

Contribution by Germany to the questionnaire on the impact of COVID-19  
on the human rights of migrants

## Questions

The Special Rapporteur would like to request input from Member States, regional and inter-governmental entities, civil society organizations, national human rights institutions and other relevant stakeholders, to contribute to the preparation of the report.

The Special Rapporteur is particularly interested in receiving inputs on any or all of the following issues, including case studies and specific examples of emerging practices and challenges.

1)

Please provide information of the healthcare responses taken by your Government to counter the pandemic providing migrants and their families' access to adequate healthcare on the same basis as nationals. These include equitable access to treatment, testing, vaccines, reproductive health, gender responsive health protocols, protective equipment and other health and basic services such as water, sanitation and information. Please also indicate if adequate firewall protections and professional capacities are available to ensure that migrants who fear seeking medical support can access health services without risking immigration enforcement measures; as well as personal data measures.

### Reply:

The wide variety of measures which the Federal Government has taken to fight the pandemic apply equally to the entire population in Germany. There is sufficient and non-discriminatory access to healthcare for everyone, regardless of their origin. A key requirement for access to healthcare services is having health insurance coverage, specifically making use of the possibilities in Germany for access to insurance in case of illness. Union citizens who are residents of Germany but are insured in another EU member state or for whom another EU member state is responsible as insuring state in application of Regulation (EC) No 883/2004 on the coordination of social security systems are also ensured equal access to healthcare. For example, Article 17 of the Regulation states that "An insured person or members of his family who reside in a Member State other than the competent Member State shall receive in the Member State of residence benefits in kind provided, on behalf of the competent institution, by the institution of the place of residence, in accordance with the provisions of the legislation it applies, as though they were insured under the said legislation."

During the first 15 months of their stay, asylum seekers are entitled to a limited range of services which nonetheless include treatment of acute illnesses and pain, necessary medical and dental treatment including medicinal products and wound dressing, and all other services necessary for recovery, improvement or relief of illness or the effects of illness. Services for the prevention or early detection of illness, such as vaccinations and medically advisable tests, are provided. Dental prostheses are provided only if essential for medical reasons in the individual case. Expectant and new mothers receive medical and nursing assistance, midwife services, medicinal products, wound dressings and therapeutical agents.

In addition to that and as part of the fight against the SARS-CoV-2 pandemic, people who have no relevant symptoms may also be tested for the coronavirus as testing capacities allow, regardless of their being covered by statutory health insurance.

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Everyone who is a habitual resident of Germany, whether or not they are covered by the statutory health insurance or by private health insurance, is also entitled to be vaccinated against COVID-19 depending on the availability of the vaccine.

During the pandemic, the Federal Office for Migration and Refugees (BAMF) aims to carry out asylum procedures while protecting the health of asylum applicants to the greatest extent possible. For this purpose, the BAMF branch offices have put into practice comprehensive hygiene protocols in accordance with the Protection against Infection Act and the coronavirus occupational health and safety regulation, in addition to taking organisational measures to increase protection against infection.

Further, a testing strategy has been implemented to minimise the risk of infection: when invited to in-person appointments, applicants are informed in a separate letter, in numerous languages, about free public testing, to which they have the same access as German citizens. Applicants who are not housed in reception facilities are requested in their appointment letters to make use of public testing ahead of their appointment and to present valid proof of a negative COVID-19 test (or proof of full vaccination against COVID-19 or of recovery from COVID-19). Presenting a negative test result is not obligatory, nor does appearing without proof of testing have any (legal) consequences for the applicant's asylum procedure. There is thus no obligation to be tested. If applicants appear at branch offices for their in-person appointments without proof of a test, BAMF will provide them with a self-test free of charge on the spot, without requiring extensive paperwork.

2)

Please indicate what solidarity measures and initiatives have been put in place or are planned by the Government, the civil society and other relevant stakeholders to support migrants in the context of the pandemic.

