

COMMUNICATION FROM THE COMMISSION**COVID-19: Guidance on the implementation of relevant EU provisions in the area of asylum and return procedures and on resettlement**

(2020/C 126/02)

The COVID-19 virus has spread across the globe and triggered different measures to limit the pace of contagion. On 10 March 2020, the Heads of State or Government of the Member States of the European Union emphasised the need for a joint European approach and a close coordination with the Commission ⁽¹⁾. In particular, Health Ministers and Interior Ministers were invited to ensure proper coordination and aim for common European guidance.

The scale of the global threat faced today underlines the imperative need for EU coordination, to maximise the potential impact of measures taken at the national level.

It is against this backdrop that on 16 March 2020, the Commission adopted a Communication to the European Parliament, the European Council and the Council, calling for a Temporary Restriction on Non-Essential Travel to the EU in view of COVID-19 ⁽²⁾. The exemptions to these temporary restrictions extend to persons in need of international protection or who must be admitted to the territory of the Member States for other humanitarian reasons. Measures taken by Member States to contain and limit the further spread of COVID-19 should be based on risk assessments and scientific advice, and must remain proportionate. Any restrictions in the field of asylum, return and resettlement must be proportional, implemented in a non-discriminatory way and take into account the principle of *non-refoulement* and obligations under international law.

The pandemic has direct consequences on the way EU asylum and return rules are being implemented by Member States and a disruptive effect on resettlement. The Commission fully acknowledges the difficulties that in the current context Member States face when implementing relevant EU rules in this regard. Any measure taken in the area of asylum, resettlement and return should also take full account of the health protection measures introduced by the Member States on their territories to prevent and contain the spread of COVID-19.

In this context, in order to support Member States, the Commission has prepared this guidance (the Guidance) with the support of the European Asylum Support Office (EASO) and the European Border and Coast Guard Agency (Frontex) without prejudice to the principle that only the European Court of Justice may give authoritative interpretations of Union law.

The Guidance illustrates how to ensure continuity of procedures as much as possible while fully ensuring the protection of people's health and fundamental rights in line with the EU Charter of Fundamental Rights. At the same time, it recalls the fundamental principles that must continue to apply, so that access to the asylum procedure continues to the greatest extent possible during the COVID-19 pandemic. In particular, all applications for international protection must be registered and processed, even if with certain delays. Emergency and essential treatment of illness, including for COVID-19, must be ensured.

In this respect, the Guidance also provides practical advice and identifies tools, including by pointing to emerging best practices in Member States on how to pursue the asylum and return procedures and continue with resettlement-related activities under the current circumstances, given that current legislation does not foresee the specific consequences resulting from a pandemic situation.

To prevent and contain the spread of COVID-19, public health measures such as medical screening, social distancing, quarantine and isolation should be applied as necessary for third-country nationals, including applicants for international protection, resettled persons or third-country nationals illegally staying in the Union provided that these measures are reasonable, proportionate and non-discriminatory.

⁽¹⁾ <https://www.consilium.europa.eu/en/press/press-releases/2020/03/10/statement-by-the-president-of-the-european-council-following-the-video-conference-on-covid-19/>

⁽²⁾ COM (2020) 2050 final.

The practical guidance included throughout the document aims at providing examples of what is possible to do within the limits of the *acquis*, which each Member State can make use of as appropriate taking into account existing national practices and available resources.

The Guidance covers in particular:

Asylum: the registration and lodging of applications, the modalities for carrying out interviews and issues concerning reception conditions including detention, as well as procedures under Regulation (EU) No 604/2013 (hereafter “the Dublin Regulation”).

Resettlement: practical modalities to continue, to the extent possible, the preparatory operations, so as to allow for a smooth resumption of resettlements as soon as this is again possible.

Return: practical measures that could facilitate carrying out return procedures in the current circumstances, supporting voluntary return and reintegration, protecting migrants from the unintended consequences of restrictive measures on international travelling, guaranteeing access to adequate essential services, as well as clarifying under which conditions it is reasonable and proportionate to detain irregular migrants.

Providing guidance is a dynamic exercise, which may need to evolve. It will be complemented by activities by relevant EU agencies in the form of dedicated thematic meetings⁽³⁾ to assist Member States with additional practical advice and facilitate the sharing of best practices. In addition, general guidance by EASO is also available on several key specific issues covered by this guidance⁽⁴⁾.

1. Asylum

Measures taken at national level to limit social interaction among asylum personnel and asylum applicants have an impact on asylum processes. Whereas national sanitary authorities may take the measures necessary, based on risk assessment and scientific advice, to contain and limit further spread of COVID-19, such measures should be proportionate and in line with the EU law, including the Charter of Fundamental Rights. Therefore, even if there are delays, third-country nationals who apply for international protection must have their application registered by the authorities and be able to lodge them. Particular attention should be paid to the situation of vulnerable persons, families and minors (including unaccompanied minors), and all applicants for international protection must be treated with dignity, and be, at a minimum, able to access, and exercise their basic rights.

As regards asylum procedures, considering that a situation such as the one resulting from the COVID-19 pandemic has not been foreseen in Directive 2013/32/EU (hereafter “the Asylum Procedures Directive”), the application of derogatory rules such as those set in the Directive in case of a large number of simultaneous applications may be considered⁽⁵⁾. Moreover, Regulation (EU) No 603/2013 (hereafter “the Eurodac Regulation”) specifically provides for the possibility to postpone the collection of fingerprints because of measures taken to protect public health⁽⁶⁾.

As regards the responsibility for examining applications, there is room for flexibility in the Dublin Regulation as regards in particular personal interviews, family reunification procedures for unaccompanied minors, and the application of the discretionary clauses.

