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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	30 September 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	ANNEX to the Proposal for a Council Decision on the position to be taken on behalf of the European Union in the 72nd session of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees with regard to the adoption of the conclusion on international protection and durable solutions in the context of a public health emergency
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Delegations will find attached document COM(2021) 597 final.

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Encl.: COM(2021) 597 final



Brussels, 30.9.2021  
COM(2021) 597 final

ANNEX

**ANNEX**

**to the**

**Proposal for a Council Decision**

**on the position to be taken on behalf of the European Union in the 72nd session of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees with regard to the adoption of the conclusion on international protection and durable solutions in the context of a public health emergency**

## ANNEX

### CONCLUSION OF THE EXECUTIVE COMMITTEE ON INTERNATIONAL PROTECTION AND DURABLE SOLUTIONS IN THE CONTEXT OF A PUBLIC HEALTH EMERGENCY

The Executive Committee,

PP1. *Recognizing* that the COVID-19 pandemic poses a threat to human health, safety and well-being with its unprecedented and multifaceted effects including humanitarian impacts on refugees, asylum-seekers, refugee returnees, stateless persons, and, in many situations, internally displaced persons (hereafter ‘persons of concern to UNHCR’), including increased protection risks;

PP2 *Recognizing* also that the poor and the most vulnerable people are the most affected and that the impact of the pandemic will have repercussions on development gains, hampering progress in the achievement of the Sustainable Development Goals, including target 3.8<sup>1</sup>;

PP2bis. *Also recognizing* that the biggest share of the world’s refugees and other displaced persons are hosted by low- and middle-income countries which are among the hardest hit by the COVID-19 pandemic, having severe impacts on their public health, as well as socio-economic impacts;

PP3. *Recognizing* further the particular impact of COVID-19 and its multifaceted consequences for persons of concern to UNHCR, as well as many host communities, including as regards health, increased risks of sexual and gender-based violence (SGBV), discrimination, economies and humanitarian access, as well as access to education;

PP4. *Reaffirming* the right of every human being, without distinction of any kind, to the enjoyment of the highest attainable standard of physical and mental health;

PP4Bis *Recognizing* further that the availability of and timely access to safe and effective vaccines, medicines, health technologies and health therapies is important to the advancement of this right, bearing in mind that extensive immunization against COVID-19 is a global public good for health in preventing, containing and stopping transmission, in order to bring the pandemic to an end;

PP5. *Recognizing* that a public health emergency of international concern, such as the COVID-19 pandemic, requires a global response based on unity, solidarity and strengthened multilateral cooperation;

PP6. *Reaffirming* its commitment to international solidarity and responsibility- and burden-sharing involving all members of the international community, and recalling the importance of international cooperation, in particular to support communities and countries hosting large refugee populations, in ensuring protection and assistance and achieving solutions, in particular in the context of a public health emergency;

PP7. *Acknowledging* that States have the right to take measures to protect public health; while recalling that such measures need to be implemented in a manner consistent with States’ obligations under international law, including international refugee, human rights and, where applicable, international humanitarian law;

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<sup>1</sup> See also UN General Assembly Resolution A/RES/70/1.

PP8. *Recalling* that States have the sovereign power to regulate the entry of non-nationals, with full respect for the principle of non-refoulement, and subject to applicable international law, including international refugee law;

PP9. *Recalling* the Global Compact on Refugees, including the principle of burden- and responsibility-sharing;

PP10. *Recalling* relevant ExCom conclusions including No. 64 (XLI)(1990) Refugee Women and International Protection; No. 84 (XLVIII)(1997) on Refugee Children and Adolescents; No. 105 (LVII)(2006) on Women and Girls at Risk; No. 106 (LVII)(2006) on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons; No. 107 (LVIII)(2007) on Children at Risk; No. 110 (LXI) (2010) on Refugees with disabilities and other persons with disabilities protected and assisted by UNHCR; No. 109 (LX) (2009) on Protracted Refugee Situations; No. 111 (LXIV)(2013) on Civil Registration; and No. 112 (LXVII) (2016) on international cooperation from a protection and solutions perspective;