### Reply:

In 2020, Germany spent 450 million Euros for humanitarian assistance in regard to the COVID-19 pandemic. In 2021, Germany has committed 87.5 million Euros for the humanitarian COVID-19 response by 7th June 2021. These funds partly contributed to support migrants in vulnerable situations, for example in the following contexts:

- With the provision of German humanitarian funding to IOM's COVID-19 Response, an assessment of the health situation could be carried out in different places of the Agadez region (NER), to identify the most pressing needs of migrants in vulnerable situations. A representative from the national laboratory also trained IOM medical staff to conduct COVID-19 testing for migrants who are departing to their country of origin.
- With the provision of German humanitarian funding to IOM's COVID-19 Response, IOM expanded the provision of essential health services to Rohingya refugees and vulnerable members of the host community, as well as extended support to the Government of Bangladesh to build capacity at Points of Entry in Cox's Bazar to identify, screen, and refer vulnerable migrants in need of medical support.

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In Afghanistan, we have conducted a campaign to alert IDPs to COVID and ways to protect themselves and their families. They have also been provided with masks and hygiene products. This campaign took place within a GIZ project (“Integration von Geflüchteten in Nordafghanistan”- “Integrating Refugees in Northern Afghanistan”) that runs through 31/12/2021 and has a total cost of 26,042,823 €.

In an effort to mitigate the harsh consequences of the COVID-19-pandemic in our partner countries, Germany’s Federal Ministry for Economic Cooperation and Development (BMZ) set up an Emergency COVID-19 Support Programme, reallocating more than 1 billion Euro its budget in 2020 alone. Furthermore, BMZ received an additional 3 billion Euros from the German federal budget for further development-oriented COVID-19 response measures in 2020 and 2021. Two examples illustrate Germany’s COVID-19 Support Programme in the context of its development cooperation:

- German development cooperation has already started improving the health conditions of 130,000 Rohingya refugees in Bangladesh. Around 35,000 Rohingya children are receiving primary education in the camps. The Emergency COVID-19 Support Programme is now distributing additional masks and setting up mobile washing facilities, and 2,000 particularly vulnerable households are receiving support payments.
- Together with UNICEF, Germany provides development support to Syrian refugee children in Turkey and Jordan. In this context, Germany supports additional teaching through the provision of salaries, make available learning materials (Learn-at-Home-Kits) for 150,000 children (50 % Syrian refugees) and provide 30,000 hygiene kits for refugee households and host communities for better COVID-19 protection.

The Federal Ministry for Families, Senior Citizens, Women and Youth (BMFSFJ) is currently supporting the umbrella organisation of migrant women’s organisations (DaMigra) through the project “Frauen zwischen Mehrfachdiskriminierung und Selbstbestimmungsrecht” (Women between multiple discrimination and the right to self-determination) (co-funded by BAMF from 2019 to 2022). One of DaMigra’s priorities is dealing with the impacts of the COVID-19 pandemic on migrant and refugee women; see for example <https://www.damigra.de/meldungen/wir-sind-systemrelevant-und-jeden-schutz-wert/>.

In 2020 and 2021, the BMFSFJ has provided unrestricted funding of more than 60 million euros each year for the work of the Youth Migration Services (JMD), which has continued at nearly 500 locations nationwide during the pandemic. The JMD advises and assists young migrants aged 12 to 27 primarily during their transition from school to work, but also acts as a contact in case of other personal issues. Because government regulations have limited in-person advising in many of the JMD’s locations because of the coronavirus pandemic, more advising is being provided by phone and online. The website [www.jmd4you.de](http://www.jmd4you.de), which was online already before the pandemic, offers advising and assistance from experienced JMD staff in six languages individually or via an open chat line. Since early 2020, more than 200 JMD staff have received additional training to prepare them for online advising. More advising topics have been added: because of the pandemic, many other advising services (public authorities, job centres, etc.) have been limited or discontinued, so the JMD has had to provide support in a wider range of themes than before the pandemic.