As regards reception conditions, Member States may make use of the possibility under Directive 2013/33/EU (hereafter “the Reception Conditions Directive”) to exceptionally set, in duly justified cases and for a reasonable period that should be as short as possible, different modalities for material reception conditions from those normally required⁽⁷⁾. Such modalities must in any event cover the basic needs including health care. Measures of quarantine or isolation for the prevention of the spreading of COVID-19 are not regulated by the EU asylum *acquis*. Such measures may be imposed also on asylum applicants in accordance with national law, provided that they are necessary, proportionate and non-discriminatory.

⁽³⁾ On 2 April 2020, the EASO Asylum Processes Network has held an online thematic meeting on the organisation of Remote Personal Interviews and on 8 April 2020 on remote lodging of asylum applications. As well as the EASO Resettlement and Humanitarian Admission Network held an online meeting to discuss the impact of COVID-19 on resettlement operations in the Member States.

⁽⁴⁾ EASO Practical Guide: Personal Interview and the EASO Guidance on asylum procedure: operational standards and indicators and EASO Guidance on contingency planning in the context of reception

⁽⁵⁾ Article 6 and Article 31 of Directive 2013/32/EU.

⁽⁶⁾ Article 9 of Regulation (EU) No 603/2013.

⁽⁷⁾ Article 18 of Directive 2013/33/EU.

1.1. *Asylum procedures*

With regard to access to the international protection procedure, in view of the need to apply social distancing and due to shortages of personnel, several Member States have reported closures of asylum administrations or access only upon prior notification via phone or electronic-services. Member States have also reported service restrictions in relation to the registration of applications for international protection. Some Member States have specified that registration of applications is in general suspended or only allowed for exceptional cases and/or for vulnerable persons.

Article 6(5) of the Asylum Procedures Directive allows Member States to extend the time limit for the registration of applications to ten working days where simultaneous applications by a large number of third-country nationals or stateless persons make it very difficult in practice to respect these time limits. It should be possible for Member States to apply this derogatory rule for a limited period of time where it is very difficult in practice for national authorities to respect the three-day or six-day time limit for the registration as a result of the COVID-19 situation, which could have a similar impact, in the light of the overall purpose of the legislation and the interests at stake, to a difficulty resulting from a large number of simultaneous applications considering that current legislation does not provide for the specific circumstances resulting from a pandemic situation. In any event, any further delays in the registration of applications should not affect the rights of the applicants pursuant to the Reception Conditions Directive which apply as from the making of an application.

In accordance with the third sub-paragraph Article 6(1), of the Asylum Procedures Directive, Member States should make sure that information about changes made in relation to the registration and lodging of applications is provided to the personnel of authorities which are likely to receive applications for international protection (such as police, border guards, immigration authorities and personnel of detention facilities) so that they can refer the cases for registration and inform applicants as to where and how applications for international protection may be lodged.

Practical guidance:

- Personnel of authorities likely to receive applications for international protection should be informed about any temporary changes to procedures for access to the asylum procedure due to the impact of COVID-19, such as reduced working hours of asylum authorities, restricted access for the public, and the possibility of remote contacts via phone etc.
- Information on such temporary changes and arrangements should be made available to the wider public e.g. through the public website of asylum authorities so that third-country nationals or stateless persons are aware before making an application for international protection. Such information would also be useful for civil society organisations that may assist applicants.
- Where access to the premises of the asylum authorities is still ensured, the relevant information should preferably be displayed through infographics and other forms of visual communication to the extent possible.
- A number of Member States have implemented different systems for registration of applicants without the personal contact with the asylum personnel. An example of a good practice is the registration of applicants in special booths within the premises of the administration with information provided in the language of the applicant and the collection of information ensured.

Lodging of applications

In some Member States it is possible to lodge applications for international protection via postal mail. The Commission recommends that, where necessary, it should be possible to lodge applications by means of a form either by postal mail or preferably online. In accordance with Article 6(4) of the Asylum Procedures Directive, the application will be deemed lodged once the form has reached the competent authorities.

Practical Guidance:

- Lodging of applications can, where necessary and as far as possible be organised online (through the submission of an online form). In such cases, applicants should have easy access to the correct form to be filled-in online.
- As a basic safeguard, where applications are lodged online or by mail, applicants should have evidence of the fact that they have submitted an asylum application, such as a confirmation email or registered mail.

- Specific measures should be taken to ensure that applicants are informed in a language that they understand or are reasonably supposed to understand, of the procedure to be followed and of their rights and obligations during the procedure.
- Specific measures should also be taken to ensure that information is provided on the possible consequences for applicants of not complying with their obligations and not cooperating with the authorities.

Personal interviews

Many Member States have postponed personal interviews. Others are organising interviews upon specific arrangements, by using videoconferencing or by installing safety glass. The Commission recommends that Member States as far as possible make use of such specific temporary arrangements, provided that necessary arrangements concerning the facilities are set up and that interpretation as well as access to legal assistance and representation is ensured by the competent authorities.

Member States may make use of Article 14(2)(b) of the Asylum Procedures Directive and omit the personal interview, depending of the circumstances of the case, particularly if there are reasonable indications suggesting an applicant may have contracted COVID-19. In such cases, reasonable efforts shall be made to allow the applicant to submit further information. The absence of a personal interview shall not adversely affect the decision of the determining authority.

Furthermore, where allowed by national legislation, it is possible to conduct the preliminary admissibility examination of a subsequent application on the sole basis of written submission, without holding a personal interview in accordance with Article 42(2)(b) of the Asylum Procedures Directive.

