

Interview Charter

OFFICE OF THE COMMISSIONER GENERAL FOR REFUGEES AND STATELESS PERSONS



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Cette brochure existe aussi en français.

Deze brochure bestaat ook in het Nederlands.

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Foreword

In light of a major reform of the Belgian asylum procedure in 2007, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) initiated a reflection process on quality management, in particular with regard to the processing of asylum applications. Several topics were examined and discussed in working groups, notably a working group on the preparation for and conduct during the asylum interview and a working group on how to create and maintain favourable conditions for the interview.

The asylum interview, which is at the heart of the asylum procedure, had also been chosen by a few staff members as a topic for their trainee report. They looked into issues such as deontological guidelines for the protection officer's attitude and guidelines for conducting an asylum interview.

Moreover the CGRS is closely involved in the development of the European Asylum Curriculum (EAC), a training programme for government officials working for the national asylum authorities of EU member states. The EAC covers many topics that were also examined by the quality working groups and its content corresponds to the basic philosophy of the CGRS.

In some countries, such as the United Kingdom, Switzerland and Canada, the asylum body has already drawn up a so called 'code of conduct' for the interview. This charter is largely inspired by these codes, as the objectives for the asylum interview are the same everywhere, with a clear focus on efficiency and respect for the asylum seeker. This charter also builds on lessons learned from applying the Royal Decree on the procedure before the CGRS.

As a follow up to the drafting of a 'Deontological code for the work of interpreters and translators', it is now important for the CGRS to draft a code of 'good practices' regarding the interview.

This charter, which is made public, will serve as the protection officer's code of conduct. Together with the briefing note on interview techniques and the training module on intercultural communication, it should serve as a guarantee for the quality of a key moment in the asylum procedure, i.e. the interview of the asylum seeker.

1. The interview takes place in a professional setting

- The protection officer creates a climate of confidence favourable to the establishment of the facts. His behaviour, attitude and appearance reflect the organization's neutrality, seriousness, professionalism and competence.
- The interview room is kept clean and tidy.
- The protection officer makes sure the interview is not disturbed by outside interference. He puts his mobile phone in vibrate mode and asks the persons present to do the same. The protection officer must still be reachable via the fixed phone.
- It may happen that a lawyer has to answer an urgent phone call. In this case, he shall have to leave the interview room. This obligation is explained to him at the start of the interview. The interview continues in the lawyer's absence, which must be recorded in the interview report.
- The protection officer sees to it that the arrangement of furniture in the interview room favours direct visual contact between the asylum seeker and himself.
- The protection officer informs the asylum seeker that drinking water is available from a fountain in the corridor.
- The protection officer personally goes to the waiting room to pick up the asylum seeker. He addresses him by name. For reasons of confidentiality and privacy, the protection officer avoids, to the extent possible, to call out the asylum seeker's name in the waiting room. If he recognizes the asylum seeker on the basis of elements in his file (picture, date of birth, family composition), he addresses him personally.

2. In order to properly prepare the interview, the specific characteristics of each case are taken into account

- From the course of the interview it should be shown that the preparation has been adapted to the specific characteristics of the file and that the documents in the file have been thoroughly examined, to the extent possible. To prepare for the interview, the protection officer takes into account the evidence available, the asylum seeker's profile and the related files.
- The protection officer has a good knowledge of the situation in the asylum seeker's country of origin. When preparing for the interview he consults the relevant and useful country of origin information.
- The protection officer has the required expertise to conduct interviews with asylum seekers with specific profiles: asylum seekers potentially falling under an exclusion clause or asylum seekers belonging to a vulnerable group, such as unaccompanied foreign minors, traumatized asylum seekers, asylum seekers putting forward gender related asylum grounds (rape, sexual abuse, sexual orientation and gender identity), etc...
- The general course of the interview, the structure and key elements are all planned beforehand. The interview focuses on the topics that are crucial to the application and is structured around the identity of the asylum seeker, the nature, motives and actors of persecution, the asylum seeker's fear in case of a return to his country of origin, and the evidence at hand. This basic pattern is not rigorously fixed. Some flexibility is needed in order to respond to the elements that are brought forward.
- Questions and aspects that are crucial for the assessment of the application claim must be specified. The protection officer should identify those elements that need to be clarified during the interview.

