in order to comply with the need to avoid contact and is currently only accepting applications in written form. Similarly, in **Italy**, statelessness applications can still be submitted by mail.

In **Turkey**, the registration of persons with specific needs and those with chronic diseases continues exceptionally while procedures are otherwise suspended.

#### 4. Preventing transmission in the context of reception and detention

Collective centres, such as reception and transit centres, pose particular challenges in terms of physical distancing and hygienic measures required to prevent the spread of COVID-19. This is a concern not only for the inhabitants of such centres, but also for the authorities' efforts to protect the wider population from transmission. Against this context, UNHCR recommends the consideration of the following measures:<sup>6</sup>

- **Whenever possible, shift to independent private accommodation or smaller collective centres**, in particular for older persons or persons with pre-existing medical conditions, for whom COVID-19 presents an especially high risk.<sup>7</sup>
- **Adaptation to existing centres to reduce the risk of transmission**, for example decongestion; provision of additional space or installations (such as plexiglass shields); regular cleaning and disinfection; and enhanced water, sanitation and hygiene measures (including hand-washing facilities and sanitizers in all rooms).
- **For new arrivals, individual health screening should be considered** to identify persons needing immediate referral to medical facilities as well as possible quarantine or self-isolation measures.
- **Separate facilities or segments for persons confirmed or suspected** of being infected to prevent transmission in and beyond a reception centre.
- **Modalities of service and assistance provision in the centre** can be adapted to prevent crowds or gatherings, and lines and waiting rooms can be managed so as to ensure the required physical distance and to avoid unnecessary contact.
- **Epidemiological surveillance** (the monitoring of suspected and confirmed cases in line with WHO case definitions)<sup>8</sup>, **case investigation**<sup>9</sup>, and **referrals and reporting** of such cases to WHO (within 48 hours)<sup>10</sup> can facilitate the appropriate handling of potential COVID-19 cases, in line with guidance of WHO and the national health authorities.<sup>11</sup> The national protocol needs to be followed also in reception centres, often requiring coordination and collaboration between reception and health authorities.

<sup>6</sup> IASC Interim Guidance on Scaling-Up COVID-19 Outbreak Readiness and Response Operations in Humanitarian Situations, including camps and camp-like settings, available at: <https://interagencystandingcommittee.org/other/interim-guidance-scaling-covid-19-outbreak-readiness-and-response-operations-camps-and-camp>

<sup>7</sup> Known risk factors for severe COVID-19: age over 60 years, hypertension, diabetes, cardiovascular disease, chronic respiratory disease, immunocompromising conditions (see WHO, Operational considerations for case management of COVID-19 in health facility and community, Interim guidance 19 March 2020, available at: <https://www.who.int/publications-detail/operational-considerations-for-case-management-of-covid-19-in-health-facility-and-community>)

<sup>8</sup> WHO, Global surveillance for COVID-19 caused by human infection with COVID-19 virus, available at: <https://apps.who.int/iris/handle/10665/331506>

<sup>9</sup> WHO, Considerations in the investigation of cases and clusters of COVID-19 Interim guidance 13 March 2020, available at: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/early-investigations>

<sup>10</sup> WHO, Revised case reporting form for COVID-19 for confirmed cases and their outcome, available at: <https://apps.who.int/iris/bitstream/handle/10665/331234/WHO-2019-nCoV-SurveillanceCRF-2020.2-eng.pdf>

<sup>11</sup> WHO technical guidance, available at: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance>

- **Mental and psycho-social health considerations and attention to particular groups of people with specific needs** are essential in times of physical distancing, and in particular where movement restrictions or isolation applies, including in reception facilities. This may require increasing online or phone connectivity for example, and to consider the specific needs older people, children or individuals with health preconditions may have in this situation.<sup>12</sup>
- **Attention should be paid to asylum-seekers, refugees or stateless persons that are homeless or stay in informal settlements** where important transmission safeguards, such as the stay home policy or physical distancing, are almost impossible to uphold and sanitation conditions often are deplorable. Potential mitigation that could be considered include the provision of temporary housing, such as by using hostels or surplus reception capacity.