Practical Guidance:

- Personal interviews should, as far as possible be conducted remotely through the use of videoconferencing except if special procedural needs make a personal interview by videoconferencing not suitable for the applicant (e.g. traumatized applicants, gender based persecution, children, applicants with hearing impairments). In addition, remote simultaneous interpretation should be used, through dedicated telephone channels.
- Where the authorities set up videoconferencing rooms they should also arrange for the (virtual) presence of legal advisers, other counsellors and persons of trust to support the applicant. A safe environment should be provided including a confidential setting. Measures related to confidentiality also include the security of the connection.
- Where videoconferencing is not technically feasible or appropriate, Member States could, make use of required spatial and social distancing arrangements to ensure risk of infection is reduced, such as installing safety glass on the basis of the health and safety advice. Even in cases where videoconferencing is not technically feasible, all means to ensure remote simultaneous interpretation should be explored.
- EU rules on interview transcripts and/or recordings need to be respected. Alongside the videoconference, alternative ways should be ensured to allow applicants to submit evidence in a way that guarantees the safety and confidentiality of the documents submitted, for example by the reception network or local branches or relevant ministries. The video conference room could have a scanner for example which the applicant could use to send documents.
- If personal interviews are conducted remotely, this circumstance should be taken into consideration when examining the application as well as possible elements of additional distortion during the interview. More information can be found in the EASO Practical Guide: Evidence Assessment.
- Where case officers telework, it is important that they have access to regular channels for obtaining advice from senior case officers, supervisors and/or experts using secure systems of communication, guaranteeing security and protection of personal data.

Time limit for concluding the examination procedure

Article 31(3) point (b) of the Asylum Procedures Directive allows Member States to extend the six months period for concluding the examination of applications by a period not exceeding a further nine months where a large number of third country nationals or stateless persons simultaneously apply for international protection making it very difficult in practice to conclude the examination within this time-limit. It should be possible for Member States to apply this temporary derogatory rule where it is very difficult in practice for them to respect the six-month time limit for the examination of applications as a result of the COVID-19 situation, which could have a similar impact, in the light of the overall purpose of the legislation and the interests at stake, to a difficulty resulting from a large number of simultaneous applications considering that the specific circumstances resulting from a pandemic situation have not been foreseen by the co-legislator,

1.2. **Dublin**

Dublin transfers

EASO sent a query ⁽⁸⁾ to Member States on the issue of implementation of Dublin transfers and the Commission has followed up with a request for specific data. Based on the replies from Member States, as of 30 March 2020 the maximum number of cases where the current inability to transfer applicants to the Member State responsible due to COVID-19 has resulted in a shift of responsibility is of just over 1,000 cases ⁽⁹⁾ since 25 February 2020, and has affected 6 Member States.

Based on the replies of the Member States, it is estimated that 25 Member States will have a maximum of 6,000 cases where responsibility may shift before 1 June 2020 if transfers are not resumed due to COVID-19. However, some Member States, including Member States with high numbers of Dublin cases, were not able to subtract cases where the person has absconded or the case is still pending at administrative level or before a court or tribunal, or to identify the individual time limits and therefore based the number of cases where responsibility may shift on an estimate. Therefore, the expected number where responsibility may shift due to COVID-19 in the next two months will be significantly lower.

Close cooperation between Member States is of fundamental importance for the good functioning of the Dublin system. The Commission encourages all Member States to resume transfers as soon as practically possible in view of the evolving circumstances. The Commission and EASO are prepared to facilitate cooperation among Member States, including bilateral cooperation, as necessary.

Before carrying out any transfer, Member States should consider the situation related to COVID-19, including that resulting from the heavy pressure on the health system, in the Member State responsible. Moreover, Member States should give due consideration to not delaying the examination of applications, taking into account the current situation.

Where a transfer to the responsible Member State is not carried out within the applicable time limit, responsibility shifts to the Member State that requested the transfer pursuant to Article 29(2) of the Dublin Regulation. No provision of the Regulation allows to derogate from this rule in a situation such as the one resulting from the COVID-19 pandemic.

As regards unaccompanied minors, the procedure for family reunification with a family member, sibling or a relative could continue after the expiry of the transfer time limits set out in Article 29 where it is in the best interests of the child and where the duration of the procedure for placing the minor led to a failure to observe this time limit, as provided for in Article 12(2) of the Dublin Implementing Regulation ⁽¹⁰⁾.

In addition, pursuant to Article 17(2) of the Dublin Regulation, a Member State may, at any time before a decision is taken on the substance of an application, request another Member State to take charge of applicants in order to bring together any family relations, on humanitarian grounds based in particular on family or cultural considerations, even where that Member State is not in principle responsible. This rule could also be applied in cases where the binding criteria concerning family reunification were applicable, but the impossibility of carrying out a transfer due to COVID-19 resulted in a failure to respect the transfer time limits.

Considering that the specific circumstances resulting from a pandemic situation have not been foreseen by the co-legislators, it should be possible for Member States to apply such a discretionary clause, even where the objective is not to bring together family relations.

⁽⁸⁾ "Practical/technical level to provide overview on the impact of COVID19 on the Dublin practice".

⁽⁹⁾ Some Member States were only able to give an estimation.

⁽¹⁰⁾ Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ L 222, 5.9.2003, p. 3, as amended by Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 (OJ L 39, 8.2.2014, p. 1).

Member States can agree on a bilateral and case-by-case basis that, after Dublin transfers can resume, the Member States that were responsible for applicants before the suspension will accept to become responsible again for the applicants concerned.

Application of this rule would require the consent of the applicant, as required by Article 17(2).

Dublin procedures

Interviews: Pursuant to Article 5(2) of the Dublin Regulation, Member States are not obliged to hold a personal interview where the applicant has received relevant information on the implementation of that Regulation⁽¹¹⁾ and has already provided the information relevant for determining the Member State responsible by other means. Provided that these conditions are met, such omission may be considered as an appropriate measure in particular if there is suspicion that an applicant has contracted COVID-19. Where an interview is omitted, the Member States shall ensure that the applicant has the opportunity to submit further information relevant for the correct determination of the Member State responsible before a transfer decision is taken.

Priority to unaccompanied minors and family unity cases: In a situation where Member States' administrations are adjusting work practices which may affect the capacity to deal with all the Dublin cases in time, Member States should give priority to processing of cases concerning unaccompanied minors, other vulnerable persons, or family unity.

