

**UNHCR GUIDELINES**  
**ON THE SHARING OF INFORMATION ON INDIVIDUAL CASES**

**"CONFIDENTIALITY GUIDELINES"**

**Introduction**

1. In carrying out its mandate to provide international protection to refugees and other persons of concern and to seek permanent solutions to their problems, UNHCR collects and keeps diverse information on individual cases (ICs). UNHCR offices frequently receive requests from non-UNHCR parties for the sharing of such information. The present Guidelines deal with the terms under which UNHCR may share IC information with the IC or other requesting parties.

2. The Guidelines are divided into two parts. The first part outlines the scope of application of the Guidelines and the general principles governing the sharing of IC information. It also contains criteria and conditions in the form of a Checklist. The second part sets out in more detail the terms under which IC information may be shared with the IC, with lawyers or other persons representing the IC, and with other parties. These include governmental authorities whether in the country of origin,<sup>1</sup> in the country of asylum, in the country of resettlement, or in other countries, international organisations, international tribunals, non-governmental organisations (NGOs), and the media.

**Part One: Scope of Application and General Principles**

***I. Scope of Application of the Guidelines***

3. The Guidelines only apply to the sharing of IC information. Aggregated information and statistics are not subject to confidentiality guidelines. IC information is mainly contained in the respective IC file, but may also be found in other UNHCR records. As regards the content of IC information, it may relate to information provided by the IC or information generated or obtained by UNHCR:<sup>2</sup>

*Information provided by the IC*

- Name and address (or last place of residence) of the IC, family and close associates, date and place of birth, country of origin, ethnic origin, religion, educational qualifications, profession or vocation, medical or health status, identity or travel documents held;
- Information on the substance of refugee claims obtained through status determination interviews, letters or documents of the IC, including the reasons for departure from the country of origin, reasons for fearing persecution upon return to the country of origin, political opinions, affiliations and activities, membership of social groups, arrests or detentions, convictions for crimes, experience of violations of human rights, military service;

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<sup>1</sup> These Guidelines replace IOM/FOM/12/90 on Confidentiality of Information concerning Individual Refugees or Asylum-seekers in Discussions with Countries of Origin of 12 February 1990.

<sup>2</sup> This list is not exhaustive. It merely illustrates the type of information UNHCR keeps on individuals.

- Transit details, including routes taken, countries traversed, and duration of stay *en route* to the country of asylum, types of transportation used, date and point of entry into the country of asylum, whether entry into the country of asylum was clandestine or authorised, experience of human rights violations in transit, details of travel from the point of entry into the asylum country to the place where asylum is requested;

*Information Generated or Obtained by UNHCR*

- Information relating to examination and assessment of the refugee claim, including opinions and instructions received from Headquarters or Branch Offices, correspondence with UNHCR Offices and external parties, assessments of the merits of the asylum claim, decisions on recognition of refugee status and processing of durable solutions;
- Information obtained in the course of providing protection, social and community services to the IC, medical and counselling records, records on the treatment and behaviour of the IC.

4. All UNHCR staff are under a duty to ensure the confidentiality of IC information. This rule applies to all international and national staff, including interpreters, social counsellors and medical personnel, as well as to staff of UNHCR's implementing partners.<sup>3</sup> The issue of confidentiality should be highlighted in the training of local and international staff, government personnel, and NGO staff.

5. Confidentiality of IC information needs to be respected vis-à-vis third parties, as well as in relation to communications between UNHCR offices. Communications on ICs within UNHCR should be conducted safely. References to IC names should be avoided and a special file reference code be used instead.<sup>4</sup> Also, special technological or logistical measures, such as sealed pouches or encryption systems, should be utilised, if necessary, in co-operation with security officers. Extra precautions are necessary when a UNHCR Office is possibly the target of electronic or other surveillance.

6. The question of collecting, processing and storing IC information is not addressed in these Guidelines since this is essentially a matter of UNHCR's Archives Access Policy.<sup>5</sup> Suffice it to say that IC information, whether stored in physical or electronic form, should always be subject to restricted access. Locations where IC information is stored should never be left unsupervised during working hours. All IC files should be stored in a lockable room or storage equipment, to which only authorised UNHCR staff have access. IC files should be kept locked in the absence of authorised staff.<sup>6</sup>

7. Since the Guidelines cannot foresee each and every situation that may arise in the context of sharing IC information, UNHCR staff members should, where necessary, seek guidance from the Department of International Protection (DIP).