3. The protection officer informs the asylum seeker about the aim, the course and the principles of the interview as well as about the appeal options

- When the protection officer has taken the asylum seeker to the interview room, he introduces himself. He also introduces the other persons present and explains their role. However he does not give the interpreter's name.
- The protection officer ascertains whether the asylum seeker understands the interpreter.
- The protection officer briefly explains the asylum procedure, he situates the interview within the procedure and outlines the appeal options. He uses a vocabulary that is understandable to the asylum seeker.
- He checks with the asylum seeker whether the latter's elected place of residence has not changed.
- The protection officer informs the asylum seeker that he may request a break if necessary and that he should not hesitate to ask for water. The protection officer also reminds him that smoking is not allowed.
- The protection officer explains the course and the aim of the interview.
- He emphasizes the confidentiality of statements made during the interview and of every element of the file and ensures that no information will be conveyed to the actor of persecution. This confidentiality is guaranteed by Belgian legislation, in particular the obligation of professional secrecy.
- He explains the consequences of a refusal, or even a reluctance to collaborate. He also points to the asylum seeker's obligation to tell the truth.
- He informs the lawyer or the trusted person accompanying the asylum seeker that he is not allowed to intervene during the interview but that he can express himself at the end of the interview.

4. No children are present during the interview

- Unless they are under 12 months of age, children are not allowed to be present during the interview. If an asylum seeker is accompanied by a child older than 12 months the protection officer asks him to leave the child at the crèche, if possible. Under exceptional circumstances justifying the presence of the child during the interview (e.g. specific problems of the child or its parent), the protection officer may authorize the child to remain present. If both parents are present, one of them may be asked to take care of the child outside the interview room while the other parent is being interviewed.

5. The interview is conducted in an impartial, loyal and respectful way

- All persons present treat the asylum seeker with respect.
- The tone and language used during the interview have to take into account the personal situation of the asylum seeker: gender, age, educational level, etc...
- Before, during or after the interview the persons present do not adopt an attitude liable to produce an impression of partiality, discrimination, lack of respect or lack of professionalism.
- During the interview the protection officer maintains a professional attitude towards the asylum seeker: he shows empathy but stops short of showing compassion or sympathy.
- As soon as the protection officer realizes that there is a conflict of interest between him and the asylum seeker, he immediately puts an end to the interview and informs his functional superior. The protection officer makes a record of this in the interview report.
- When an asylum seeker behaves aggressively or a lawyer or trusted person (or a guardian accompanying a minor) disturbs the interview through his behaviour, the protection officer reminds all parties present that they are required to contribute to the well functioning of the asylum procedure. Should the disruptive behaviour persist in spite of this warning, the protection officer puts an end to the interview and immediately informs his functional superior. The protection officer makes a record of the incident in the interview report and also informs the Lawyers' Service of the CGRS.

6. The interview follows a results oriented approach

- During the interview, the protection officer covers the crucial elements of the asylum application (evidence and decisive material elements) and examines them in depth so as to enable himself to take an informed decision.
- During the interview he identifies for himself, as conclusively as possible, all the elements that are essential for assessing the grounds for refugee status or subsidiary protection status.
- So as to allow the protection officer to obtain results he holds the lead of the interview. If the asylum seeker's declarations are not relevant to the questions, the protection officer intervenes and leads him back to the main (material) elements of his application. When necessary he may at any time remind the asylum seeker of the consequences of a lack of cooperation.
- The protection officer shows flexibility during the interview and adjusts himself to the situation when new material elements or new questions come up.
- At the end of the interview the protection officer asks the lawyer or the trusted person (or the guardian in the case of an unaccompanied minor) if he wishes to add something.