*Inclusive policies and access to health care and other services*

OP1. Welcomes measures taken by States to facilitate access to and inclusion in health care services and measures to limit and prevent infection, including vaccinations, on a non-discriminatory basis, for persons of concern to UNHCR, consistent with the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

OP2. Encourages States to work towards further inclusion in health care services of persons of concern to UNHCR; and calls for further provision of support to States enabling them to build and expand the capacity of health systems to meet the needs of persons of concern to UNHCR, as well as the communities hosting them;

OP3. Encourages States to ensure that statelessness or associated lack of documentation do not preclude access to health care services and facilities for stateless persons;

OP4. Welcomes and calls for further effective measures to prevent the spread of infection and manage health risks among persons of concern to UNHCR, including those living in camps, collective shelters and other settlements; and for accommodation, preventive measures and treatment where necessary, and access to safe water and sanitation including in hygienic conditions consistent with appropriate standards;

OP5: Encourages measures to identify and address specific health needs and barriers in the context of public health emergencies, as well as promoting the priorities and capacities of children, women, adolescent girls, older persons, persons with disabilities and persons with long-term health conditions;

OP 5bis Encourages UNHCR and its partners to maintain adequate capacity to support health responses, including through national services, for the benefit of persons of concern to UNHCR and host populations during preparedness, planning and response to public health emergencies;

OP6. Encourages States and UNHCR to address mental health and psychosocial wellbeing in their response to the pandemic by promoting availability of emergency mental health and psychosocial support to persons of concern to UNHCR, [including survivors of SGBV,] as well as host communities; and encourages further strengthening of such measures, including through international support;

OP 6bis Encourages UNHCR and its partners to continue to ensure that experiences and lessons learned from the COVID-19 pandemic, as well as from other public health emergencies, inform and strengthen planning, preparedness and responses to such emergencies, including with respect to mental health and psychosocial support;

### *International cooperation and burden- and responsibility-sharing*

OP7. Appreciates the continued hospitality and refugee inclusive public health responses of host countries and generosity of donors in responding to the protection needs of persons of concern to UNHCR during the COVID-19 pandemic; underlines the centrality of international cooperation to the refugee protection and durable solutions regime, and reiterates its commitment to international solidarity and equitable burden and responsibility-sharing;

OP7bis. Calls upon States and other partners to urgently support funding, the equitable distribution of safe and effective diagnostics, therapeutics and vaccines and further explore innovative financing mechanisms aimed at ensuring affordable, timely, equitable and universal access to, and the fair distribution of COVID-19 vaccines for all, including persons of concern to UNHCR and host communities;

TO BE REJECTED BY THE EU:[OP7terAlt: Strongly urges all states to refrain from taking any unilateral coercive measures that may adversely affect the capacity of the host countries to protect refugees and narrow humanitarian space, particularly during the ongoing pandemic where timely and equitable access to effective and affordable COVID-19 vaccine is imperative in protecting the refugee populations and host communities against the viral spread.]

### *Limitations on entry and movement and access to asylum 4*

OP8. Welcomes steps taken by States to ensure that measures taken to limit entry at borders in connection with public health emergencies are temporary, non-discriminatory, necessary, proportionate and reasonable in the circumstances, and are applied in a manner which safeguards public health, while respecting the right to seek and enjoy asylum and the principle of non-refoulement, and complying with applicable obligations under international law, including international refugee law;

OP9. Welcomes adaptive measures taken by States and UNHCR to ensure continued access to and operation of asylum and statelessness determination procedures, registration and issuance of documentation and other relevant processes for persons of concern, including use of technology for remote interviewing and the extension of timelines for birth registration and validity of nationality and residency documentation, and encourages other States, UNHCR and partners to continue to support States in this area as needed;

OP10. Notes the importance of ensuring that any restrictions of movement for persons of concern for the purposes of protecting public health are non-discriminatory, provided by law, necessary, reasonable in the circumstances and otherwise consistent with international law, and welcomes the use of alternatives to detention that ensure compliance with public health measures;