IT connectivity: Given the obligation of Member States to communicate with each other via DubliNet, and in a situation of adjusted work practices adopted by many Member States, Member States should examine, as a priority, how connection to DubliNet can be maintained or made available in the context of teleworking arrangements, in order to allow the processing of Dublin cases to continue, while ensuring data protection in accordance with EU law.

Practical guidance:

- Dublin interviews should, where necessary and as far as possible, be conducted remotely through the use of videoconferencing with the necessary remote interpretation. The general practical guidance on personal interviews above is also applicable concerning Dublin interviews. Member States omitting the interview in line with Article 5 (2) of the Dublin Regulation should ensure that, as far as possible, information needed to conduct the Dublin procedure is collected from the applicant at the time of registration of the application. Member States could also set up a designated e-mail address for the applicant to use as an alternative for submitting documents and alternate means of proof and information, while ensuring data protection in line with EU law. More information can be found in the EASO Practical Guide on the implementation of the Dublin III Regulation: interview and evidence assessment⁽¹²⁾ and in the Guidance on Dublin procedure: operational standards and indicators⁽¹³⁾.
- For cases concerning unaccompanied minors and family reunification, Member States should place emphasis on evaluating the possibilities for identifying family members and collecting the consent at the stage of registration. National authorities can choose to notify their national Dublin Unit of such cases directly after registration or at the end of the day by way of composing a list of cases to prioritize.
- Member States could make DubliNet available to a sufficient number of staff working remotely. Exchange of data between Member States has to be done via the Member States' National Access Points (NAPs), and a secure connection and secured access to DubliNet has to be assured by the Member States. Each staff member working remotely that need to have access to DubliNet should be equipped with devices and tools that will allow secure access to Member States' NAP. For example, one of the possibilities is to configure VPN between the staff member's device and the Member State's NAP that is installed in the Dublin Office. EU-LISA can support Member States and share their experience in the network or security aspects. Failing the availability of a technical solution for teleworking staff, the national Dublin Unit can choose to have a skeleton staff at the office, respecting COVID-19 national health and safety guidelines.

⁽¹¹⁾ Referred to in Article 4 of the Dublin Regulation.

⁽¹²⁾ EASO 'Practical Guide on the implementation of the Dublin III Regulation: interview and evidence assessment'

⁽¹³⁾ EASO 'Guidance on Dublin procedure: operational standards and indicators'

1.3. *Providing for reception conditions for asylum applicants*

Health screening: Many Member States have introduced stricter medical screening for applicants and mandatory COVID-19 testing for new arrivals. In accordance with Article 13 of the Reception Conditions Directive, Member States may proceed to a medical screening of applicants for international protection on public health grounds, in order to identify the appropriate precautionary measures to implement, while respecting fundamental rights and the principle of proportionality, necessity and non-discrimination.

Health care: Article 19 of the Reception Conditions Directive requires that applicants receive the necessary health care, which shall include, at least, emergency care and essential treatment of illnesses and of serious mental disorders. Member States should take the necessary measures to ensure that such health care include, where necessary, treatment for COVID-19.

Quarantine/Isolation: Many Member States are using measures of quarantine or isolation for the prevention of the spreading of COVID-19. Such measures are not regulated by the Reception Conditions Directive. Measures of quarantine or isolation may be applied in respect of applicants for international protection on the basis of national law, provided that such measures are reasonable, proportionate and non-discriminatory. This means, in particular, that a Member State could only apply quarantine/ isolation measures in respect of applicants for international protection arriving at its borders provided that it applies measures of that kind, although not necessarily identical, in respect of all persons arriving from areas affected by the pandemic and appropriate measures in relation to persons already present on its territory.

Practical guidance:

- Health screening of applicants most at risk of contagion, such as the elderly or those with chronic diseases, as well as of new arrivals in accommodation or detention facilities, should be prioritised.
- Where necessary, a 14-day quarantine for all new arrivals could be established at special arrival centres or dedicated areas of reception and detention facilities. Authorities could also take the temperature of third-country nationals upon entering and leaving facilities to detect illness symptoms. A daily monitoring mechanism for the evaluation of possible suspected cases could be established.
- It is recommended that, as a minimum, each reception centre should have one isolation room for persons who test positive for COVID-19 that respects the relevant standards for isolation.
- Applicants for international protection who are in need of special medical care should be allocated to special care facilities or transferred there.
- Applicants for and beneficiaries of international protection with a medical background may be able to provide support to the national health care system in view of COVID 19. Member States are encouraged to give them access to the labour market and to facilitate the recognition of their professional qualifications or status.

Material reception conditions

Some Member States have closed certain facilities, such as arrival centres, but opened other facilities, such as emergency shelters. Some Member States are also decreasing the occupation rate of facilities and limiting access or visits to them to avoid movement of people.

Under EU law Member States must ensure, from the moment a person makes an application, that material reception conditions provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health.

Where reception conditions are provided in collective reception facilities, the Commission recommends that the Member States' full reception capacity is utilised to provide, to the extent possible, sufficient social distancing between applicants, while isolating those at risk. These measures could serve both as a preventive action, as well as a reactive measure in relation to those tested positive, with particular attention to vulnerable groups, including applicants with disabilities, elderly or residents with existing health concerns.