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Even under the conditions of the coronavirus pandemic, the Federal Office for Migration and Refugees (BAMF) is fulfilling its legislative mandate to inform and actively assist asylum applicants by advising them on the asylum procedure. To safeguard the health of asylum applicants, the BAMF branch offices have put into practice comprehensive hygiene protocols in accordance with the Protection against Infection Act and the coronavirus occupational health and safety regulation.

### Integration

In order to ensure key basic assistance for integration, Germany has taken a variety of actions to sustain national integration measures throughout the pandemic.

On the one hand, digital formats have been introduced allowing migrants to learn German.

As of 1 April 2020, participants of integration courses were able to take part in online tutorials enabling them to maintain their already acquired language skills.

Since 1 July 2020, course providers can choose between five different teaching models, such as “virtual classrooms” and hybrid models mixing classroom and online learning, enabling them to conduct courses in accordance with the local pandemic situation.

On the other hand, financial aid has been provided to course organisers to cover extra costs (e.g. costs for renting larger rooms, technical equipment) since 1 July 2020. Course organisers that cannot provide classroom-based or online classes are eligible to apply for grants to protect them from bankruptcy.

The regional coordinators make sure the provided health protection measures in the integration courses are confirm with the German standards.

These actions have proven effective to pursue the integration of migrants during the pandemic and sustain integration measures for the future.

3)

In the context of immigration detention, please indicate if measures have been considered to minimize health risks associated with the COVID-19 transmission by reducing migrants’ detention and opting for alternatives for detention and, if not, kindly elaborate on challenges preventing such options. Please indicate, if immigration detention of children has been practiced during the pandemic.

### Reply:

In Germany, the regulatory framework of detention for the purpose of removal is regulated in the German Residence Act. Under this Act, detention for the purpose of removal is not permitted if the purpose of the detention can be achieved by other, less severe means and it is to be limited to the shortest possible duration. If persons are deprived of their liberty in connection with unauthorized entry/stay by the federal police, the corresponding hygiene concepts apply in this context. This includes, for example, the provision of suitable mouth and nose masks, disinfectants and, as far as possible, compliance with the distance rules.

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At the beginning of the COVID-19 pandemic, the number of detainees in detention for the purpose of removal had slightly dropped in Germany, since it has not always been possible to ensure detention conditions in accordance with the public health requirements. However, within a short period of time, most of the German competence bodies were able to adapt and take the necessary situation-related health measures. In the further course of the year, since there were only limited possibilities for return operations and since it was difficult to forecast possible return dates, it has been reported that fewer and fewer persons were held in detention for the purpose of removal in practice. For the same reason, individuals have been released from detention, or in some cases, detention has not been extended because a removal would not have been possible within the limits of the detention period. Until today, there have been no significant changes in this respect and in the principle of the primacy of the use of alternatives to detention, such as reporting requirements, obligations to surrender passport or travel documents, requirement to reside at a specific address and other geographic restrictions.

As regards children, the German Residence Act ensures that minors and families with minors may be taken into detention awaiting return only in exceptional cases and only for as long as is reasonable taking into account the well-being of the child. According to Section 62a (3) of the Residence Act, the special needs of minors are also to be taken into account in accordance with Article 17 of the Return Directive. In addition, the principle of the best interests of the child pursuant to Article 3(1) of the UN Convention on the Rights of the Child applies and must always be observed in the case of state measures taken against minors. The General Administrative Regulations relating to the German Residence Act also specifies that if the parents of minors who are obliged to leave the federal territory are not residing in Germany, the foreigners authorities must contact the competent youth welfare services to arrange accommodation for the foreigner until they can be returned. Consequently, in practice, minors are generally not detained in Germany in advance of return operations. This practice has not changed during the pandemic. As a rule, only one parent is usually detained before families are returned. In these cases, alternative measures instead of detention are for e.g. remaining in allocated quarters or registration obligations.

4)

Please provide information on actions taken to prevent and address racial discrimination, hate speech, xenophobia and related intolerance faced by migrants, particularly in the COVID-19 context.

