

Interviews to determine the need for international protection through videoconference:

Preliminary observations

1. UNHCR was asked by the Flemish Bar Association¹ and the Association of French- and German-speaking Bars² to provide its observations on the plans of the Belgian Commissioner General for Refugees and Stateless Persons to conduct status determination interviews with asylum seekers detained in the closed center of Merksplas through videoconference, where the protection officer and interpreter would sit at CGRS' offices in Brussels and the applicant with his lawyer and/or person of trust in an adapted room in the closed center.
2. Even though UNHCR does not have a public position on the use of videoconference for status determination interviews, some preliminary observations can be drawn from its Procedural Standards for Refugee Status Determination under UNHCR's mandate³ and its updated chapter on remote interpretation⁴, and the UNHCR Operation Guidance Note on conducting resettlement interviews through videoconferencing⁵. These observations are gathered below.
3. Certain benefits of conducting international protection status determination interviews via telephone or videoconference can be identified, such as reduced time and costs associated with travel, the possibility for interviews to take place when security or logistical difficulties present otherwise insurmountable obstacles, and reduced processing time for asylum-seekers.
4. However, international protection status determination interviews via telephone or videoconference do also have raise certain concerns:
 - a. Applicants with specific needs or vulnerabilities and applicants in detention

Conducting an international protection status determination interview through telephone or video conference will generally not be appropriate for applicants who have special needs or vulnerabilities, in particular children, persons with hearing or visual impairment or mental health issues, and persons who are suffering the effects of trauma or torture. International protection status determination interviews should also not be conducted through telephone or video conference with applicants in detention.

See also the general considerations about remote interpretation in *UNHCR RSD Procedural Standards - Interpretation in UNHCR RSD Procedures*, February 2016, <http://www.refworld.org/docid/56baf2634.html>

“Given the specific challenges posed by remote interpreter arrangements, they will generally not be appropriate in Interviews with Applicants in detention or Applicants who have specific needs or vulnerabilities, in particular child Applicants, persons with hearing impairment and certain other mental or physical disabilities, and persons who are suffering the effects of trauma or torture.”

See also *UNHCR Operational Guidance Note on Conducting Resettlement Interviews through Video Conferencing*, February 2013, <http://www.unhcr.org/51de6e1c9.pdf>. Even though this note explicitly says “*The guidance included in this Note is specific to the resettlement selection context and should not be automatically applied to other contexts, such as Refugee Status Determination (RSD) or other asylum procedures.*”, some of its content can be applied to status determination interviews:

¹ Orde van Vlaamse Balies

² Ordre des Barreaux francophones et germanophone

³ UN High Commissioner for Refugees (UNHCR), *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, 20 November 2003, <http://www.refworld.org/docid/42d66dd84.html>

⁴ UN High Commissioner for Refugees (UNHCR), *UNHCR RSD Procedural Standards - Interpretation in UNHCR RSD Procedures*, February 2016, <http://www.refworld.org/docid/56baf2634.html>

⁵ UN High Commissioner for Refugees (UNHCR), *UNHCR Operational Guidance Note on Conducting Resettlement Interviews through Video Conferencing*, February 2013, <http://www.unhcr.org/51de6e1c9.pdf>

“(…) there may be certain cases that are not appropriate to be interviewed through video conferencing. Such cases usually include highly sensitive or complex cases, which require extended and very detailed interviews. Refugees who are survivors of torture, violence or under great emotional stress may not feel comfortable in being interviewed other than in person.

Below is a non-exhaustive list of case profiles that require careful consideration and/or additional safeguards before conducting resettlement interviews through video conferencing:

- Refugees with highly sensitive and complex refugee claims
- Refugees with high profile or sensitive cases who face imminent or serious protection problems in the country of asylum
- Refugees who will be interviewed on sensitive issues including:
 - Survivors of violence and torture who have experienced rape or other sexual assault, physical violence, psychological abuse, trafficking, or other practices amounting to torture
 - Women and girls at risk and Children at risk who have survived sexual or genderbased violence
 - LGBTI (Lesbian, Gay, Bisexual, Transgender and Intersex) refugees
- Refugees with disabilities / serious medical conditions that impact their ability to participate in an interview.”

b. Level of trust between interviewer and applicant

Interviewing through videoconferencing may hinder rapport building and interfere with the ability of the Eligibility Officer to obtain a full and truthful account from the applicant. Applicants may not feel comfortable disclosing issues of a personal or sensitive nature via telephone or videoconference, and may have concerns regarding the confidentiality of communications.