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<sup>3</sup> For Staff Members see also [IOM/12/98](#), [FOM/14/98](#) on Security of Information of 9 February 1998.

<sup>4</sup> See in this respect [IOM/116/88 - FOM/108/88](#) on Communications on Sensitive Individual Cases of 9 November 1988.

<sup>5</sup> See for Archives Access Policy: <http://www.unhcr.ch/archives/accesspolicy.pdf>, see also [FOM 68/99](#) on Recordkeeping of Monthly Account Files of 3 August 1999 and [FOM 67/2000](#) on Field Guides of 17 September 2000.

<sup>6</sup> In this respect, see also UNHCR: Registration, A Practical Guide for Field Staff (1994), Part 2, paragraph 11.

## II. *General Principles*

- Right to Privacy of the Individual.
- UNHCR's International Protection Mandate.
- Privileges and Immunities of the United Nations.
- Safety of UNHCR Personnel.

8. The terms under which UNHCR shares IC information are governed by a number of general principles and considerations, such as the right to privacy of the individual, UNHCR's international protection mandate, the United Nations' privileges and immunities, and the safety of UNHCR Personnel.

### *a) Right to Privacy of the Individual*

9. International human rights law guarantees everyone the right to privacy and protects individuals from arbitrary or unlawful interference.<sup>7</sup> In international law, the right to privacy is generally defined as everyone's right to know whether information concerning her/him is being processed, to obtain it in an intelligible form, without undue delay or expense, and to have appropriate rectification or erasures made in case of unlawful, unnecessary or inaccurate entries.<sup>8</sup> Effective measures need to be taken to ensure that information concerning a person's private life does not reach the hands of third parties that might use such information for purposes incompatible with human rights law.<sup>9</sup>

10. For the purpose of UNHCR's practice, this means that the consent of the IC is in principle necessary before IC information can be shared with other parties. The IC should be given assurances that UNHCR will respect the confidentiality of IC information.<sup>10</sup> In addition, IC information should be kept strictly confidential because of the potential risk to the IC or others.

### *b) UNHCR's International Protection Mandate*

11. Under its international protection mandate, UNHCR co-operates with States in the performance of its functions, for instance, to ensure that States admit refugees to their territories, to improve their situation or to seek durable solutions.<sup>11</sup> Breaches of confidentiality may undermine UNHCR's credibility. At the same time, a special and privileged relationship exists between UNHCR and refugees, asylum-seekers, stateless persons, and others of concern. UNHCR bears a responsibility towards persons of its concern to ensure that the

<sup>7</sup> See Article 12 of the Universal Declaration of Human Rights of 10 December 1948 and Article 17 (1) of the International Covenant on Civil and Political Rights of 16 December 1966 (ICCPR). See also Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) of 4 November 1950; Article 11 of the American Convention on Human Rights (ACHR) of 22 November 1969.

<sup>8</sup> See paragraph 4 of the UN Guidelines concerning computerised personal data files, UN Doc. E/CN.4/1990/72 of 20 February 1990; see also Article 8 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981 and Paragraph 13 (Individual Participation Principle) of the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data of 23 September 1980.

<sup>9</sup> See Human Rights Committee, General Comment No. 16 on Article 17 of the ICCPR (32<sup>nd</sup> session, 1988), paragraph 10, HRI/GEN/1/Rev.1 at p. 23.

<sup>10</sup> See, e.g., UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (1992), paragraph 200; Interviewing Applicants for Refugee Status, UNHCR Training Module RLD 4 (1995), Chapter 7, p. 65; see also UNHCR Resettlement Handbook (revised 1998), Chapter 5.2.4.

<sup>11</sup> See General Assembly Resolution 428 (V) of 14 December 1950 and Annex, including the Statute of the Office of the United Nations High Commissioner for Refugees.

information provided will be used with utmost care and exclusively to further international protection.