Reply:

Through its federal programme “Live democracy!” (“Demokratie leben!”), the BMFSFJ funds a number of prevention and education projects to prevent racism and discrimination. The COVID-19 pandemic has worsened some conflicts in community contexts and has led among other things to a rise in conspiracy myths and the need for anti-discrimination counselling. In response to the greater demand, some of the model projects in the federal programme have expanded their services and adapted them to the current situation. For example, ways of critically addressing racist reporting, specific counselling for victims, and civic education dealing with pandemic-related conspiracy myths and racist and antisemitic narratives have been developed.

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Many of the planned measures in the federal programme have been made available online, and project providers have acquired infrastructure for and experience with online formats that they can continue to use going forward. For example, a training course for anti-discrimination advisers was converted to a digital format and carried out using online seminars and an online learning platform. Digital technology has also provided low-threshold access to information and services for those who live far away or prefer to remain anonymous, for example.

The Federal Anti-Discrimination Agency first warned of a noticeable increase in complaints about racist incidents related to the COVID-19 crisis in February 2020. In May 2020, FADA released a background paper on “Risks of discrimination related to the Corona crisis” that included information on racial discrimination. The agency also launched a dedicated section on its website. In January 2021, FADA convened an expert roundtable on discrimination during the COVID-19 crisis that involved (among others) the Federal Commissioner for Integration, Migration and Refugees, organisations representing Sinti and Roma and people of Asian descent, as well as other civil society organisations that provide support to victims of racial discrimination. Recommendations derived from this roundtable were included in FADA’s 2020 annual report. In 2020, FADA provided legal advice (including on racial discrimination) to more complainants than in any other year during its existence.

5)

Please provide information on any emergency measures or declarations or any special legislation activating extraordinary powers based on the COVID-19 pandemic taken by your Government at national or local level, and whether such measures have been temporary and proportional and tailored to migrants’ human rights and fundamental freedom.

Reply:

Asylum applications: the Federal Office for Migration and Refugees (BAMF) has taken various measures to uphold the rights of asylum applicants even under pandemic conditions while protecting health. To do so, the processes of filing applications, hearings, production and delivery of asylum decisions and Dublin transfers were all quickly adjusted.

In spring 2020, BAMF made it possible for asylum seekers to apply for asylum in writing following their registration, using a form available in multiple languages. This ensures that asylum seekers can still apply for asylum during the pandemic and be allowed to remain in Germany while their application is being processed. In addition, the possibility to file follow-up applications in written form was temporarily expanded. In-person hearings are conducted in a way that minimises the risk of infection without limiting asylum applicants’ opportunity to describe their personal history of persecution.

Further, the pandemic situation was taken into account in decisions on asylum applications, in particular with regard to deportation bans due to illness. In spring, BAMF also significantly reduced the delivery of rejections, so that asylum applicants would not face disadvantages arising from limited access to (legal) advice offices and requests for legal remedy. Regular delivery of asylum decisions did not resume until asylum applicants could be assured of access to legal advice. Decisions rejecting asylum in full or in part are still not being delivered to asylum applicants living in reception facilities in quarantine.

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### Dublin transfers

In order to contain the pandemic and prevent further chains of infection, the Federal Office for Migration and Refugees (Federal Office) temporarily suspended all Dublin transfers in the period from 23 March to 14 June 2020. The suspension of the enforcement of the deportation order meant that no transfers were carried out and the transfer time limit provided for in Article 29 (1) of the Dublin III Regulation was interrupted according to the legal opinion of the Federal Office. As of 15 June 2020, the transfer procedure was gradually resumed. In order to prevent chains of infection through the transfer and subsequent accommodation, persons who show COVID-19 symptoms or have been proven to be ill with COVID-19 will not be transferred until they have recovered. During the transfer, appropriate protective measures are taken (e.g. wearing a mouth-nose covering). Since 07 December 2020, a negative COVID-19 test has been required for all transfers to and from Germany. This does not apply to persons who have not yet reached the age of 6. Germany accepts the submission of rapid antigen tests based on a swab. In addition, a prioritised vaccination against Covid-19 is carried out for persons living in reception facilities. The vaccination is voluntary.

