



Self-check for interviews and court hearings using technical equipment for audio and image transmission in the asylum procedure

As part of the measures to contain the COVID-19 virus, the Federal Office for Immigration and Asylum (BFA) has increasingly started to conduct interviews using technical equipment for audio and image transmission in connection with asylum and aliens police procedures as well as procedures under the Federal Government Basic Welfare Support Act on the basis of Article 51a of the General Administrative Procedure Act to carry out word and image transmission. For the Federal Administrative Court (BVwG), this would also be possible on the basis of Article 25 (6b) of the Proceedings of Administrative Courts Act.

This approach is new for all parties involved and may represent an opportunity. However, it must be carefully examined whether this instrument is suitable for ensuring fair proceedings in individual cases. Particular attention must be paid to maintaining the procedural standards, which must not be reduced by the increased use of video interviews due to the current exceptional situation.

UNHCR Austria has therefore developed this self-check as part of its quality assurance project "[Bridge: Cooperation in the asylum area 2020-2022](#)" to assist all persons involved in such procedures. It provides guidance on how to maintain procedural safeguards and interview quality in order to minimize adverse effects of video interviews on credibility assessment.

For the sake of brevity, both interviews and court hearings using technical equipment for audio and image transmission are referred to as "video interviews" or "interviews" in this self-check. Likewise, "decision-makers" refer to both BFA case workers and judges of the BVwG. Interviews where applicants are in prisons or police detention centers raise further questions and are therefore not covered by this self-check. Finally, considerations related to recording and storage of the video interviews are excluded, as this is not currently practiced in Austria.

1. Preparation

Targeted selection of suitable cases and the best possible assessment of the individual case (prioritization of well-founded claims, also with regard to different countries of origin, e.g. Syria; special consideration of the situation of applicants with special needs in the asylum procedure e.g. victims of torture, applicants with trauma-related illnesses, cases of gender-specific persecution, children and adolescents under the age of 18, persons with physical impairments such as hearing and vision problems; COVID-19 risk groups).

Allocation of cases to decision-makers who are specially trained and experienced in video interviews.

- Good planning and appropriate appointment management (e.g. staggered start times so that "social distancing" is possible in the entire premises of the BFA / BVwG).
- Written advance information on mode of the video interview (e.g. reason for this approach, setting, confidentiality and data protection) to all parties involved (including interpreters); request to submit written evidence in advance.
- Clarification of any objections and concerns about the mode of the video interview in order to be able to consider them as a matter of priority and, if necessary, to change the mode of the interview (so that applicants are able to fully explain their reasons for flight).
- Appointment of a suitable interpreter (qualification and experience for video interpreting; taking into account language and dialect skills) and information on any necessary terminological preparation.

2. Setting and technology

- Ensuring reliability and security of data transmission.
- Preparing and ensuring the functionality of the technical aspects (camera setting; sound; avoiding external interference, e.g. from cell phones, etc.); For interviews with applicants in care facilities, it must be clarified in advance whether and, if so, who can provide support in case of technical problems (and their availability during the interview).
- Appropriate positioning in front of the cameras so that the face and upper body of everyone involved is visible - to enable visual and non-verbal communication (especially for the interpreters) and to facilitate understanding.
- Implementing hygiene and health measures (e.g. cleaning the rooms between interviews; setting up separate seating areas, for example by providing additional chairs and tables in the room for applicants and legal representatives; providing face masks as appropriate; possibility of washing hands with soap or disinfectants for those involved).
- Appropriate design of the interview rooms (ensuring confidentiality and precautions to prevent external disturbances such as redirecting / switching off all telephones, information sign for interview on the door - especially when applicants are in accommodation facilities; provision of (mineral) water; adequate background and sun shades to allow good image transmission); interviewing in the applicant's living area is generally not appropriate.
- Enabling a person of trust to be present if the room is of a suitable size.