#### State practice examples:

In **Italy**, the Ministry of Interior has provided a set of general instructions aimed at ensuring the implementation of transmission prevention measures in reception facilities, such as physical distancing or transfers from overcrowded centres. The Ministry has also extended reception measures for asylum-seekers who would not be entitled to those any longer.

In **Bulgaria**, asylum-seekers residing outside reception centres and who have lost their jobs as a result of the current situation, may be temporarily accommodated in reception centres following a written application and undergoing a 14-day quarantine.

In **Belgium**, a response plan has been set up to cope with the impact of the COVID-19 on the reception network. To better protect vulnerable residents, it has been decided to transfer them to individual accommodation, to other facilities, or to group them together in separate corridors. Families are moved together in order not to break the family unity and to maintain support for the person in the at-risk group. New arrivals are also screened with a COVID-19-specific medical questionnaire and with temperature measurement.

In **Ireland**, older persons and those with underlying medical conditions are being identified in order to ensure further self-isolation measures are in place for them. An off-site self-isolation facility is being established for those residents who have or are suspected of having COVID-19.

In **Latvia**, older persons and residents with existing health concerns have been moved to more isolated rooms with all the necessary utilities.

In **Germany**, particularly vulnerable persons are accommodated in separate facilities with increased medical care. Transfer to these facilities will only take place after a 14-day quarantine has been observed.

In **Norway**, residents are quarantined in their rooms if needed. The initial reception centre includes a dedicated space for health services, and a separate unit for persons with – or suspected of having – COVID-19. Other reception centres have increased preparedness measures, including to ensure extra housing spaces.

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<sup>12</sup> WHO, Mental health and psychosocial considerations during the COVID-19 outbreak, 18 March 2020, available at: <https://www.who.int/publications-detail/mental-health-and-psychosocial-considerations-during-the-covid-19-outbreak> Further guidance on MHPSS in the COVID-19 context may be found at: <http://www.emro.who.int/mnh/publications/mental-health-support-during-covid-19.html>; Alliance for child protection in humanitarian action, Technical note: Protection of Children During the COVID-19 Pandemic, available at: <https://alliancecpha.org/en/COVID19>; HelpAge, COVID-19: Guidance and advice for older people, available at: <https://www.helpage.org/what-we-do/covid19-guidance-and-advice-for-older-people/>; UNHCR, Age, Gender and Diversity Considerations – COVID-19, 21 March 2020, available at: <https://www.refworld.org/docid/5e84a9dd4.html>

In **Austria**, all new asylum-seekers undergo a medical check. They are tested for temperature when entering and leaving the first-phase reception facilities. In case of increased temperature, the person is immediately moved to the isolation area established in each facility where further examinations are carried out by health personnel. Confirmed cases are quarantined in designated rooms. Transfers to local hospitals take place if needed. Monitoring mechanisms for the evaluation of possible suspected cases have been established. Older persons and other persons at heightened risk are accommodated separately, whenever possible. New federal reception centres have been opened in order to decongest collective facilities as well as to have alternatives in case other reception centres are quarantined due to COVID-19 cases.

In **Sweden**, the number of people (occupancy rate) has been reduced in some of the collective facilities to decongest and lower the risks of spreading the disease. In **Denmark**, residents are eating meals in shifts to increase physical distancing.

In **Croatia**, the body temperature of residents of reception centres is measured when going for meals, while floor markings ensure physical distancing in common areas.

In **Spain**, the Secretary of State for Migration has issued guidelines to adapt the management of the national reception system in view of COVID-19. The guidelines aim at ensuring the functioning of the reception system and health of staff and residents.

In **Serbia**, medical presence has been reinforced in all centres accommodating asylum-seekers and migrants. Specific guidance on how to protect, screen and test for COVID-19 infection as well as on how to quarantine new residents and isolate those with relevant symptoms has been issued.