OP11. Emphasizes the need for full respect for human rights, and stresses that there is no place for any form of discrimination, racism and xenophobia in the response to the pandemic;

### *Addressing wider impacts of public health emergencies*

Renumbered OP12. Expresses concern at the multi-faceted impacts of COVID-19 on persons of concern to UNHCR, as well as their host communities, including increased poverty and profound disruption to education, increased food insecurity, limited livelihood opportunities, and increased sexual and genderbased violence (SGBV);

Renumbered OP13. Calls upon Member States, in cooperation with UNHCR, and with support of other stakeholders to ensure that the humanitarian needs of persons of concern to UNHCR and their host communities, including clean water, food and nutrition, shelter, education, livelihoods, energy, health, [including sexual and reproductive health] [care

services] [including vaccines] and other protection needs are addressed as components of humanitarian response in public health emergencies, including through providing timely and adequate resources, while ensuring that their collaborative efforts fully adhere to humanitarian principles;

Renumbered OP14. Welcomes and calls on States, UNHCR and other stakeholders to promote gender equality and the empowerment of women in all stages of the response to public health emergencies, and in this regard, urges Member States, in cooperation with UNHCR, and with support of other stakeholders, to ensure reliable and safe access for persons of concern to UNHCR to [sexual and reproductive health care services, as well as] basic health care services and psychosocial support from the onset of emergencies while recognizing that relevant services are important in order to effectively meet the needs of women and adolescent girls and infants and protect them from preventable mortality and morbidity that occur in humanitarian emergencies;

Renumbered OP15. Encourages all actors to redouble efforts to support States to minimize and address the impact of public health emergencies on persons of concern to UNHCR, and among them children, including reduced access to education, increased poverty, child, early and forced marriage and human trafficking, other violence, exploitation and abuse, including child labour, recruitment of children, family separation, and work to provide them with a basis for a better future;

#### *Durable solutions*

OP 16. Expresses concern that COVID-19 pandemic has significantly impacted the pursuit of durable solutions; underlines their importance, the securing of which is one of the principal goals of international protection; and calls for further engagement, including by States, UNHCR, and other partners in the context of public health emergencies to:

- a. Promote the enabling conditions in countries of origin, including efforts to address root causes, for implementation of voluntary repatriation of refugees in safety and dignity and sustainable reintegration of returnees, including appropriate public health measures;
- b. Support resettlement, including increased resettlement places from existing resettlement States and new places from additional States; to use or expand flexible methods for processing, and facilitate timely departures while respecting public health;
- c. Facilitate access to complementary pathways including family reunification, labour market and study opportunities, in accordance with national law, to support durable solutions; and,
- d. Facilitate self-reliance and provide opportunities for integration, where appropriate, for persons of concern to UNHCR.

OP16bis. Also expressing concern that COVID-19 pandemic has significantly impacted the pursuit of durable solutions for internally displaced persons, and calls for further support to national authorities in creating enabling conditions for durable solutions for internally displaced persons, including their voluntary, safe and dignified return, local integration, or settlement in another part of the country.

#### *Communication with and contributions of persons of concern*

OP22. Notes the benefits of two-way communication with persons of concern to UNHCR, and opportunities for them to be informed of and consulted on matters affecting them, including for the purpose of improving the impact of health measures;

OP23. Welcomes and encourages measures enabling persons of concern to UNHCR to offer skills and positive contributions, including as medical, teaching and other service providers

whose support may contribute to addressing public health emergencies and reinforcing well-being of their host communities and calls on UNHCR to include their voice and expertise in shaping its protection response;

OP23bisAlt. Notes that the increasing use of digital tools has enabled the continuation of the provision of services and increased the access to persons of concern to UNHCR; encourages UNHCR, in cooperation with the concerned States and other relevant stakeholders, to continue exploring further avenues for the use of appropriate digital tools as well as implementing innovative approaches to data collection, management and sharing, in accordance with national laws and applicable international privacy and data protection standards and principles; and

OP23ter. Notes the risk of misinformation during a public health emergency and the importance of countering misinformation with factual communication that persons of concern can readily understand and access; and recognizes the central role that persons of concern play in relaying such information.