Practical guidance:

- While recognising that it may be difficult to implement health protocols fully, reception authorities should seek technical advice from competent authorities on health protocols involving spatial and social distancing measures to reduce transmission. Staff should be provided with the necessary training and information to implement agreed changes in reception centres in terms of management and related workflows arising from new health protocols.
- Where reception centres are overcrowded, making it difficult to apply health protocols, applicants should as far as possible be transferred to other facilities. Where there is spare reception capacity, the occupancy rate of each facility can be reduced to lower the risks of spreading diseases. The planned closure of some reception centres could be postponed in order to ensure lower occupancy.
- To decrease the occupancy rate, Member States could also encourage people who have other housing solutions to leave open reception centres by providing them with meal vouchers.
- Collective canteens are one of the places where large groups of residents meet. Where appropriate, extending the opening hours, implementing shifts, or opening an extra room inside or outside could reduce the number of persons present at the same time and enable more space between them. The same could be applied in facilities which have shared kitchens for residents to cook for themselves.
- Instead of community and group-based activities (football, television room, language classes) opportunity could be provided to use the facilities on an individual basis or for nuclear families by establishing slots or by moving certain activities online through web and video-conferencing.
- As many persons as possible belonging to COVID-19 at-risk groups could be transferred to more individualised reception locations or grouped together in a separate corridor away from the residents not belonging to at-risk groups. Vulnerable groups should also be given special protection, for example during the delivery of food, pocket money payments etc.
- It is recommended Member States ensure continuity of mental health and psychosocial support, even if remotely, as a means to reduce the stress, anxiety and tensions resulting from the situation.
- It is recommended that Member States take measures to mitigate risks related to sexual and gender-based violence that might increase in the context of movement restrictions, within reception centres. Access to related support services should still be ensured to the extent possible.
- Certain deadlines and validity of relevant documents for applicants and residence documents for beneficiaries of international protection could be extended to ensure that these people would not be unfairly penalised for non-access to authorities in charge.

Preventive and hygiene measures

All Member States have already put in place special hygiene measures and perform regular disinfections within the reception facilities. The Commission recommends that such preventive and hygiene measures continue and target residents as well as staff working in collective facilities.

Practical guidance:

- Inform applicants, in a language that they understand or are reasonably supposed to understand, about the national measures taken to contain and prevent the spread of the coronavirus. For this purpose, the same message and content disseminated to the general public could be used as communication products targeted at applicants, providing translation into the languages required.
- Inform and sensitise applicants specifically about hand hygiene, social distancing, coughing, quarantine or isolation, hygiene measures, prevention of gatherings, use of public spaces, orderly rules of behaviour, movement restrictions, etc. and what they have to do if they suspect that they might be infected.

- It is advisable that surfaces in collective spaces that are often used such as dining rooms are disinfected several times a day. Other common spaces should also be disinfected throughout the week.
- Extra wash-basins could be installed at the entrance of the reception facility and at important places throughout the facility. Reception centres can also offer residents masks or provide the possibility for residents to have their own masks where available.
- Non-essential visits to reception centres could be limited on a temporary basis to limit the spread of Covid-19. This should not result in unjustified limitations being imposed to lawyers, guardians, UNHCR and (for closed facilities) detention monitoring bodies.
- Staff could be given the possibility to telework or work in shifts to ensure social distancing and more flexible working schemes.

Different modalities for material reception conditions

Some Member States are providing a more limited service within reception facilities by for example suspending group activities and face-to-face counselling.

If, due to COVID-19, the reception authority does not have sufficient staff or resources to ensure the adequate functioning of the available reception facilities Member States may make use of the possibility set out in Article 18(9)(b) of the Reception Conditions Directive in order to provide, in duly justified cases and for a reasonable period which shall be as short as possible, different modalities for material reception conditions from those normally required. Such different conditions shall in any event cover basic needs of applicants, in particular health care, subsistence, as well as physical safety and dignity.

Practical guidance:

- Emergency shelters could be set up when regular reception or arrival centres are not available. Basic needs and human dignity should be guaranteed in all circumstances.
- Non-essential services could, where necessary in view of ensuring social distancing, be suspended for the short term, such as group activities and face-to-face counselling. It is recommended that Member States put in place provisions to ensure remote communication and counselling, including through a helpline.

Education for children

Pursuant to Article 14 of the Reception Conditions Directive Member States shall grant to minor children of applicants and to applicants who are minors access to education under similar conditions as for their nationals.

Providing continuous access to education is a challenge that national authorities may face because of the measures aimed at preventing and containing the spread of COVID-19. In this context, several Member States have put in place home schooling or other distant learning modalities. To the extent that these modalities have been made available to nationals, the measures taken should take into account the best interests of the child in line with Article 23 of the Reception Conditions Directive and, as much as possible, the age and needs of the minors concerned. Education may be provided face-to-face in accommodation centres where compatible with social distancing rules.

Practical guidance:

- Ensure access to home schooling or other modalities for distant learning to minor children of applicants and applicants who are minors, under similar conditions as for children who are nationals. Home schooling might for example include online or e-learning facilities with teachers conducting remote daily or weekly follow-up, assigned reading and exercises for home study, distribution of recreational and educational kits and radio, podcast or television broadcasts of academic content.

- For online or e-learning purposes, it might be necessary to increase access to the internet in collective reception facilities through the availability of wireless network (if parents have their own communication devices) and the availability of computers to be used in compliance with social distancing rules.
- Education providers, including providers of language classes or informal education (e.g. NGOs), should be able to continue their activities in the centre, as long as social distancing rules and preventive health measures can be ensured, or remotely, making use of online facilities.
- Guidelines on how to ensure education in the COVID-19 situation can be found from the Inter-Agency Network for Education in Emergencies (<https://inee.org/>).

Applicants detained in accordance with the Reception Conditions Directive

With regard to applicants detained on the basis of the grounds set out in the Reception Conditions Directive, in accordance with Article 11 of the Reception Conditions Directive, “the health, including mental health, of applicants in detention who are vulnerable persons shall be of primary concern to national authorities” (such as COVID-19).

Practical guidance:

- For applicants in detention, access to open air should be maintained. Some Member States have reduced the time detainees are allowed to spend outside of the detention facility, so that residents get into contact with less people from the community. Any restrictions, including a limitation of visitors, need to be carefully explained in advance and alternative measures to provide contact with family and friends, for example by phone or internet calls, could be introduced.
- Consideration could also be given to the possible need for additional psychological support, for transparent awareness-raising and information-sharing on the disease.
- The WHO guidance “Preparedness, prevention and control of COVID-19 in prisons and other places of detention” (<http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/news/news/2020/3/preventing-covid-19-outbreak-in-prisons-a-challenging-but-essential-task-for-authorities>) provides useful information on how to prevent and address a potential disease outbreak in a place of detention, stressing also important fundamental rights elements that must be respected in the response to COVID-19.