See also Federman, Mark. 2006. “On the Media Effects of Immigration and Refugee Board Hearings via Videoconference.” *Journal of Refugee Studies* 19 (4): 433-452 :

“Particularly under ‘high stakes’ conditions, it was found that videoconferencing reduces mutual trust and understanding, exacerbates cultural differences in non-verbal communication, and increases the propensity to lie while decreasing the ability to detect falsehoods. (...) Further, sensory perception that feeds narrative construction varies by culture. The process of conveying and understanding meaning across cultures is sufficiently difficult; adding the complexity of videoconference mediation introduces the possibility of inconsistency, inaccuracy, and altered judgement.”

c. Technical difficulties

Technological difficulties may result in impaired communication between the Eligibility Officer, Interpreter and Applicant, including questions and responses not being heard, and interviews being interrupted. Dropped calls or interruptions may cause frustration to all participants and cause processing delays. In addition, non-verbal cues indicating a lack of comprehension of a question or problems with interpretation are more difficult to identify and address in a timely fashion.

See the general considerations about remote interpretation in UNHCR RSD Procedural Standards - Interpretation in UNHCR RSD Procedures, February 2016, <http://www.refworld.org/docid/56baf2634.html>

“The technology used to support remote interpreter participation should permit clear, reliable and uninterrupted audio and, where applicable, video transmission. The technology employed needs to be adequate to avoid gaps in the communication and/or unrecoverable speech in the audio and/or video transmission. If reliable technical arrangements cannot be achieved, remote interpretation will generally not be appropriate as it could seriously compromise the efficiency, effectiveness and accuracy of communication in the Interview.”

“The Eligibility Officer should ask both to signal any problems with the sound and/or video quality or transmission that may arise during the interview, and seek immediately to address them.”

See also *UNHCR Operational Guidance Note on Conducting Resettlement Interviews through Video Conferencing*, February 2013, <http://www.unhcr.org/51de6e1c9.pdf>, as this note also contains a series of technical recommendations and requirements for the briefing of refugees and interpreters before the interview takes place as well as a debriefing afterwards.

d. Confidentiality of the interview

Remote interviewing could bring difficulties in ensuring that applicants have access to suitable, safe and confidential facilities and that the necessary technology is available. The technology used should permit confidential and secure communication.

See the general considerations about remote interpretation in *UNHCR RSD Procedural Standards - Interpretation in UNHCR RSD Procedures*, February 2016, <http://www.refworld.org/docid/56baf2634.html>

“The technology used in remote interpreter arrangements also needs to permit confidential and secure communication. The assessment of whether and how appropriate levels of confidentiality can be achieved will have to be informed by existing communications systems and other factors in the specific operational context. Technical advice should be sought as appropriate.

(...) The Applicant must be informed of the conditions under which the remote Interpreter is working and receive an explanation of the confidentiality of the arrangement. (...) The Applicant should be given the opportunity, at the start of the Interview, to ask any questions or express any concerns regarding the remote interpretation arrangement. (...) For remote interpretation arrangements, whether through audio or video transmission, the Applicant's consent should ideally be sought.”

e. Review of original documents in the international protection status determination interview

Conducting an interview through videoconference might pose difficulties in submitting additional documentary evidence during the international protection status determination interview and examining the original documents to ensure that copies on the file are identical to the originals.

See also *Procedural Standards for Refugee Status Determination Under UNHCR's Mandate*, 20 November 2003, <http://www.refworld.org/docid/42d66dd84.html>

“The Eligibility Officer should examine the original documents to ensure that copies on the file are identical to the originals, and that a legible and complete copy of every original is on the file.

(...)

Any irregularities in the documents should be raised with the applicant during the RSD interview, and the applicant should be given the opportunity to provide an explanation.”

5. To conclude, even though conducting international protection status determination interviews via telephone or videoconference can bring certain benefits, it also has several drawbacks and should be relied upon as an exceptional measure given the challenges and limitations associated with it. Given the specific challenges posed by remote interviewing and interpreter arrangements, they will generally not be appropriate in interviews with applicants in detention or applicants who have specific needs or vulnerabilities, in particular child applicants, persons with hearing impairment and certain other mental or physical disabilities, and persons who are suffering the effects of trauma or torture.