

## PART 1 – DEFINITIONS

### 1. Definitions

- 1.1 The terms used in this Note have the same meaning as in the Memorandum of Understanding.
- 1.2 In this Note Verbale: **‘Decision’**: means every decision taken by the relevant authorities relating to a Relocated Individual’s asylum application.

## PART 2 THE ASYLUM PROCESS

### 2. Introduction

This part sets out the Participants understanding of the commitment in paragraph 9.1.1 of the Memorandum of Understanding, to treat each Relocated Individual, and process their claim for asylum, in accordance with the Refugee Convention, Rwandan immigration laws and international and Rwandan standards, including under international and Rwandan human rights law ensuring their protection from inhuman and degrading treatment and refoulment. These measures contribute towards the meeting of such standards, but do not necessarily define their extent.

### 3. Access to Asylum Process

- 3.1 A Relocated Individual will:
  - 3.1.1 have the opportunity to make an asylum claim;
  - 3.1.2 be informed of the procedure for making an asylum claim, for appealing a decision on their asylum claim and what the Relocated Individual will be required to do throughout the procedure, in a language that they understand; and
  - 3.1.3 be informed of the procedure for making a complaint about the processing of their claim.

### 4. Asylum Decision Making

- 4.1 A Relocated Individual’s asylum claims will be decided within a reasonable period of time.
- 4.2 Asylum decisions will be taken by decision-makers who are appropriately trained to take a decision on an asylum claim in accordance with the Refugee Convention and are able to seek advice from senior officials or external experts if necessary.
- 4.3 A decision whether a Relocated Individual is recognised as having a refugee protection need will only be taken following an appropriate examination that will, amongst other things, provide the Relocated Individual with the opportunity to:
  - 4.3.1 make a written application and provide evidence in support;
  - 4.3.2 attend an interview to explain their application and answer any questions the decision maker may have;
  - 4.3.3 to further explain their claim, including any elements that may be missing from their application or after the interviewer’s questions.

- 4.4 The asylum interview will:

- 4.4.1 be transcribed or electronically recorded in full. If the interview is transcribed, the Relocated Individual will be given the opportunity to review and, if necessary, correct the transcript; and
- 4.4.2 be conducted under conditions which allow the Relocated Individual to present the grounds for their application in a comprehensive manner. In particular:
  - 4.4.2.1 the person who conducts the interview will be competent to take account of the personal and general circumstances surrounding the application, including the applicant's cultural origin, gender, sexual orientation, gender identity or vulnerability;
  - 4.4.2.2 wherever possible, the interview with the Relocated Individual will be conducted by a person of the same sex if the Relocated Individual so requests, unless there is a reason to believe that such a request is based on grounds which are not related to difficulties on the part of the Relocated Individual to present the grounds of his or her application in a comprehensive manner;
  - 4.4.2.3 be in the presence of an interpreter who is able to ensure appropriate communication between the Relocated Individual and the person who conducts the interview. The communication shall take place in the language preferred by the applicant unless there is another language which he or she understands and in which he or she is able to communicate clearly.
- 4.5 For the purpose of taking decisions on asylum claims, decision makers will obtain up-to-date information as to the general situation prevailing in the countries of origin of the Relocated Individual. This information will be available to decision-makers, and they will have appropriate resources to further research and access expertise where needed.
- 4.6 A decision on a Relocated Individual's asylum application will:
  - 4.6.1 be taken on the merits of the individual application; and
  - 4.6.2 will be objective and impartial.
- 4.7 Arrangements will be made to ensure that the decisions taken on individual claims are recorded.
- 4.8 Relocated individuals will be notified in writing of the decision that has been taken on their asylum claim.
- 4.9 A decision will:
  - 4.9.1 be in one of the official languages of Rwanda and, if needed for understanding, it will be translated in writing by an interpreter into a language that the Relocated Individual understands, free of charge;
  - 4.9.2 include the reasons for the decision in both fact and law; and
  - 4.9.3 a decision that is a refusal of the asylum claim will notify a Relocated Individual that they will be able to appeal the decision on their asylum claim and provide an explanation of how to do this.

4.10 Where a Relocated Individual is not recognised as a refugee, it will be considered whether the relocated individual has other humanitarian protection need such that return to their country of origin would result in a real risk of their being subject to inhuman, degrading treatment or torture or a real risk to their life. It will be made clear to a Relocated Individual that it is necessary to provide any information that is relevant to this consideration alongside the information that is relevant to their asylum application when the Relocated Individual is originally informed about the procedure for making their asylum claim.