*c) Privileges and Immunities of the United Nations*

12. It should be kept in mind that States must respect the inviolability of UNHCR's records and archives under the 1946 Convention on the Privileges and Immunities of the United Nations.<sup>12</sup> Any acts of search, requisition, confiscation, expropriation or other interference by national authorities, including the judiciary, are, for instance, prohibited under this Convention (Article 2).

*d) Safety of UNHCR Personnel*

13. Finally, the sharing of IC information may involve aspects of staff safety. It is not only UNHCR, which must pay full attention to the safety of its staff but States are also under an obligation to ensure its respect.<sup>13</sup>

**Checklist**

14. The following Checklist contains criteria for evaluating requests for the release of IC information by a non-UNHCR party, including the IC. The Checklist should be read along with the relevant section in Part Two of these Guidelines depending on the author of the request. The intention of the Checklist is to assist UNHCR staff in making an assessment as to whether, and to what extent, IC information may be released. First, it deals with the formal conditions of the request for information. Second, it sets out the evaluation criteria, and third, it outlines the disclosure conditions if IC information is to be released.

**Formal Conditions**

- The author of the request must be recognisable and authentic.
- The request must state its purpose.
- The request should be in writing.

**Evaluation Criteria**

- The IC's right to privacy must be respected.
- The request should conform to UNHCR's international protection mandate.
- The request must have a legitimate purpose.
- Staff safety considerations should be taken into account.

**Disclosure Conditions**

- Release only copies and only information necessary for the purpose of the request.
- Avoid unrestricted dissemination.
- Make a note for the file recording the reasons for the disclosure.

<sup>12</sup> Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946.

<sup>13</sup> See Executive Committee Conclusion No. 83 (XLVIII) on Safety of UNHCR Staff and other Humanitarian Personnel and the Convention on the Safety of United Nations and Associated Personnel, adopted by the General Assembly of the United Nations at its 48<sup>th</sup> plenary meeting by Resolution 49/59 on 9 December 1994 (entered into force on 15 January 1999).

### *Formal Conditions*

- Author of the Request

15. The **author**, that is, the person or institution that makes the request, should be recognisable and authentic. Anonymous requests or requests under false names should not be processed.

- Reasons for the Request

16. The request should clearly state its purpose and explain why the author needs the IC information. The **reasons** are crucial since they indicate whether information can justifiably be released.

- Written Request

17. The request should in principle be **in writing**. The rationale for this lies in administrative and safety reasons. In exceptional circumstances, for example, if the IC is unable to make her or his request in writing, oral requests may be accepted. In this case, the request should be recorded in a note for the file.

### *Evaluation Criteria*

- The IC's Right to Privacy

18. In line with the considerations outlined in relation to the **right to privacy**, UNHCR should in principle obtain the consent of the IC concerned prior to the release of information. Such consent should generally be given in writing and could be obtained in advance at the time of the refugee status determination or resettlement interview. In exceptional circumstances, the consent of the IC may be waived, for instance, where disclosure is in the interests of the IC but consent cannot be obtained in time or in case of overwhelming security considerations, transcending the individual interest. This is elaborated upon in more detail in the various sections of Part Two.

- UNHCR's International Protection Mandate

19. As regards **UNHCR's international protection mandate**, the assessment is largely one of the potential consequences for the IC, for UNHCR and in terms of setting precedents, which may have wider repercussions. The paramount consideration is the physical safety and protection of the IC as well as that of her or his family members or persons with whom s/he is associated. The disclosure of IC information would not be consistent with UNHCR's international protection mandate if this could jeopardise the safety of the IC or of others and lead to violations of their human rights. However, in certain cases the sharing of IC information may be useful or even necessary for the protection of an IC (for instance with the authorities of a country of asylum or a country of resettlement). In addition, the sharing of information should not compromise UNHCR's humanitarian and non-political character, or undermine the climate of trust and confidence which needs to exist between UNHCR, its implementing partners, refugees and States.<sup>14</sup>

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<sup>14</sup> This corresponds to the "Humanitarian Clause" in the UN Guidelines concerning computerised personal data, UN Doc. E/CN.4/1990/72, page 4, B.

- Legitimacy of the Request

20. A crucial question concerning the evaluation of the requests is its **legitimacy**. For the request to be legitimate, the author of the request must have a valid reason to obtain the information for a legitimate purpose. The assessment of the validity of the reason is explained in more detail in Part Two of these Guidelines.

