**Call for inputs of the UN Special Rapporteur on the Human Rights of Migrants: the impact of COVID-19 on the human rights of migrants**

**Submission of the Secretariat of the Council of Europe**

1. **Introduction**

The Secretariat of the Council of Europe extends its gratitude to the UN OHCHR Special Rapporteur on the human rights of migrants, Felipe González Morales, for the opportunity to submit information to inform his forthcoming report to the 76th Session of the UN General Assembly on the impact of COVID-19 on the human rights of migrants.

These comments reflect the views of the Secretariat of the Council of Europe and do not necessarily reflect the official position of its member states.

This contribution has been coordinated by the Office of the Special Representative of the Secretary General of the Council of Europe on Migration and Refugees (“the SRSG”).

The position of the Special Representative on Migration and Refugees was established in 2016 in response to the humanitarian crisis following the refugee and migration movements so as to provide immediate assistance and support to member states concerned by complementing activities of other relevant Council of Europe bodies and by co-ordinating action with other international partners. The [mandate](https://www.coe.int/en/web/special-representative-secretary-general-migration-refugees/mandate) includes liaison and exchange of information with relevant international organisations and specialised agencies, as well as with migration authorities in member states.

1. **Overview of the Council of Europe response to the COVID-19 Pandemic**

On 8 April 2020, the Council of Europe Secretary General, Marija Pejčinović Burić issued a [toolkit for member states](https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40) on respecting human rights, democracy, and rule of law during the COVID-19 crisis. The document covered four key areas: derogation from the European Convention on Human Rights (“the Convention”) in times of emergency, respect for rule of law and democratic principles in times of emergency, fundamental human rights standards including protection of vulnerable groups from discrimination, and protection from crime and of victims of crime, particularly regarding gender-based violence. The toolkit also recognised migrants as a vulnerable group and highlighted the need for increased attention to be paid in ensuring equal access to education and healthcare and to upholding an adequate level of medical care for people deprived of their liberty (including in immigration detention centres).

From the outset and throughout the COVID-19 pandemic the statutory bodies, institutions and the Secretariat of the Council of Europe have mobilised to use the resources and expertise of the organisation to share information, good practices and lesson learned among authorities, civil society and citizens to find a common timely and concrete response to the challenges posed by the pandemic.

One result of this mobilisation is the adoption, on 5 May 2021, of the [Guidelines of the Committee of Ministers of the Council of Europe on upholding equality and protecting against discrimination and hate during the COVID-19 pandemic and similar crises in the future](https://rm.coe.int/guidelines/1680a271c7). According to their [Explanatory Memorandum](https://rm.coe.int/explanatory-memorandum/1680a271c3), those Guidelines also cover the situation of migrants during the COVID-19 pandemic and contain guidance on how to uphold equality and protect migrants against discrimination and hate during the pandemic.

1. **Activities of the Council of Europe in protecting migrants’ rights during the COVID-19 Pandemic**

**European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (“CPT”)**

In the context of the ongoing COVID-19 pandemic, the CPT has been able to continue its efforts towards preventing torture and other forms of ill-treatment in Europe by carrying out visits to places of deprivation of liberty in various member states of the Council of Europe, whilst scrupulously respecting reinforced hygiene measures and using the necessary personal protective equipment. In 2020, it also carried out several rapid reaction visits to examine for itself the situation of migrants in detention (in particular, in Croatia, Greece and Malta).[[1]](#footnote-1)

In March 2020, the CPT issued a [Statement of Principles](https://rm.coe.int/16809cfa4b), relating to the treatment of persons deprived of their liberty in the context of the COVID-19 pandemic. The statement outlined the need to take all possible steps to protect the health and safety of all persons deprived of their liberty (including in immigration detention centres), while ensuring that protective measures never resulted in inhuman or degrading treatment). The Statement was published in 26 languages.