1.4. Eurodac Regulation

Taking and transmission of fingerprints

Article 9(2) of the Eurodac Regulation provides, that, where it is not possible to take the fingerprints of an applicant on account of measures taken to ensure his or her health or the protection of public health, Member States shall take and send such fingerprints as soon as possible and no later than 48 hours after those health grounds no longer prevail.

Fingerprints of all third country nationals that fall under the obligation to be fingerprinted should be taken, as soon as possible, while ensuring the protection of public health.

2. Resettlement

The outbreak of the COVID-19 crisis has led to a severe disruption of resettlement operations: Member States, the UNHCR and the IOM have temporarily suspended resettlement operations. Moreover, UNHCR has suspended emergency humanitarian evacuations with a view to onward resettlement. For the same reasons, access to third countries hosting refugees is currently hampered.

The Commission acknowledges this difficult context and the impact it is having on the practical implementation of the pledges made by Member States of 29 500 resettlement places for 2020. Nevertheless, the Commission encourages Member States to continue showing solidarity with persons in need of international protection and third countries hosting large numbers of refugees. The impact of COVID-19 on the situation in these third countries can render resettlement needs even more pressing.

The Commission encourages Member States, to the extent practicable in line with emergency health measures that have been taken, to continue resettlement-related activities during the period of crisis to be prepared to resume resettlements under safe conditions for all involved, when this is again possible.

Given the current disruptions of resettlement operations, the Commission will support Member States regarding the implementation of their 2020 pledges, and will notably be flexible as regards the implementation period beyond 2020 to ensure that Member States have enough time to implement fully the pledges made under the 2020 pledging exercise.

Practical guidance:

- The Commission encourages Member States to consider new ways of working to keep their resettlement programmes active. In particular, Member States should consider, in close cooperation with UNHCR, accepting resettlement submissions on a dossier-basis and envisage video interviews supported by remote simultaneous interpretation, as well as remote pre-departure orientation measures, as soon as they are possible again in the countries of first asylum, including through the use of the EASO Resettlement Support Facility in Istanbul. This would ensure that the selection of persons in need of international protection can continue and that the selected persons can be ready to travel to the Member States' territory as soon as travel restrictions are lifted.
- Given that the temporary restriction of non-essential travel includes an exemption for persons in need of international protection and for persons travelling for other humanitarian reasons, Member States are encouraged to facilitate the continued arrival of individuals or groups of persons in need of international protection who have already been selected for resettlement, where this is practically feasible under the current circumstances. Close cooperation with IOM and UNHCR is needed in this respect, including on pre-departure health checks and possible quarantine measures.
- Member States are also encouraged to review their resettlement operational plans to take into account likely heightened health concerns, for example by providing COVID-19 testing or establishing quarantine modalities.
- The Commission invites the Member States to make full use of the EASO Resettlement and Humanitarian Admission network as the key forum for sharing information, developing new ways of working and jointly developing exit strategies from the current shutdown of resettlement operations. Due to the complexity of resettlement operations, close cooperation between the Member States may facilitate a timely and smooth resumption of resettlements. UNHCR and IOM will be associated to the Network's work, as appropriate.
- As regards Private Sponsorship Schemes linked to resettlement, Member States are encouraged to keep communication channels open with sponsor organisations and individual sponsors in order to keep them informed of the state of play of resettlement programmes and possible future arrivals. For those Member States with private sponsorship programmes already in place, sponsors' recruitment and screening should continue so as to enlarge future hosting availability.

3. Return

This section aims at providing guidance to support national authorities in identifying the possible measures that could be taken to ensure continuity and safety of return procedures of third-country nationals to their countries of origin or transit in the context of the current COVID-19 pandemic.

When carrying out return actions and procedures, the competent authorities in Member States must take fully into account the national health protection measures aimed at preventing and containing the spread of COVID-19 and apply them in a proportionate and non-discriminatory manner to all illegally staying third-country nationals. Particular attention should be paid to the situation and needs of vulnerable people. The particular situation in the third country with regard to the national health protection measures and impact of COVID-19 should be also taken into account.

The measures taken worldwide to contain the COVID-19 pandemic are having a significant effect on the return of irregular migrants. Member States are facing practical difficulties in carrying out return activities and operations to third countries, including due to the reduced availability of immigration authorities' personnel that may also be in charge of implementing public health measures. Such difficulties are primarily related to challenges in implementing health and safety measures to protect both the irregularly staying third-country nationals and the personnel working on return.

The difficulties also relate to the significantly reduced availability of commercial flights and other means of transport, and the restrictive entry measures introduced by third countries in view of containing the spread of COVID-19. Frontex provides regular updates on the measures taken by air carriers and third countries in the Integrated Return Management Application (IRMA). In this context, it is key to take all necessary measures to minimise the health risks to those participating in return operations, procedures and activities.

Despite the temporary disruption caused by these necessary measures, work on return should continue, in particular by implementing those activities that can be carried out despite the restrictive measures (e.g. identification, re-documentation, enrolment in assisted voluntary return and reintegration programmes), to be ready for when return operations can be pursued. Return procedures should continue as far as possible and Member States should be ready, also with the support of Frontex, to resume return procedures and deal with the backlog when the disruption caused by the restrictive measures will be over. The Commission and Frontex will support national authorities in coordinating their efforts.

The return of irregular migrants who have made the choice to leave the EU territory voluntarily should continue to be actively supported and promoted, while taking all necessary sanitary precautions. More than ever, voluntary returns should be prioritised as they lower the health and safety risks of return operations, including by minimising the risks for irregular migrants and the accompanying staff involved.