- Staff Safety Considerations

21. UNHCR also needs to take into account staff safety consideration. IC information should not be shared if the disclosure might negatively impact on the safety of UNHCR staff or other humanitarian personnel.

### *Disclosure Conditions*

- Disclosure of the Necessary Minimum

22. Once satisfied that the disclosure of IC information is appropriate, only the information **necessary** to meet the legitimate purpose of the request should be shared. As a rule, UNHCR offices should only share copies of documents – the original should remain in UNHCR's possession.

- No Unrestricted Dissemination

23. When disclosing IC information, UNHCR should take the necessary steps to **avoid unrestricted dissemination** of IC information. Disclosure of hardcopies instead of electronic data is therefore preferable. For electronic data, encryption, where available, should be used. It should also be assured that the author of the request commits, preferably in writing, to respect the confidentiality of IC information *vis-à-vis* other parties. Such specific assurances should be obtained in each individual case but could also generally be included in (sub-) agreements between UNHCR and host Governments or implementing partners.<sup>15</sup>

- Note for the File

24. In all cases of disclosed IC information, a **note** for the file should be made to keep a record. It should indicate the type of IC information released, to whom, and the reasons justifying the disclosure.

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<sup>15</sup> See the Governing Clauses for UNHCR Agreements, Clause 5.01 on Confidentiality (March 1998).

## **Part Two: Concrete Situations**

25. The foregoing Checklist applies to all situations where a non-UNHCR party, including the IC, requests information. The following paragraphs describe a number of situations which have typically arisen in this context and illustrate how requests for IC information should be handled on the basis of the Checklist, depending on the author of the request.

### ***1. Sharing of Information with the IC, her or his Relatives, Legal Representatives and other Individuals***

The IC is in principle entitled to obtain information s/he has provided. The same applies to the duly authorised representative of the IC. Other individuals must have legitimate reasons. Staff safety considerations are often an important factor in this context.

#### *a) IC*

26. ICs are entitled to receive copies or originals of documents which they have provided or of which they are the source. Prior to the release of documents, the IC should be required to produce identification.

27. The IC's right to have access to her or his file is, however, limited when it concerns UNHCR generated information or other documentation of which the IC is not the source. In such cases, UNHCR needs to weigh its own interests (such as staff safety considerations or protection of UNHCR's sources of information) against the IC's legitimate interest, for instance, to know the reasons for any decision that affects her or him. A possible solution could be to share only abstract case summaries without mentioning the names of UNHCR staff members. In any case, UNHCR should not share interview records or credibility assessments as such. This does not preclude the reading back to the IC of the interview record taken directly from the IC's own statements during the status determination interview.

28. When releasing IC information to the IC concerned, UNHCR should also take into account how the release of this information may affect the effective performance of its functions. In particular circumstances, such as refugee status determination in large camps or settlements, in which released IC information may easily be disseminated without control or even be misused by other ICs, UNHCR may deny disclosure. The decision in each individual case depends on the particular situation and the reasons given by the IC as to why s/he needs the information (Checklist, paragraph 16). Also, if there are indications that the request is not made free from duress or may be used for manipulative purposes, UNHCR may reject the request.

#### *b) Relatives*

29. Family bond usually gives relatives a legitimate claim to know about the fate of an IC. In line with the Checklist, UNHCR staff should be satisfied with the identity of the relative requesting information as well as her or his legitimate purpose. Queries about the general well-being or the whereabouts of the IC do not justify releasing a whole IC file. Also, when assessing such requests, UNHCR staff members need to take particular care to adopt a gender- and age-sensitive approach. Details of the refugee story or medical information should be handled with utmost sensitivity. Particular circumstances, such as those existing in camp situations or the cultural background of the IC, may justify not sharing information even with close relatives.

*c) Legal Representatives*

30. Legal or other duly authorised representatives acting on behalf of an IC have in principle identical rights of access to IC information as the IC her or himself. Before sharing information with a person claiming to represent an IC, UNHCR should be satisfied with the submission of special powers in writing, for instance presentation of a power of attorney, authorising the legal representative to request information on behalf of the IC.