In a [follow-up statement](https://rm.coe.int/16809ef566) issued in July 2020, the CPT recognised that in various member states there had been an increase in use of non-custodial measures as alternatives to detention. Regarding immigration detention in particular, some member states indicated that detention orders had been suspended and/or immigration centres had been temporarily withdrawn from service. Additionally, there had been an increase in health and medical screenings upon admission, which was crucial in identifying persons infected with COVID-19 but also an essential means of reducing the risk of ill-treatment, through thorough and accurate reporting of injuries on arrival.

**European Commission against Racism and Intolerance (ECRI)**

In May 2020, ECRI adopted a [statement](https://rm.coe.int/statement-by-the-bureau-of-the-european-commission-against-racism-and-/16809ea6b6) on the impact of the COVID-19 pandemic and related government responses on groups of concern to ECRI. It raised alarm about the difficulties faced by groups of concern to ECRI, in particular Roma and migrants, in accessing basic health care, food and clean water, and in obtaining accommodation enabling them to respect physical distancing rules, as well as about increased exposure to hate speech and violence. It called on Council of Europe member states to rely more on specialists in human rights, in particular in the fields of equality and non-discrimination, when developing responses to the COVID-19 pandemic.

In June 2020 ECRI hosted a [webinar](https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/-/ecri-webinar-on-inclusive-education-in-times-of-covid-19) on inclusive education in times of COVID-19 against the backdrop of physical closures of schools in Europe and beyond, which imposed distance learning on students, causing disadvantaged pupils, including migrant and Roma children, to struggle, including due to insufficient or complete lack of access to online learning platforms or means of communication with teachers.

In its most recent [annual activity report](https://rm.coe.int/annual-report-on-ecri-s-activities-for-2020/1680a1cd59), published in March 2021, ECRI stressed that migrants and asylum seekers faced serious difficulties in accessing basic rights and services during the pandemic. In particular, some newly arrived or irregularly present migrants were not able to benefit from essential health care on the grounds of not having a social security number in their host country. In the field of employment, a number of migrants, in particular migrant seasonal workers, proved to be particularly vulnerable.

**Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI)**

In spring 2020, the CDADI commissioned the study “[COVID-19: An analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member states](https://rm.coe.int/prems-126920-gbr-2530-cdadi-covid-19-web-a5-final-2774-9087-5906-1/1680a124aa)” and collected promising and good practice examples from its members and other stakeholders, which were compiled in the document “[Responses to the COVID-19 pandemic in the fields of non-discrimination, diversity and inclusion. Promising and good practice examples](https://rm.coe.int/cdadi-2021-3rev-good-practices-responses-to-the-covid-19-pandemic-in-t/1680a1b72d)”. Both documents formed the basis for the elaboration of the above-mentioned Guidelines of the Committee of Ministers of the Council of Europe on upholding equality and protecting against discrimination and hate during the COVID-19 pandemic and similar crises in the future.

**The European Committee of Social Rights**

The European Committee of Social Rights issued [a statement on the right to protection of health in times of pandemic](https://rm.coe.int/statement-of-interpretation-on-the-right-to-protection-of-health-in-ti/16809e3640#:~:text=In%20times%20of%20pandemic%2C%20during,that%20it%20is%20effectively%20guaranteed.), adopted by the Committee on 21 April 2020. It reminded state parties that Article 11 of the European Social Charter (“the Charter”) enshrines the right to protection of health which should be ensured to everyone without discrimination. This implies that healthcare in a pandemic must be effective and affordable to everyone and that groups at particularly high risk, such as persons in detention and persons with an irregular migration status must be adequately protected by healthcare measures put in place.

The Committee’s recent [statement on COVID-19 and social rights](https://rm.coe.int/statement-of-the-ecsr-on-covid-19-and-social-rights/1680a230ca), adopted in March 2021 aimed at drawing attention to rights under the Charter that are particularly effected by the COVID-19 crisis and providing guidance to States, organisations of workers and employers, civil society and other key stakeholders on how these rights apply in the context of the current crisis. The statement gave particular attention to migrant workers, recognising that they are often over-represented in the sectors hardest hit by the crisis and face obstacles to enjoyment of rights guaranteed by the Charter. It also pointed out the rapid digitalisation of social and other services which has accentuated exclusion of individuals in poverty, often including migrant communities. Additionally, the statement underlined that in ensuring equal access to education, particular attention should be paid to vulnerable groups like refugee children, children seeking asylum and children deprived of their liberty.