### Resettlement and humanitarian admission procedures

Despite the very challenging framework of operating under COVID-19 circumstances, Germany has continued to fulfil its humanitarian commitments and has put an enormous amount of effort to continue the resettlement and humanitarian admission procedures. In 2020, Germany effectively resettled a total of 1,394 refugees from Turkey, Lebanon, Ethiopia and Jordan. Also admissions from within the EU, such as relocation and sea rescue procedures for asylum seekers from Malta, Italy and Greece resumed swiftly already in 2020. In the year of the pandemic, Germany relocated a total of 1,519 asylum seekers and beneficiaries of international protection from the Greek islands with a special focus on children with severe medical conditions and their families as well as unaccompanied minors. In the first half of 2021, Germany admitted 1,246 persons from Greece as well as 682 persons from Turkey and Niger.

To overcome the restrictions imposed by the pandemic, the Ministry of the Interior together with the Federal Office for Migration and Refugees and the stakeholders decided to take special precautionary measures to reduce the risks for both migrants as well as implementing partners. The measures taken include a constant use of Covid-19 tests (rapid and PCR tests), keeping the distance and adhering to the respective quarantine instructions and further recommendations by the National Health authorities (Robert Koch Institute). In order to resume the programmes as early as possible, Germany also initiated a pilot project for remote selection interviews for more than 800 migrants.

Upon arrival of refugees in Germany, we usually provide a centralized accommodation for the first two weeks. Most services during this time, such as counselling, language training and post-arrival orientation, have been re-organized as virtual modules (via video, phone calls etc.) and would take place remotely during quarantine.

All these precautionary measures are of temporary nature and depend on the development of the pandemic situation. Apart from the general Infection Protection Act there is no specific Covid-19 legislation in use for refugees and migrants arriving in Germany.

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6)

Please provide information on any relevant legislation or policy adopted during the pandemic in relation to the regularization of migrants, including those in an irregular situation, through the adoption of for example regularization processes and pathways, extensions of work visas, and other appropriate measures for improving decent work and dignified living conditions, strengthening migrants' contributions and fostering cooperation. Please indicate if the regularization programs are devised as long-term solutions.

Reply:

None

7)

Please indicate if your country has adopted or is planning to adopt a COVID-19 socio-economic response and recovery plan, and if a human rights-based approach and human rights and gender-sensitive indicators are considered to ensure that no one will be left behind. Please indicate which are the available mechanisms enabling different parts of the Government as well as civil society actors and other key stakeholders to participate at all stages of the response and recovery plan and to monitor them.

Reply:

The realization of human rights is integral part of all actions of the German Government. The COVID-19 response was drafted and implemented in close contact with the major stakeholders and NGOs on the basis of regular exchanges. Their input led to valuable input in the course of the implementation. All relevant information was disseminated on many different communication channels like social media, newspapers, radio etc. in many languages (e.g. information on government subsidies for enterprises in 5 - 7 languages) and information about the output (subsidies, loans, guarantees, inoculations etc.) is reported on the government's websites such as [www.bmwi.de/corona](http://www.bmwi.de/corona) ([http://www.bmwi.de/...](http://www.bmwi.de/)) or [www.impfdashboard.de](http://www.impfdashboard.de) (<http://www.impfdashboard.de>) with bi-weekly/ daily updates.

8)

Has the Government experienced specific challenges in protecting and fulfilling the human rights of migrants in the COVID-19 context – including their rights to health, housing, education, information, social protection, basic services, safe and dignified return and sustainable reintegration and others? Kindly provide information on emerging practices and opportunities for strengthening the protection of migrants in the COVID-19 pandemic.

Reply:

Right to health:

The need to receive, understand and act on up-to-date and reliable information has been demonstrated during the pandemic more clearly than ever before. As part of its broad-based, multilingual information campaign on the coronavirus and vaccination, the Federal Ministry of Health (BMG) began providing information in multiple languages for people with an immigrant background as soon as the pandemic began.