7. Questions are impartial and precise; all questions and answers are fully translated and written down

- The protection officer ensures that the interpreter keeps within the limits of his function. He also sees to it that the asylum seeker and the interpreter do not start a conversation unrelated to the content of the interview.
- The protection officer writes a report that duly and faithfully represents both the course and the content of the interview. All the asylum seeker's declarations are written down verbatim; any summarizing should be avoided. Abbreviations may be used as long as they are commonly intelligible.
- In his written report the protection officer clearly differentiates between his questions and the asylum seeker's answers.
- When the asylum seeker gives a very long answer, the protection officer makes sure the interpreter is able to translate this answer completely. When necessary he tactfully interrupts the asylum seeker so as to allow the interpreter to translate.
- When the asylum seeker and the interpreter have problems in understanding each other, the protection officer records this in the interview report.
- He also reports any behaviour of the asylum seeker or any incident which affect the interview: hesitation, emotion, aggressiveness, inappropriate intervention of other persons present, etc..., as long as the facts referred to are objectively discernible.

8. Efficient conversation methods are used

- The protection officer uses the most efficient and appropriate conversation methods in order to establish the facts that will serve as a basis for the decision.
- To facilitate establishment of the facts, the protection officer clearly explains to the asylum seeker what is expected of him. He listens attentively, does not speak more than necessary and asks short questions that are easy to understand. To obtain necessary details or to clarify a point, closed questions can be used.
- He does not ask more than one question at a time.
- He does not ask suggestive or disapproving questions.

9. The language used during the interview is adapted to the asylum seeker and to his background

- The questions asked and the information given during the interview take into account the asylum seeker's personality, experience and cultural background (age, gender, health, social position, education level, religion, etc...).
- The protection officer takes into account the various aspects of intercultural communication.
- If the asylum seeker is an unaccompanied foreign minor or a person who has suffered acts of violence, the protection officer adjusts his approach and uses specific conversation methods.

10. Improbable or contradictory elements concerning important parts of the asylum statement are addressed

- To the extent possible the protection officer evaluates, based on the information available to him (asylum seeker's age, schooling, etc...), the level of accuracy that can be expected from the asylum seeker in his declarations.
- Any possible misunderstanding is cleared out by rephrasing the question.
- The protection officer confronts the asylum seeker with any improbable element, any implausible answer or contradiction in his statement, and gives him an opportunity to clarify these points.
- Hesitant or evasive answers are addressed during the interview.
- When the asylum seeker is confronted with his own declarations, the persons present refrain from any disparaging remark or attitude towards him.

11. Breaks are planned

- A 15 minute break has to be taken every hour and a half. Beginning and end of the break are recorded in the interview report.
- Depending on the circumstances more frequent breaks may be used (unaccompanied minor asylum seeker, traumatized asylum seeker, etc...).
- During these breaks, the protection officer keeps the professional distance observed during the interview and sees to it that a professional distance is also kept between all persons present. To the extent possible he does not leave them on their own.
- Except for the translation of questions and answers, the protection officer sees to it that the interpreter does not start a conversation with the asylum seeker before, during or after the interview. As a rule the protection officer never leaves the interpreter alone with the asylum seeker.
- The maximum duration of the interview is set at 4 hours. This can exceptionally be extended by half an hour, if the nature of the file so requires and if the interpreter agrees to this extension. However, every action should be taken to avoid any such extension. When, even after an extended interview, decisive elements still remain unclear, the protection officer together with the administrative cell, immediately tries to fix another date for the interview, which he immediately communicates to the asylum seeker.

12. The end of the interview follows a fixed pattern and crucial elements of the asylum statement are clarified

- At the end of the interview the protection officer takes some time to run through the interview report, he checks whether the crucial elements have been sufficiently established and whether the elements that are essential for taking a decision have been closely examined and fully explained.
- He asks the asylum seeker whether any points crucial to the asylum claim were not raised yet, in particular regarding his fear in case of a return to his country of origin.
- The protection officer asks the lawyer or the trusted person if he has any remarks about the course of the interview or the asylum seeker's declarations. The protection officer writes down any remark the lawyer makes in this regard and informs the lawyer that he can still send written remarks after the interview.
- The duration of the interview and the time at which it started and ended must be recorded in the interview report.
- The protection officer leads the asylum seeker and the persons accompanying him to the exit and bids them farewell.


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