3. Interview phase

- Appropriate welcome and respectful greeting by decision-makers present (with necessary safe distance while wearing face masks) as well as friendly allocation of the seat in the interview room before the decision-maker leaves the room; if the applicant is in another building, e.g. care facility, it must be clarified in advance who will guide them to the room.
- Comprehensive introduction of all actors in the different rooms and description of their function.



- Explanation of the video interview and the respective technical aspects (e.g. procedure in the event of technical problems).
- Requesting everyone involved to speak loudly and clearly and look into the camera during the video interview.
- Provision of information and detailed instructions (e.g. goal, purpose, framework (including break management) and structure of the interview; rights and obligations of the applicant; function of the transcript and retranslation); In case of video interviews, the confidential treatment of the information must be explained in more detail (especially if applicants are interviewed in care facilities).
- Enquiring about evidence brought along and recording it.
- Implementation of a comprehensive warm-up phase (i.e. discussion on general and neutral topics), as video interviews are an additional stress factor.
- Free narrative response and comprehensive assessment of the facts (see point 4).
- Ensuring a complete retranslation via video technology (e.g. by sharing the screen) and taking into account any comments / corrections in the transcript.
- Signing the transcript (if necessary, noting the reason for refusal to sign).
- Offer to provide a copy of the transcript.
- Provision of information about the next phases of the procedure (e.g. possible further enquiries; expert appointments; submission deadlines of statements; time frame for finalizing the decision).
- Implementation of an appropriate closing phase (e.g. clarification of any questions the applicant may have; discussion of neutral and positive topics) and a proper farewell.

4. Substantive interview

- Assessment of the applicant's mental and physical condition (also in the further course of the interview!).
- In the in-merits asylum procedure, concentration on essential, but not yet established elements of the claim in order to limit the duration of the interview, i.e. gathering information on persecution and human rights violations suffered, inquiries related to fear of persecution or human rights violations upon return to the country of origin as well as Article 3 ECHR-relevant aspects of care and health issues (including the assessment of any sur-place claims); investigation of the reasons for the persecution and, if necessary, discussion with regard to protection measures that may be available or an internal flight alternative in the country of origin.
- Assessment of grounds for exclusion as appropriate.
- Examination of a residence permit on other grounds (e.g. family life in Austria; integration performance; victims of human trafficking), as appropriate.

5. Interviewing technique

- The decision-maker is continuously in charge of the interview (including monitoring of the interpreter's actions; central focus on the applicant).
- Adaptation of the communication style (e.g. avoidance of technical terms; adoption of terms used by the applicant).
- Creation of a constructive dialogue, i.e. alternating dialogue and interpersonal exchange (also by direct address and eye contact via the camera).
- Possibility for the applicant to ask questions about those involved in the interview and the setting.
- Encouragement to immediately ask questions that arise and request to promptly point out comprehension problems during the interview.
- Immediate response to difficulties in understanding (e.g. caused by wearing a face mask) and problems caused by video technology; recording these in the interview transcript.
- If necessary, discontinue the interview if technical problems cannot be resolved or if vulnerabilities arise in the course of the interview (e.g. in the case of victims of torture) that make a video interview no longer appropriate.
- Adequate question forms (e.g. no multiple questions; use of open-ended questions; no leading questions) and short sentences to ensure understanding.
- Continuous review of the communication between applicant and interpreter.
- Non-judgmental discussion and clarification of any contradictions, especially as these occur more frequently due to video technology and note that longer pauses in speaking or delayed answers can also be attributed to video interviewing.
- Continuous summary of the interview content and evidence so that it is not lost through the use of video technology.
- Ensuring that all relevant aspects of the application were discussed during the interview, through direct and repeated inquiries to applicants and representatives whether they have anything further to add on the points concerned.
- Taking regular and, compared to face-to-face interviews, increased breaks in order to prevent symptoms of fatigue, which is more common when using video technology than during other interviews.
- Safeguarding the rights of the representative (e.g. the opportunity to make a comprehensive statement and to submit motions).

References

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