In **Turkey**, in the temporary accommodation centres disinfection is carried out and staff are required to wear masks and gloves since the early stages of the pandemic. In addition, hygiene kits and personal protective materials were distributed to the inhabitants of these centres, and areas commonly used have been re-arranged to facilitate physical distancing. In the removal centres regular disinfection has been increased and pre-acceptance areas have been created to enable 14-day quarantine of newly admitted foreigners. Pre-admission health checks and regular follow-up by physicians from the Provincial Health Directorates are conducted.

Expert guidance by WHO<sup>13</sup>, the International Committee of the Red Cross (ICRC)<sup>14</sup>, the Council of Europe (CoE)<sup>15</sup> and the Inter-Agency Standing Committee (IASC)<sup>16</sup> emphasize that people in detention, including asylum-seekers or stateless people in immigration detention or other closed facilities, are at particular risk of a COVID-19 infection. Based on this guidance and State practice, the following are main considerations to inform alternatives to detention and halt detainment in the current circumstances:

- **Heightened risks in confined spaces:** Given the confined and often congested space of a detention facility, implementing and upholding the required preventative measures as recommended by WHO and generally pursued by affected European States, including physical distancing and hygiene

<sup>13</sup> WHO Regional Office for Europe, Preparedness, prevention and control of COVID-19 in prisons and other places of detention, Interim guidance, 15 March 2020, available at: [http://www.euro.who.int/\\_\\_data/assets/pdf\\_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf?ua=1](http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf?ua=1)

<sup>14</sup> ICRC, COVID-19: Protection prison population from infectious coronavirus disease, 11 March 2020, available at: <https://www.icrc.org/en/document/protecting-prison-populations-infectious-disease>

<sup>15</sup> Council of Europe, Committee on the Prevention of Torture (CPT), Statement of principles related to the treatment of persons deprived of their liberty, 20 March 2020, available at: <https://www.coe.int/en/web/cpt/-/covid-19-council-of-europe-anti-torture-committee-issues-statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty->

<sup>16</sup> IASC Interim Guidance on COVID-19: Focus on Persons Deprived of their Liberty, available at: <https://interagencystandingcommittee.org/system/files/2020-03/IASC%20Interim%20Guidance%20on%20COVID-19%20-%20Focus%20on%20Persons%20Deprived%20of%20Their%20Liberty.pdf>

measures, is very challenging. This is a particular difficulty where access to water and sanitation had already been limited and where inadequate hygiene conditions pre-existed. Therefore, in such confined environments, the risk of spread of COVID-19 is heightened, putting the health and possibly lives of detainees as well as the staff working in these facilities at risk.

- **Heightened risks for detained persons due to pre-conditions:** In addition, people in prisons typically have a greater underlying burden of disease and worse health conditions than the general population, and frequently face greater exposure to risks such as poor hygiene and weak immune defence. These considerations may apply to asylum-seekers in detention facilities as well, in particular where such detention situations are prolonged and follow possible traumatic experiences before and during journeys.
- **Amplification risk:** Detention facilities are not walled off from society when it comes to such a highly contagious virus as COVID-19. Even with increased access restrictions and medical screening for entry, there is a constant flow of facility staff and potentially new arrivals resulting in a regular interchange with society. Thus, not only is it very difficult to preclude the virus from entering a detention facility, its spread within such a facility may pose risks of amplifying and spreading the virus to communities in its vicinity and at large.

Where immigration detention is no longer lawful or appropriate in light of the prevailing circumstances (suspension of Dublin transfers, impossibility of return to country of origin due to border closures), individuals concerned should be provided with a **suitable and safe reception alternative**. This requires renewed commitment to expand reception capacities, also as a measure to prevent the spread of COVID-19.

While access restrictions to detention facilities in light of the transmission risks are deemed relevant and reasonable, monitoring activities by mandated entities, including UNHCR, should be facilitated, for example through mandatory medical screening and health certification requirements.