**Committee on Bioethics**

In the framework of its [Strategic Action Plan](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680994df7) on Human Rights and Technologies in Biomedicine (2020-2025), it is the strategic objective of the Committee on Bioethics to combat health disparities created by social and demographic changes in member states. This is because of a concern that existing healthcare resources are less accessible to certain populations, including migrants, because of their circumstances.

Faced with a scarcity of COVID-19 vaccines, the Committee published a [statement on COVID-19 and vaccines](https://rm.coe.int/dh-bio-statement-vaccines-e/1680a12785) requesting that, once priority groups are established to reduce mortality and morbidity, each person should be able to be vaccinated within each of these groups.  The Statement underlined the importance for vaccination services to be tailored to the needs of the persons in vulnerable situations, making specific reference in this context to migrants, refugees, and asylum seekers. The work on equitable access to healthcare resources will continue considering treatments and equipment in a context of scarcity not limited to pandemics and subsequently continue on innovative treatments.

It is the intention of the Committee to prepare a [Guide to health literacy for equitable access to health care](https://www.coe.int/en/web/bioethics/guide-to-health-literacy-for-older-persons#{%2267268970%22:[0]}) in order to empower migrants and other persons in vulnerable situations to be more effective advocates in accessing healthcare services and in making appropriate decisions regarding their health. It is essential that they understand health information and know what healthcare services are available and how best to access them.

The Guide is currently under preparation and will be completed by Autumn 2022.

**Steering Committee for the Rights of the Child (CDENF)**

The CDENF issued on 12 March 2021 an updated [factsheet](https://rm.coe.int/covid-19-factsheet-revised-eng/1680a188f2) on the COVID-19 pandemic and the challenges, responses and policy implications relevant to children. It highlighted the impact that restrictive measures in response to the pandemic have had on migrant and refugee children, many of whom have been locked out of protection and services due to the suspension of registration, age assessments and other relevant procedures.

**The Commissioner for Human Rights**

The Commissioner for Human Rights published an issue paper on 19 February 2021 on [protecting the right to health through inclusive and resilient healthcare for all](https://rm.coe.int/protecting-the-right-to-health-through-inclusive-and-resilient-health-/1680a177ad). In the paper she stressed that access to health care for all must be an absolute priority for the Council of Europe member states and that special proactive measures must be taken to ensure that especially disadvantaged groups, including persons with migrant backgrounds or migrants, can overcome existing barriers to access. In the paper she also called for human rights and non-discrimination education to be included in medical and healthcare curricula, as a response to reports from migrants and minority groups of discriminatory and negative attitudes when accessing health services.

Additionally, from the outset of the pandemic, she issued a [statement](https://www.coe.int/en/web/commissioner/-/states-should-ensure-rescue-at-sea-and-allow-safe-disembarkation-during-the-covid-19-crisis) urging states to ensure rescue at sea and disembarkation during the COVID-19 crisis, highlighting that despite the challenges associated with the crisis, saving lives and bringing survivors to a safe port must continue. She further addressed the impact of the pandemic on search and rescue, in particular also on activities carried out by NGOs, in her follow-up report ‘[A distress call for human rights: the widening gap in migrant protection in the Mediterranean](https://rm.coe.int/a-distress-call-for-human-rights-the-widening-gap-in-migrant-protectio/1680a1abcd),’ published in March 2021. The report also includes specific recommendations on the emerging practice of ‘disembarking’ rescued migrants on other vessels, such as quarantine ships, rather than on land.

In March 2020 she also [called](https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-release-of-immigration-detainees-while-covid-19-crisis-continues) for member states to review the situation of rejected asylum seekers and irregular migrants in immigration detention, and as far as possible, to release immigration detainees.