National authorities are facing practical challenges on how to handle pre-removal detention when implementing measures to prevent and protect against the risk of contagion and the spread of COVID 19.

Close cooperation and contacts with third countries on the identification, re-documentation and return of their nationals should be maintained, while fully acknowledging their concerns, the restrictive measures they have taken and, while taking all necessary sanitary precautionary measures. Third countries continue to have an obligation under international law to readmit their own nationals. Many third countries are trying to facilitate and organise the repatriation of their nationals stranded abroad, while taking health protection measures that apply upon arrival. Member States should cooperate with the authorities of the third countries to ensure that such public health measures are fully respected when irregular migrants are returning to their country of origin, so that return operations can take place as much as possible. The Commission stands ready to support Member States in their cooperation efforts on readmission with third countries.

Frontex stands ready to assist Member States in the organisation of all return operations to third countries by air, notably to facilitate the repatriation of both voluntary and forced returnees by scheduled or charter flights, and to offer the assistance that may be required by national authorities.

Despite all reasonable efforts, there will be cases in which returns cannot be carried out due to the measures taken to contain the COVID-19 pandemic. In such cases, Member States enjoy broad discretion to grant a residence permit or another authorisation offering a right to stay to irregular migrants for compassionate, humanitarian or other reasons, as provided for by Article 6(4) of Directive 2008/115/EC (hereafter "the Return Directive").

Return processes

The national measures introduced to prevent and contain the spread of COVID-19 limit the possibilities for return authorities to have direct contacts with returnees and third country authorities.

There is a need to alleviate the consequences of such restrictions, to ensure that the measures taken during administrative procedures by the competent authorities are based on and take due account of the individual circumstances of each irregular migrant and guarantee the right to be heard, in accordance with general principles of EU law. The competent authorities should therefore use alternative means not requiring or reducing the physical presence of the third-country national in order to comply with these requirements.

A similar approach is also strongly encouraged in order to maintain communication and cooperation channels open with third countries authorities, at a time when consular staff of many third countries are also becoming less available for procedures of identification and re-documentation due to the restrictive measures. This would facilitate clarifying and advancing the proceedings in individual cases and therefore return once the situation will allow it.

Despite the current limitations, voluntary returns remain the most viable option to support the departure of irregular migrants. It is therefore essential to promote voluntary return possibilities, including opportunities of reintegration assistance, and to ensure the continuity of national assisted voluntary return and reintegration programmes, while taking into account the impact COVID-19 has in third countries. Third-country nationals willing to enrol in such programmes should be able to continue doing so, and return and reintegration counselling activities should continue as much as possible, using tools which reduce or do not require physical proximity.

Practical guidance:

- Use videoconferencing, written exchanges or other channels for virtual and remote communication to carry out interviews, while ensuring access to interpretation and legal assistance. At national level, guidelines for all parties involved could be made available.
- Use videoconference and other available electronic means, such as Readmission Case Management Systems, to keep contacts with third countries' consular authorities and advance on individual cases.
- Use the support of Frontex, when possible, to enhance the availability and use of videoconferencing as well as other electronic means and channels for virtual and remote communication.
- Use the capacities of operational Immigration Liaison Officers and EU Return Liaison Officers in third countries to support identification and re-documentation procedures.
- Use online forms, phone interviews and other forms of remote communication to continue return and reintegration counselling activities and for the enrolment in assisted voluntary return and reintegration programmes. Prolong the deadlines for enrolling into such programmes. Maintain close contacts with reintegration service providers in third countries. Considered adjusting reintegration packages granted by Member States where service providers are not able to deliver their normal services in third countries.
- Use Frontex financial support to introduce adjustments to national return case management systems (RECAMAS) to register necessary information regarding returnees, ensuring compliance with data protection rules.

Period for voluntary departure

Due to the significant restrictions on commercial flights and the restrictive measures introduced by third countries on arrivals from Europe, third-country nationals subject to return decisions granting a period for voluntary departure may be unable to comply with such a decision within the set time-period despite their best efforts and intentions. As a consequence, third-country nationals may be subject to an entry ban due to non-compliance with a return decision, as required by Article 11(1) of the Return Directive. However, irregular migrants cannot be held responsible and suffer negative consequences for a situation that is beyond their control.

To prevent the emergence of such a situation, Member States should use the possibility provided for by Article 7(2) of the Return Directive and extend the period for voluntary departure by an appropriate period of time, taking into account the specific circumstances of the individual case, the duration and nature of the restrictive measures and the availability of means of transport to the third country of return.

Member States should also grant a period for voluntary departure longer than 30 days at the time of issuing a return decision if, taking into account the specific circumstances of the case and in particular the availability of means of transport to the third country of return, it is clear from the beginning that the third-country national concerned will not be able to leave within 30 days.

When the period for voluntary departure is prolonged and when the enforcement of the decision is temporarily suspended, irregular migrants should receive a written confirmation as provided for by the Return Directive (Article 14).

When the period for voluntary departure cannot be respected due to the lack of transportation to the third country of return or any other reason independent from the person's will and related to the restrictive measures, Member States should refrain from issuing or should withdraw an issued entry ban.

Practical guidance:

- Use, where necessary and proportionate, the possibility to impose certain obligations aimed at avoiding the risk of absconding during the period for voluntary departure, as provided for by Article 7(3) of the Return Directive, such as the obligation to stay at certain place, to submit identity or travel documents to the authorities.
- When measures aimed at avoiding the risk of absconding are imposed, use those that reduce circulation in public places and ensure social distancing, such as regular reporting through video calls, in compliance with data protection rules.

Education for children

The Return Directive requires that minors should be granted access to the basic education system, subject to the length of their stay, both during the period for voluntary departure and during periods for which removal has been postponed (Article 14) and during detention (Article 17).