#### State practice examples:

In view of the unfolding COVID-19 situation across Europe, and in light of the heightened risk this poses for people in detention facilities, including asylum-seekers, a number of European countries have started to release asylum-seekers from detention and not to place additional people, including new arrivals, in closed facilities. This includes, for example, **Austria, Belgium, Luxembourg, Spain, Switzerland and the United Kingdom**, while such measures are reportedly under consideration in a number of other States.

In the **United Kingdom**, specific guidance on COVID-19 risks and mitigation measures in prisons and other prescribed places of detention was issued.<sup>17</sup> This guidance assists healthcare, custodial and detention staff to ensure that transmission prevention requirements are applied in detention spaces. It also does not preclude visits to detention facilities by legal representatives and mandated agencies. Similar efforts to ensure the implementation of transmission prevention measures in detention facilities have been undertaken in **Italy**.

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<sup>17</sup> Government of the United Kingdom, Guidance: COVID-19: prisons and other prescribed places of detention guidance, updated 26 March 2020, available at: <https://www.gov.uk/government/publications/covid-19-prisons-and-other-prescribed-places-of-detention-guidance/covid-19-prisons-and-other-prescribed-places-of-detention-guidance>

## 5. Asylum procedures and backlog management

The COVID-19 situation resulted in the suspension of asylum and statelessness determination procedures in many EU and other European countries. At the same time, national asylum authorities expressed concerns over the creation of backlogs and in some instances pursue asylum procedures to prevent backlogs, even though not all required COVID-19 transmission safeguards for all involved parties can be implemented, and/or important procedural safeguards may get compromised due to the general situation. Therefore, backlog management is both an immediate need in the prevailing situation, as well as in the medium-term when suspended procedures resume.

Based on its own operational experience and expertise on this matter, and having reviewed relevant State practice adopted in the current circumstances, UNHCR puts forward the following main considerations and recommendations for backlog management in this unique situation:

### Scenario 1: Continuation of asylum procedures as a means of backlog management:

In general, and where possible in light of the applicable transmission prevention requirements and needed procedural safeguards, it is reasonable to continue asylum procedures in order to prevent backlogs. Several States have made adaptations, both to prevent COVID-19 transmission in line with national requirements (A) as well as to ensure that despite the circumstances, procedural safeguards can be maintained (B).

#### A. Adaptation to prevent COVID-19 transmission

- **Physical adaptations** may require additional equipment, facilities or installations. Several States have resorted to the use of additional or alternative facilities with sufficient spacing, upgraded hygiene standards in facilities, or installed plexiglass shields where face-to-face interactions take place.
- **Medical screenings** for all persons entering such facilities are implemented, coupled with information provision on transmission prevention requirements.
- **Remote interviewing modalities** as alternatives to face-to-face interviewing, at least in part, including video- or teleconferencing are used or under consideration by several European countries. This is particularly advisable where such interviewing modalities were already provided for prior to the current situation while recognizing that they might not necessarily be suitable for all asylum applications, e.g. where specific needs or operational contexts preclude that. In addition, when adopting such remote means, particular attention should be paid to maintain the quality of the interviewing technique and outcomes, including through training of respective case workers. To smoothen the conduct of a remote interview, it is advisable to have a trouble-shooter responsibility available to facilitate the proceedings. Investing in technology could also prove beneficial in the long-term where the use of such modalities could further support the functioning and efficiency of the national asylum system.

When using remote interviewing modalities, due regard should be given to **data protection** considerations. These include opting for platforms and tools that comply best with privacy standards, carrying out rapid data protection assessments for a particular tool, establishing SOPs for remote interviews addressing recording, transfer and storage of data, or minimizing transmitting of individual data through such platforms. Asylum-seekers should be informed ahead of the interview of the remote modality in place as well as on eventual privacy risks to allow for their informed consent. Where case workers conduct interviews exceptionally from home, the use of private equipment should be avoided.