*d) Other Individuals*

31. Other individuals will normally not have a legitimate interest in having access to IC information. Only individuals acting clearly in the IC's interest are likely to produce reasons that could justify the release of some IC information. As a rule, UNHCR should not release IC information to another asylum-seeker or refugee.

***II. Sharing of IC Information with Authorities in the Country of Origin***

UNHCR should not share IC information with authorities in the country of origin. Exceptions to the general rule of non-disclosure are only possible in certain situations, for instance in the context of the voluntary repatriation of the IC concerned.

*a) Principle*

32. UNHCR should not share any IC information with the authorities of the country of origin. All categories of IC information should be kept strictly confidential. The potential risk to the safety of ICs and their families or associates is greatest where information relating to their identity or asylum claims is made available to the authorities in the country of origin. Even the mere fact that an IC has sought asylum elsewhere may have adverse consequences for the IC and/or her or his family and associates in the country of origin. Thus, UNHCR should not confirm to the authorities or other entities in the country of origin whether or not a particular individual is or has been in contact with a UNHCR office, regardless of whether the person concerned is an asylum-seeker, a refugee, a resettled refugee, or whether s/he has been rejected or excluded. The general rule of non-disclosure should in principle continue to be observed *vis-à-vis* the country of origin even if the situation in the country of origin has changed.

33. UNHCR should not communicate with entities within the country of origin, whether they are governmental or non-governmental, in order to verify or authenticate declarations or documents provided by the IC, since the risk of potential interception of mail, phone, fax or email messages is too high. Any necessary communication should always be couched in the most general and anonymous terms, and should never include names or data by which the IC or her or his family could be identified in the country of origin.<sup>16</sup>

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<sup>16</sup> See also the Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum of 1 July 1996 (paragraph 5.16).

*b) Voluntary Repatriation*

34. IC information will need to be shared with the authorities of the country of origin in the context of organised voluntary repatriation arrangements. However, prior to the release of such information, the IC should express her or his intention to return voluntarily by signing a Voluntary Repatriation Form (VRF), and consent to the release of the information after having been informed by UNHCR of all relevant facts.<sup>17</sup> Only information necessary for the purpose of organised voluntary repatriation, for instance in order to obtain clearance for administrative formalities or in order to benefit from amnesty guarantees, should be released (Checklist, paragraph 22).

35. With regard to the special context of the participation of refugees in elections in the country of origin, UNHCR may be asked for IC information by the authorities of the country of origin or by relevant international organisations. While UNHCR should not obstruct the IC's right to vote, safety considerations prevail. In principle, IC information may therefore only be shared once the IC concerned has consented and/or if UNHCR is fully satisfied that the released information will not be abused. In addition, for the purpose of facilitating voter registration and election procedures there is no justification for releasing information regarding the IC's political affiliation or details relating to the refugee claim.

*c) Other Exceptions*

36. There may be exceptional situations where the IC consents to sharing certain data with the authorities of the country of origin, for instance in order to facilitate transfer of assets or to enable family reunification. In such instances, it must be established clearly that the sharing of information does not put at risk the IC, her or his family members or other individuals concerned, and that it is clearly in the interest of UNHCR, that is, it does not jeopardise staff safety or UNHCR's operations in the country of origin.<sup>18</sup>

*d) Stateless Persons*

37. In the case of non-refugee stateless persons, UNHCR can share relevant information with countries of supposed origin, or former residence, in order to facilitate a solution for the individuals concerned.<sup>19</sup> The IC evidently needs to consent to the sharing of such data.

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<sup>17</sup> See UNHCR's Handbook Voluntary Repatriation: International Protection (1996), Chapter 4.3.

<sup>18</sup> See in this context paragraph 8 (b) and (e) of the Statute of UNHCR.

<sup>19</sup> See paragraph 7 of [IOM/FOM 12/90](#) of 12 February 1990.

### *III. Sharing of IC Information with Authorities of the Country of Asylum*

IC information may be shared with the country of asylum for specific purposes which are in the protection interests of the IC, UNHCR or within the legitimate interests of the country.