## **5. Asylum appeals**

- 5.1 A Relocated Individual may appeal a refusal of their asylum application to the Minister responsible for considering such appeals.
- 5.2 A Relocated Individual who wishes to appeal to the Minister will have the opportunity to make oral and or written representations. Any legal representative engaged by the Relocated Individual will have the opportunity to make submissions when appropriate before the end of the process of appeal to the minister.
- 5.3 A Relocated Individual whose appeal has been refused by the Minister will be permitted to appeal that decision to the High Court of Rwanda.
- 5.4 The court will be able to conduct a full re-examination of the Relocated Individual's claim in fact and law in accordance with Rwandan rules of court procedure.
- 5.5 A Relocated Individual and their legal representative will have the opportunity to make full representations as to fact and law at their appeal in accordance with Rwandan rules of court procedure.
- 5.6 A Relocated Individual who is refused asylum will not be removed from Rwanda until there are out of time to bring an appeal or, if they choose to appeal the decision, the conclusion of their appeal.

## **PART 3 – INTERPRETERS AND LEGAL ADVICE**

### **6. Introduction**

- 6.1 This part sets out the Participants' understanding of the commitment in paragraph 9.1.2 of the Memorandum of Understanding regarding the provision of adequate access to an interpreter and procedural and legal assistance.

### **7. Procedural and Legal Assistance**

- 7.1 A Relocated Individual will be provided with orientation that includes details of the asylum process and support that is available to them free of charge.
- 7.2 Each Transferee will be permitted to seek legal advice or other counsel from any non-governmental or multilateral organisation, at any stage of the asylum application process, at their own expense including from an organisation providing that support free of charge.

- 7.3 The legal representative or other counsel engaged by a Relocated Individual in accordance with 7.2 above will be permitted to provide legal assistance at every stage of the claim, in accordance with Rwandan law.

## **8. Legal assistance at appeal**

- 8.1 Should a Relocated Individual wish to appeal their decision to the court of Rwanda they will be provided with legal assistance and representation from a legal professional qualified to advise and represent in matters of asylum, free of charge. This shall include, at least, the preparation of the required procedural documents and participation in the hearing before the appeal court on behalf of the applicant.
- 8.2 Rwanda shall provide the legal advisor access to the information provided by the applicant's file upon the basis of which a decision is or will be made. Rwanda may make an exception where disclosure of information or sources would jeopardise national security, the security of the organisation or persons(s) providing the information or the security of the person(s) to whom the information relates or where the investigative interests relating to the examination of applications for international protection by the competent authorities of Rwanda or the international relations of Rwanda would be compromised.

## **9. Interpreter**

- 9.1 If a Relocated Individual requires it, an interpreter will be provided, free of charge, whenever the Relocated Individual meets with a legal representative provided to them free of charge in accordance with 8.1 above or a representative or employee of the Government directly involved in the Relocated Individual's asylum application.
- 9.2 All written correspondence and information that a Relocated Individual receives concerning their claim and the asylum process will be translated by an appropriate interpreter free of charge, if they require it to understand.
- 9.3 A Relocated Individual who has the opportunity to consider a written transcript of their interview will have the assistance of an interpreter, free of charge, if needed for understanding.

## **10. Complaints**

- 10.1 Arrangements will be made so that a Relocated Individual may lodge a complaint about any element of the processing for their asylum claim with a representative of the Government of Rwanda responsible for handling such complaints.
- 10.2 A Relocated Individual may lodge a complaint in relation to the legal representative allocated to them under 8.1.
- 10.3 Any such complaint will be recorded and once resolved that record will be updated with the details of how it was resolved.

## **11. Governance and monitoring**

The implementation of the assurances in this Note will be monitored by the Joint Committee and the Monitoring Committee established under paragraph 30 of the Memorandum of Understanding.

## **12. Amendment of this Arrangement**

Amendments to this Note Verbale may only be made by mutual written consent between the Participants.

## **13. Status**

For the avoidance of doubt, the assurances in this Note describe what is understood by the Participants of the assurances in the Memorandum of Understanding. They do not create or confer any right on any individual or third party, nor will compliance with the assurances be justiciable in any court of law.