Structural adaptations may need time and resources to put in place and test to ensure they are technologically suitable and avoid technical errors once rolled out. For this brief period, the asylum procedures may be suspended, so as not to expose any participating individual to risks. **It is essential**



that such adaptation measures are considerate of all participants in the asylum and statelessness procedures, including interpreters and legal representatives.

#### State practice examples:

In **Austria**, interviews take place either behind glass panels, with sufficient distance among all parties or by videoconference with the decision-maker and the asylum-seeker sitting in different rooms in the same building.

Similarly, in **Switzerland**, the interviews have been briefly suspended in order to put in place necessary physical adaptation measures, notably to install glass panels providing for a physical separation between individuals partaking in an asylum interview. Switzerland's recently issued emergency regulation also explicitly re-states the applicability of transmission prevention requirements for all stages of the procedure, including the interview, for which the Federation has made the needed structural adaptation of relevant facilities. In **Liechtenstein**, asylum procedures also continue following the installation of such glass partitions.

In **Norway**, the national asylum authority has suspended all interviews while it is assessing the possibility and feasibility of conducting asylum interviews remotely through online means. Remote interviewing options are currently also under consideration in **Albania, Belgium, Estonia, Italy** and the **Netherlands**.

In **Iceland**, the Directorate of Immigration has also issued detailed internal guidelines based on the general guidelines from the Directorate of Health and Civil Protection i.a. on how to conduct asylum interviews in the present circumstances and how to respond if there are indications that an applicant is infected.

In **Latvia**, asylum interviews continue to be conducted using digital tools. In the **United Kingdom**, the possibility to conduct asylum interviews using videoconferencing<sup>18</sup> was already provided for prior to the current situation and while procedures are currently suspended, it is under consideration to scale up this option with support to gathering evidence by phone or email. Where the interview is conducted by videoconference, the asylum-seeker, interpreter, legal representative and interviewing officer may be in separate locations. Prior to the videoconference interview, asylum-seekers need to submit required documents by email or mail. In-person submission is possible when such interviews take place on Home Office premises. Case workers carrying out such interviews have a single point of contact in case safeguarding issues arise, e.g. when an asylum-seeker is distressed, or issues arise regarding legal representatives or interpreters.

In **Poland**, authorities adopted more flexibility on obtaining case-relevant documentation, which can now also be submitted as a scanned version by email or by regular mail.

## B. Adaptation for procedural fairness purposes

- **Reduced case scheduling based on a prioritization and adapted or more flexible deadlines** may be necessary to manage the asylum procedure without compromising on fairness aspects, in view of the multitude of parties in asylum procedures who may be impacted in their respective capacities by the current situation. Prioritization should include manifestly well-founded cases as well as urgent protection cases.
- **Temporary centralized service provision** should be considered where capacity constraints in one part of the system exist, for instance with regard to legal aid and representation, to increase efficiency and allow, if need be, for better prioritization of services, including when provided online.

<sup>18</sup> Government of the United Kingdom, Home Office, Guidance on Asylum Interviews for Home Office Staff, Version 7.0, 5 June 2019, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/807031/asylum-interviews-v7.0ext.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807031/asylum-interviews-v7.0ext.pdf)

Such operational centralization may also lead to improved communication and cooperation between involved parties.

- **Flexibility should be available in case of illness-related abortion of an interview or no-show** of any of the involved parties, including asylum-seekers, interpreters or legal representatives, requiring the re-scheduling of such cases and adaption of applicable deadlines. Furthermore, illness-related no-shows by asylum-seekers should not be considered as a violation of their duty to cooperate.

#### State practice examples:

In **Austria**, interviews are only carried out where this is considered indispensable. In cases for which interviews are scheduled, asylum-seekers' no-show does currently not entail any consequences for them. Similarly, in **Switzerland**, the asylum legislation provides for a duty of cooperation for asylum-seekers. However, where valid reasons for non-cooperation exist, including illness, asylum-seekers do not forfeit their right to have the procedure continued.

In **Switzerland**, an emergency regulation was issued introducing a temporary adaptation of the asylum legislation. While some aspects raise concerns, for instance where critical procedural safeguards such as legal representation are not retained, this regulation importantly introduces more flexibility with procedural deadlines as procedures continue.