**The Committee on Migration Refugees and Displaced Persons of the Parliamentary Assembly of the Council of Europe (PACE)**

The PACE Standing Committee adopted [Resolution 2340](https://pace.coe.int/en/files/28776) and a report by Pierre-Alain Fridez (Switzerland, SOC) on the humanitarian consequences of the COVID-19 pandemic for migrants and refugees, noting that these vulnerable groups are “doubly impacted” in this crisis situation. In the Resolution the Assembly recommended that member States keep their borders open and lift unnecessary travel restrictions; ensure access to territory while protecting public health through medical screening, testing and quarantine; adapt reception conditions and avoid detention where possible to reduce the risk of transmission of the virus; maintain systems of registration, which are important for the identification of persons; and continue to provide avenues for asylum procedures.

A virtual parliamentary [webinar](https://www.youtube.com/watch?v=JL8KamYjzJU) on the importance of migrants’ remittances in times of crisis was organised on 2 October 2020 and heard evidence of the impact of COVID-19 on amounts being sent home by migrants, and discussed ways of keeping these transfers flowing and making them easier. Ideas discussed included ways of improving data-collection about remittances, making transfers easier and cheaper using new technologies, and maximising the impact of remittances.

In the context of the COVID -19 pandemic, the Chair of the Committee and its different rapporteurs made urgent statements on the [necessity to provide humanitarian aid to refugees in camps](https://pace.coe.int/en/files/28776), [on the situation of migrant children behind bars](https://pace.coe.int/en/news/7833/covid-19-migrant-children-behind-bars-face-added-threats-during-the-pandemic), [on facilitating diaspora remittances during the crisis](https://pace.coe.int/en/news/7839/covid-19-the-head-of-pace-s-sub-committee-on-diasporas-urges-governments-to-make-it-easier-for-diasporas-to-send-money-home-during-the-crisis), [on humanitarian transfer of vulnerable migrants from Greek islands](https://pace.coe.int/en/news/7876/covid-19-a-rapporteur-praises-greece-for-humanitarian-transfer-of-vulnerable-migrants-from-island-camps), [on urging aid for internally displaced children](https://pace.coe.int/en/news/7884/covid-19-a-rapporteur-urges-aid-for-internally-displaced-children), [on missing migrant children](https://pace.coe.int/en/news/7901/covid-19-missing-children-s-day-missing-migrant-children-need-our-help), [on protecting the health of refugees during and after the crisis](https://pace.coe.int/en/news/7922/covid-19-protecting-the-health-of-refugees-during-and-after-the-crisis).

On 10 - 12 May 2021, the Committee also conducted a [fact-finding visit to Lesvos](https://pace.coe.int/en/news/8302/fact-finding-visit-to-greece-to-assess-the-migrants-situation-after-the-moria-camp-destruction), Greece to assess the migrants’ situation after the Moria camp’s destruction.

**Special Representative of the Secretary General of the Council of Europe on Migration and Refugees**

The SRSG of the Council of Europe, together with the UN Committee on Migrant Workers (CMW), the UN Special Rapporteur on the human rights of migrants, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrant in Africa of the African Commission on Human and Peoples’ Rights, and the Rapporteur on the Rights of Migrants of the InterAmerican Commission on Human Rights, issued a [joint guidance note](https://www.ohchr.org/Documents/Issues/Migration/JointGuidanceNoteCOVID-19-Vaccines-for-Migrants.pdf) on equitable access to the COVID-19 vaccine for all migrants. The guidance note warned of the serious and disproportionate impact that the pandemic is having on migrants and the difficulties that migrants face in accessing health care, including language, cost, legal, administrative, and practical barriers. The guidance notes also called for clear firewalls between immigration enforcement and the provision of COVID-19 vaccines; and that public information campaigns should make it clear that migrants in irregular situations will not be penalized or targeted for immigration enforcement when seeking access to COVID-19 vaccination. It urged states to develop coordinated strategies and mechanisms of cooperation and assistance to guarantee universal and equitable access to COVID-19 vaccines.

1. For further details, see the CPT’s Website: [www.cpt.coe.int](http://www.cpt.coe.int) [↑](#footnote-ref-1)