38. Notwithstanding the IC's right to privacy, the country of asylum has a legitimate interest to obtain information about persons on its territory and UNHCR needs to co-operate with the country of asylum in the exercise of its functions. In this regard, the right to privacy is not absolute. It is therefore important to inform the IC at the outset that UNHCR may need to share IC information with the authorities of the country of asylum. Preferably, UNHCR should obtain written consent from the IC when the initial contact is made. There may, however, be exceptional circumstances where consent is not necessary. Two different situations can be distinguished in this regard.

#### *a) Country of Asylum Pursuing Refugee Protection Interests*

39. As already indicated earlier,<sup>20</sup> the sharing of IC information may be useful or even necessary for the purpose of international protection. UNHCR should, however, only release information that is necessary for the purpose of the request (Checklist, paragraph 22). There is no need to disclose the whole file, nor is it necessary to share notes or transcripts of IC interviews and assessments of refugee claims in their entirety. In cases where UNHCR has conducted refugee status determination or done so jointly with the authorities, edited summaries containing the grounds for recognition or rejection may be sufficient. The same considerations apply when providing information about asylum claims made by the IC in other countries.

40. When sharing information, UNHCR offices should take into account the possibility that the authorities of the country of asylum may share information with the country of origin or that IC information could reach the hands of agents of the country of origin. In such cases IC information, particularly that going beyond basic biodata and the IC's refugee status, may only be released on the strict understanding that confidentiality will be respected and IC information will not be used for purposes other than those for which it is shared (Checklist, paragraph 23). Such an understanding could be translated into a standard agreement between UNHCR and the country of asylum.

#### *b) Country of Asylum Pursuing Other Interests*

41. UNHCR recognises the legitimate interests of the country of asylum to obtain information for reasons of national security, public safety, public health,<sup>21</sup> and the prevention and suppression of criminal offences.<sup>22</sup> This does not, however, translate into the unrestricted sharing of IC information. In each situation, in deciding how much to release, UNHCR staff must balance carefully the purpose of the country's request with the protection interests of the IC as well as UNHCR's own interests. Where the country of asylum invokes national security considerations, this requires particular care, not least since this term lacks clear international definition and may involve sensitive and complex situations. Headquarters (Bureau and DIP) should be consulted in such instances.

<sup>20</sup> See Paragraph 19 of these Guidelines.

<sup>21</sup> See in this context [IOM/70/88 - FOM/63/88](#) of 6 May 1988 on UNHCR's Policy and Guidelines regarding Refugee Protection and Assistance and Acquired Immune Deficiency Syndrome (AIDS), updated in [IOM/78/98 - FOM/84/98](#) of 1 December 1998 on UNHCR's Policy regarding Refugees and Acquired Immune Deficiency Syndrome (AIDS).

<sup>22</sup> See, e.g., Article 9 of the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

42. Where the IC is subject to investigation for a crime s/he has allegedly committed in the country of asylum, UNHCR may be asked to co-operate. In principle, such co-operation is warranted where UNHCR is the sole source of crucial information, but should be extended carefully. UNHCR should not obstruct investigations by invoking confidentiality. In such a case, UNHCR should seek a clear statement from the authorities of the country of asylum as to why information held by UNHCR is needed and cannot be obtained from other sources. Moreover, agreement is necessary that the authorities use such information on a confidential basis. Finally, UNHCR representatives cannot be expected to appear before courts in order to provide testimony. Given the complexity of the issue, UNHCR offices should seek guidance from Headquarters (Bureau and DIP) before releasing information in such cases.

#### ***IV. Sharing of IC Information with Countries of Resettlement***

IC information may be shared with countries of resettlement for specific purposes providing the IC has given her or his consent.

43. Resettlement processing requires the sharing of IC information with prospective countries of resettlement and in some cases with NGOs. At the outset of the resettlement process, the IC (principal applicant and, if applicable, spouse) must therefore give her or his consent to the release of the information by signing a declaration which is part of UNHCR's Resettlement Registration Form (RRF).<sup>23</sup> Types of IC information to be shared are indicated in the Resettlement Registration Form and the Medical Assessment Form (the standard Medical Assessment Form is reproduced in Annex 3 of the Resettlement Handbook). This routinely includes information relating to the IC's background and refugee claim. The information and the documentation included in the RRFs need to be comprehensive and provide a satisfactory level of information with regard to the IC's background, refugee claim, any elements bearing on exclusion, and resettlement needs. In addition, the IC should receive assurances that all recipients will strictly observe confidentiality.