In **Sweden**, as a general rule, asylum interviews are cancelled and rescheduled if the applicant or legal representative is unable to attend due to illness. This practice pre-existed the current situation and remains unchanged. In addition, the Swedish Migration Agency's policy for a safe work environment requires the respective case worker to respond whenever an applicant shows COVID-19 symptoms in an interview or a meeting.

#### Scenario 2: Backlog management with suspended asylum procedures:

Where asylum procedures are suspended, it is encouraged to undertake strategic actions and preparations for backlog management during the time of suspension. This will help to mitigate against overwhelmed asylum procedures once procedures fully resume. **To inform backlog management and adapt respective preparations, it is important that the backlog, in terms of size, background and composition of the caseload, is monitored and analysed on an ongoing basis.**

Even in such times, UNHCR strongly advises to ensure the registration of asylum claims and proper documentation of asylum-seekers. As outlines above, registration can be carried out by mail, email or through digital platforms. In its discussion paper on accelerated and simplified procedures<sup>19</sup>, UNHCR sets forth recommendations for efficient and yet fair asylum procedures. The following proposals for backlog management while asylum procedures are suspended draws from this paper and therein identified State practice. These suggestions may be applied at the same time.

- **Proposal 1 – Continuation of decision preparation:**
  - The preparation of decisions for cases where interviews already took place can continue. In cases where an interview has not yet been carried out, an omission of the interview – while not advisable as a general measure - may be considered in light of the prevailing situation where the intention is to recognize claims, i.e. in manifestly well-founded cases. In such cases, the written application may be considered as having afforded the procedural standard of the applicant's

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<sup>19</sup> UNHCR Discussion Paper Fair and Fast - Accelerated and Simplified Procedures in the European Union, 25 July 2018, available at: <https://www.refworld.org/docid/5b589eef4.html>. See also UN High Commissioner for Refugees (UNHCR), Aide-Memoire & Glossary of case processing modalities, terms and concepts applicable to RSD under UNHCR's Mandate (The Glossary), 2020, available at: <https://www.refworld.org/docid/5a2657e44.html>

‘right to be heard’ and the decision can be prepared without an interview. Other cases, notably those that require the establishment of material facts through interviews or other substantive clarifications cannot be prepared with procedures in suspension (see proposals 2 and 3 below).

- Following the preparation of a decision by the adjudicator, a triaging for formal issuance of decisions and notifications should be made: (a) Positive decisions, including in manifestly well-founded cases, can be formally issued, notified to the applicant and enter into force; (b) negative decisions can be prepared and formally issued or notified to the applicant as long as procedural safeguards, i.e. an effective remedy can be provided for and the return is practically possible for the individual concerned. In case procedural safeguards can be maintained but return is practically not possible, deadlines for departure should be extended to ensure continuity of legal stay. However, where appeal procedures are suspended, negative decisions can be prepared but should not enter into force and trigger deadlines, irrespective of whether return is practically possible or not.
  - Once asylum procedures resume, the formal issuance and notification of withheld negative decisions (category b) should be staggered so as not to overwhelm review procedures in case of appeals.
- **Proposal 2 – Merging of registration and asylum procedures:**
    - In situations, where registration and asylum interviewing are undertaken by the same authority and where no interview has taken place yet while required to prepare a decision, the interview may be carried out merged with the registration activity.
    - Such a merged registration/asylum procedure should only be used where there is a high presumption of inclusion, notably in manifestly well-founded cases. The application of this merger should furthermore be nationality/caseload/profile-specific.
  - **Proposal 3 – Preparation for backlog management upon resumption:**
    - Where asylum procedures are suspended and decisions cannot be prepared, i.e. for cases that require the establishment of material facts or other substantive clarifications requiring interviews or other face-to-face follow-up, authorities are encouraged to use the time to strategically prepare for backlog management upon resumption of procedures. Monitoring and analysis of the backlog caseload is hereby essential to determine the needed measures. This is all the more essential in situations with a pre-existing backlog.
    - Backlog management measures can include the following (non-exhaustive): (a) Consideration of planning for accelerated and simplified procedures in line with UNHCR’s discussion paper “Fair and Fast”; (b) calculation and planning for additional processing capacity needs in view of the anticipated backlog and budget for the temporary increase in capacities. Temporary support should further be trained in preparation of the roll-out of the backlog management strategy in order to ensure quality procedures and outcomes; (c) backlog management may also centre on specific time-bound clearing projects with set targets, e.g. pertaining to a specific nationality, profile or other priorities as determined based on an analysis of the backlog.
    - In anticipation of resumption of procedures and backlog reduction, authorities are encouraged to invest in training of adjudication staff to ensure quality of decisions taken while implementing backlog reduction measures. This helps to mitigate against a quality drop in times of backlog reduction when adjudication staff are taking decisions under increased pressure.