Providing access to a basic education system to minors subject to return procedures is a challenge that national authorities may face because of the measures aimed at preventing and containing the spread of COVID-19. In this context, several Member States have put in place home schooling or other distant learning modalities. To the extent that these modalities have been made available to nationals, the measures taken should take into full account the best interests of the child (Article 5) and, as much as possible, the age and needs of the minors concerned.

Practical guidance:

- Ensure access to home schooling or other modalities for distant learning for minors, under similar conditions as for children who are nationals. Home schooling might for example include online or e-learning facilities with teachers conducting remote daily or weekly follow-up, assigned reading and exercises for home study, distribution of recreational and educational kits and radio, podcast or television broadcasts of academic content.
- For online or e-learning purposes, consider increasing, if necessary, access to the internet and the availability of computers to be used in compliance with social distancing rules.
- Education providers, including providers of language classes or informal education, should be able to continue their activities, in case social distancing rules and preventive health measures can be ensured, or remotely, making use of online facilities.
- Guidelines on how to ensure education in the COVID-19 situation can be found from the Inter-Agency Network for Education in Emergencies (<https://inee.org/>).

Health care

The Return Directive requires that third-country nationals have access as far as possible to emergency health care and essential treatment of illness. Member States should take the necessary measures to ensure that, as part of such emergency health care and essential treatment of illness, returnees have access to the necessary health care for the treatment of COVID-19.

Practical guidance:

- Inform irregular migrants, in a language that they understand or are reasonably supposed to understand, about the national measures taken to contain and prevent the spread of COVID-19, including about hand hygiene, social distancing, coughing, quarantine or isolation, hygiene measures, prevention of gatherings, use of public spaces, ordered rules of behaviour, movement restrictions and what they have to do if they suspect that they might be infected.

Health screening

Based on national law, Member States may carry out a medical screening of irregularly staying third-country nationals on public health grounds, which should comply with the principle of non-discrimination and fundamental rights, to identify the appropriate precautionary measures to implement. This would ensure that the state of health of the third-country national is taken into due account in return procedures, in line with the EU *acquis*.

Medical tests and screening for COVID-19 of irregular migrants can also facilitate readmission by reassuring third country authorities about the reduced risk of contagion, as can do referrals to quarantine possibilities in third countries facilitated by international partners such as the International Organization for Migration.

Practical guidance:

- Health screening of third country nationals most at risk of contagion, such as the elderly or those with chronic diseases, as well as of new arrivals in accommodation or detention facilities, should be prioritised.
- Where necessary, a 14-days quarantine may be imposed to new arrivals in a detention or accommodation facilities. Authorities could also take the temperature of third-country nationals upon entering and leaving facilities to detect illness symptoms. A daily monitoring mechanism for the evaluation of possible suspected cases could be established.
- Provide COVID-19 medical certificate for returnees, if requested by the third country of return; where available, work with international partners to refer returnees to quarantine possibilities in third countries.
- Regularly screen staff working in close contact with returnees.
- Use Frontex financial support to introduce adjustments to national return case management systems (RECAMAS) to register whether an irregular migrant is infected or at risk of infection, if national law provides for the registration of such information, while ensuring compliance with data protection rules and the principles of necessity and proportionality.

Detention

Article 15(4) of the Return Directive requires that detention for the purpose of removal shall cease immediately when it appears that a reasonable prospect of removal no longer exists in an individual case. The temporary restrictions introduced by Member States and third countries to prevent and contain the spread of COVID-19 should not be interpreted as automatically leading to the conclusion that a reasonable prospect of removal no longer exists in all cases. Several factors may be taken into account in order to determine whether, in each case, a reasonable prospect of removal continues to exist.

Practical guidance:

- Carry out individual assessments before deciding on the release of detained migrants taking into account the maximum period of detention, the period during which a returnee has already been detained, whether identification / re-documentation / readmission procedures are diligently carried out.
- When a third-country national is released use, when necessary and proportionate, measures less coercive than detention to prevent absconding in accordance with Article 15 of the Return Directive, such as for instance the obligation to stay at certain place or to submit documents to the authorities.
- To the extent possible, take measures to ensure that the third-country national released from detention can comply with national public health measures in place to prevent and contain the spread of COVID-19.
- To ensure that less coercive measures comply with national public health measures in place to prevent and contain the spread of COVID-19, use alternative measures to detention that ensure compliance with national public health measures, such as regular reporting through video calls, in compliance with data protection rules.

Use of specialised detention facilities, detention conditions and social distancing

To protect people from the spread of COVID-19, national authorities are increasingly applying social distancing and other precautionary measures. The same is done in detention facilities, where the health and safety of both detained migrants and the staff can also be at risk and needs to be preserved. As a consequence, the effective maximum capacity of specialised detention facilities may be significantly reduced in order to prevent contaminations.

If Member States, for those reasons, are unable to provide accommodation in specialised detention facilities, they may use other appropriate facilities, under the safeguards laid down in the Return Directive, provided that social distancing and other preventive and hygiene measures are ensured. Member States should take into due account the right to family life in case of couples and families with children, as well as the situation of vulnerable people.

Practical guidance:

- Implement preventive and hygiene measures in facilities, including social distancing and the regular disinfection of common areas, and ensure the availability of adequate isolation capacity.
- The WHO guidance “Preparedness, prevention and control of COVID-19 in prisons and other places of detention” ⁽¹⁴⁾ provides useful information on how to prevent and address a potential disease outbreak in a place of detention, stressing also important human rights elements that must be respected in the response to COVID-19.
- Non-essential visits could be limited to contain and prevent the spread of COVID-19; alternative measures, for example via phone, online communication or other tools, could be used. This should not result in unjustified limitations being imposed to lawyers, guardians and monitoring bodies.
- Non-essential services could, where necessary in view of ensuring social distancing, be suspended for the short term, such as group activities and face-to-face counselling.

⁽¹⁴⁾ Available at: <http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/news/news/2020/3/preventing-covid-19-outbreak-in-prisons-a-challenging-but-essential-task-for-authorities>.