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The website [www.zusammengegencorona.de](http://www.zusammengegencorona.de) is available in German, English, Russian, Turkish, Spanish and Arabic and offers extensive information on COVID-19 in general and on testing and vaccinations. Information on testing and vaccinations is also available by telephone in English, Turkish, Russian and Arabic at 0800 0000837 (nationwide and free of charge). Multilingual campaign content is also offered at touchpoints for specific target groups. The BMG also funds various activities to improve health awareness, such as informational events for specific target groups, to help increase the entire population's acceptance of government action to fight the pandemic.

### Voluntary return and reintegration:

The impacts of the global coronavirus pandemic and the resulting travel restrictions also affect voluntary returns and reintegration. The programmes to promote voluntary return and reintegration (REAG/ GARP ((Reintegration and Emigration Programme for Asylum-Seekers in Germany/ Government Assisted Repatriation Programme), StarthilfePlus and ERRIN (European Return and Reintegration Network)) have been adjusted in response to the pandemic, and temporary coronavirus components have been added. The joint federal and state programme REAG/GARP, which is carried out by the International Organization for Migration (IOM) on behalf of the Federation, can cover additional costs before departure, during transit and upon arrival in the country of origin arising from COVID-19 tests, quarantine and care by the IOM. The federal programme StarthilfePlus and the programme ERRIN have temporarily increased their financial support to deal with the situation in the countries of origin, such as pandemic-driven increases in the cost of living.

Regarding the pre-departure procedure returnees receive respective information on the pandemic restrictions, cash grants, pandemic kits and individual return assistance needed (e.g. accompaniment for vulnerable persons). All institutions involved in the departure process make sure that a dignified (assisted) return will be guaranteed based on the principles of the migrant protection provisions.

In terms of the reintegration assistance provided by local reintegration partners (service providers) the pandemic restrictions imposed by the government have some impact on the access to the basic services (limited physical movements). The reintegration partners provide often a digital support to returnees to organize access to the services needed. Regardless some delays in implementing the reintegration services needed all returnees can be assisted. The services and expenses will be monitored and verified on each return case.

BAMF return counselling sessions, for instance, are held under appropriate hygiene conditions. The employees of the return counselling centers are regularly informed by the federal (and state) governments about hygiene concepts and safety precautions and supported in complying with them.

In addition, the programme Virtual Counselling, which is implemented by IOM, proves to be an effective measure in the pandemic: It offers virtual return and reintegration counselling through counsellors in the countries of origin via online communication tools such as WhatsApp, Skype, Viber and Facebook in the native language of the returnees. Further, it is possible to obtain additional information through the virtual counsellors on travel modalities shortly before departure. This includes advice on precautions and regulations during air travel, quarantine measures after arrival and adapted reintegration modalities.

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Besides that, qualification measures preparing for return have been executed in a virtual environment. By providing virtual coachings and workshops for migrants and returnees to promote the establishment of businesses in the country of origin, the pre-departure programme offers an opportunity for training even under pandemic restrictions or in the circumstance where flights to the country of origin are not available.

Moreover, it is also of importance to regularly provide updated and extensive information to returnees, counselling centers and/or other bodies involved. Information related to COVID-19 is provided through the Returning from Germany information portal. For example, up-to-date information on developments related to COVID-19, on additional support options within the framework of existing support programs, hygiene measures or specific entry and quarantine regulations in the destination countries of voluntary returnees. Further, information or network events involving federal actors and return counsellors are held virtually.

Additionally, German return observers, who are deployed as monitors within the framework of the Frontex pool, comply with the distance and hygiene rules when taking part in return missions. Corresponding information is recorded and handed over to the responsible authorities.

The reintegration project URA („Bridge“) in Kosovo and the bridge component in Albania implemented safeguards regarding Covid-19 risks. Examples are that registration is done behind glass separators and masks are being used by the project workers in the field.