### State practice examples:

Backlog management while procedures are suspended is prevalent, notably in the EU+ countries. In the **Netherlands** for example, authorities continue to prepare decisions while procedures are suspended in order to reduce backlogs.

In **Lithuania**, where procedures are generally suspended, asylum decisions are taken as long as the materials on the file allow for it.

In **Austria**, where procedures are suspended except when interviews are indispensable, deadlines to appeal negative decisions are also suspended so that asylum-seekers can consult their legal counsellors as current movement restrictions permit.

### Concluding guidance:

- Whatever backlog management measures and preparations are pursued, it is essential that all stakeholders usually involved in the asylum and statelessness procedures are duly informed about and trained on such measures.
- Any suspension of asylum and statelessness procedures should be time-bound and regularly reviewed to ensure that such suspension is still warranted by the situation and proportionate to the aim of protecting public health.
- Procedural safeguards provided for applicants with specific needs should not be negatively impacted by a decision to suspend procedures.
- Documents of asylum-seekers and stateless persons affected by the suspension should be automatically and, where possible, electronically extended for the duration of the suspension of the case.
- EU Member States may also consider drawing on EASO expertise and support with backlog management<sup>20</sup> in situations where asylum procedures are continued as a means of backlog management, as well as in situations where asylum procedures have been suspended and in anticipation of resumption of procedures and backlog reduction.

## 6. Community engagement and risk education

In the context of the COVID-19 pandemic, the provision of information is life-saving and crucial to ensure equal and non-discriminatory access to health and other basic services. In order to ensure compliance with public health regulations and advice, as well as access to relevant services, everyone needs reliable and updated information in a language and manner they understand, and the possibility to verify this information and ask questions. This is equally, if not even more relevant to asylum-seekers and refugees, who may rely on other means of communication, may face language barriers or have cultural preferences, not have the same community and social structures to rely on in their country of asylum, or lack the means to access information dissemination channels such as websites, TV broadcasts or call centres/counselling lines. Similarly, stateless persons and persons who are internally displaced can easily be overlooked in information campaigns and may require dedicated outreach efforts by relevant authorities. UNHCR therefore proposes the following measures:

- **Inclusion of refugees, asylum-seekers, stateless and internally displaced people (IDP) in risk education and information efforts related to COVID-19**, with particular attention to their

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<sup>20</sup> EASO expertise and support with backlog management, overview available at: <https://easo.europa.eu/operational-support/types-operations>

language and cultural preferences, and the need to adapt the information to the needs of children, older persons, minority groups and persons with disabilities.<sup>21</sup>

- The use of **multiple channels of information**, including both written material and other means of communication (such as video, radio and television messages, digital information sessions, online platforms, etc.) designed to meet the needs of different groups whether staying in reception facilities, in informal settlements, homeless or living with host communities. This may require facilitating access to the internet for individuals in all living situations. In doing so, due consideration should be given to data protection principles, and communities should be informed of potential risks to their privacy rights. The use of privacy-friendly platforms and tools should be encouraged whenever feasible. When such platforms and tools are not available and/or not accessible for the concerned populations, data protection risks arising from the use of less secure communication channels can be mitigated by minimizing the transmission of personal data.
- **The engagement of the refugee, IDP and stateless community in designing, disseminating and evaluating information campaigns** significantly enhances the impact of such campaigns, and thereby facilitates public health efforts to curb the virus.
- **Monitoring and responding to any misinformation** or myths about the virus, as these may negatively impact the efforts of States in responding to the pandemic.

#### State practice examples:

In **Italy**, a national hotline number is available in 36 languages and a multi-lingual information portal ‘JUMA’ provides refugees and asylum-seekers with access to information on COVID-19 in 15 different languages, as well as health advisories, regulations and movement restrictions, administrative procedures and available services.<sup>22</sup> The Ministry of Health and other key national institutions have included links to this portal on their websites.

In **Austria**, an innovative app<sup>23</sup>, which enables refugees and asylum-seekers to access real-time and updated news from the authorities, and translates TV content through sub-titles in different languages, allowing for non-German speakers to follow Austrian TV. The app is supported by the Austrian Government.

In **France**, information sharing on COVID-19 through an online platform<sup>24</sup>, which is managed by the inter-ministerial delegation in charge of reception and integration of refugees (Diarr) in partnership with UNHCR and a network of NGOs. Ongoing work also includes virtual activities to maintain social ties during the COVID-19 crisis, including with NGOs in reception centres.

In **Norway**, information for asylum-seekers is available in 24 different languages through the Government website.<sup>25</sup> In **Bulgaria**, a dedicated hotline operating in six relevant languages and a specific Facebook page is available.

In **Serbia**, UNHCR and partners regularly communicate with persons of concern informing them on the COVID-19 situation as well as the state of emergency through social media and hotlines with assigned interpreters for all relevant languages. In addition, partners provide online psychosocial support and

<sup>21</sup> See also IASC, COVID-19: How to include marginalized and vulnerable people in risk communication and community engagement, available at: <https://interagencystandingcommittee.org/covid-19-how-include-marginalized-and-vulnerable-people-risk-communication-and-community-engagement>, and WHO, UNICEF and IFRC: Risk education and community engagement, available at: [https://www.communityengagementhub.org/wp-content/uploads/sites/2/2020/02/IFRC-nCov-RCCE-Guide-0202\\_EN.pdf](https://www.communityengagementhub.org/wp-content/uploads/sites/2/2020/02/IFRC-nCov-RCCE-Guide-0202_EN.pdf)

<sup>22</sup> The multi-lingual JUMA Portal is available at: [https://coronavirus.jumamap.com/it\\_it/](https://coronavirus.jumamap.com/it_it/)

<sup>23</sup> This app is available at: <https://www.uugot.it/>

<sup>24</sup> The online platform can be accessed at: <https://www.refugies.info/homepage>

<sup>25</sup> The overview of information available in 24 languages is available at: <https://helsenorge.no/coronavirus>

Serbian language classes, and support access to education for unaccompanied and separated children via online platforms.

In **Malta**, the Ministry of Health translated information leaflets on COVID-19 in languages relevant to asylum-seekers and refugees, and is coordinating with UNHCR to have a list of interpreters for relevant languages in case asylum-seekers and refugees call the national helpline for information or assistance regarding COVID-19.

In **Ireland**, the authorities have set up a helpline for asylum-seekers living in accommodation centres which will operate twelve hours per day, seven days a week, and has translated a number of guidance documents to better target asylum-seekers and refugees.<sup>26</sup>

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<sup>26</sup> An overview of the translations by the Irish Government can be found at: <https://www.hse.ie/eng/services/news/newsfeatures/covid19-updates/partner-resources/covid-19-translated-resources/> This information is also made available on UNHCR's help page at: <https://www.unhcr.org/en-ie/news/stories/2020/3/5e6b7e7c4/covid-19-update-to-unhcr-ireland-services.html>