44. As a general rule, no further documentation on the IC, other than the RRF and the Medical/Social Assessment Forms, needs to be shared with countries of resettlement. For instance, UNHCR's internal eligibility files should not be opened and/or copied to an external party. This includes interviewing notes as well as internal documentation. In specific circumstances, and upon a reasoned request by a resettlement country to which a submission is being made, UNHCR may share additional information contained in the IC's files. Relevant information may be extracted from the eligibility files and provided to the author of the request in the form of an *ad hoc* communication or briefing.

45. As a general policy and within its own capacity, UNHCR should endeavour to respond to the queries of resettlement countries on ICs, with a view to facilitating the resettlement processing of the refugees concerned. When a query originates from representatives of a country of resettlement while on an interview mission in the host country, such a request may be assessed directly by the respective offices in the field but DIP's Resettlement Section should be kept informed or, depending on the request, consulted before providing information from the IC's internal files. When queries are made directly to Headquarters, the Resettlement Section may respond directly to the author of the request or will forward the query to the office in the field for action, as appropriate.

<sup>23</sup> See [IOM/FOM 75/99](#) of 12 August 1999.

### *V. Sharing of IC Information with Other Countries*

Requests for IC information by other countries are often problematic. Whether another country has a legitimate interest in requesting IC information requires careful scrutiny on the basis of the Checklist.

46. This section sets out various situations in which authorities of countries other than the country of origin, the country of asylum or the country of resettlement request the release of IC information. Some of them may resemble requests from countries of asylum or resettlement. For instance, officials and/or parliamentarians in prospective resettlement countries may ask for information. In such situations, UNHCR should co-operate if the request is clearly in the best interests of the IC. There may also be instances where officials of so-called “safe third countries” ask for IC information before readmitting asylum-seekers, in particular in the context of readmission agreements. In principle, UNHCR should refer such requests to the sending country. However, in the event that UNHCR facilitates readmission and if information is not available from the sending country, UNHCR would normally co-operate as it would with the authorities of a country of asylum under the conditions of the Checklist.

47. More problematic are situations where countries have expressed interest in IC information in the context of combating irregular movement if they fear that certain asylum-seekers may proceed from a third country (other than the country of origin) to their territories. Normally, this is not the sort of information UNHCR should share. However, exceptions could be made in instances where the movements have as their final destination the requesting country and where the persons concerned were rejected as refugees by UNHCR in a final decision in the third country. How much information – going beyond the name of the rejected asylum-seeker and the fact of rejection – that UNHCR might consider releasing will depend very much on the purposes of the request. Certainly, the detailed record of the status determination process should not be released. There may, though, be good and substantial reasons for giving as well some basic biodata, notably the claimed nationality of the IC. No information should however be released in this context except on the basis of a clear, written and acceptable understanding with the requesting country as to its intended use and the protection it will be accorded to ensure its confidentiality.

48. Other countries may seek IC information for the purposes of criminal investigation and prosecution if offenders or witnesses are suspected of being abroad. Despite the similarity with requests for criminal investigations from a country of asylum, UNHCR’s position vis-à-vis other countries cannot be equated to the relationship with a country of asylum. In such instances, UNHCR cannot be expected to co-operate with other countries in the same way as it does with the country of asylum and should as a normal operation not share IC information. The other country should first seek assistance from the country where the offender or witness is suspected of being present. In case of doubt, Headquarters (Bureau and DIP) should be consulted.

## ***VI. Sharing of IC Information with International Organisations***

IC information may be shared with other international organisations with which UNHCR co-operates for specific purposes and with the consent of the IC concerned.

49. UNHCR works closely with other international organisations whose humanitarian or human rights related mandates complement its own. These include UN organs, UN specialised agencies, Special Rapporteurs, Special Representatives and Representatives of the Secretary-General, Working Groups and the International Committee of the Red Cross. While the need for the IC's consent and UNHCR's mandate responsibility for refugee protection should remain the paramount consideration in assessing requests for IC information, the inter-agency context demands that due regard be paid to UNHCR's general interest in co-operating with other agencies in the broad interests of the international community.

50. Different levels of co-operation may be distinguished. If the relationship between UNHCR and the requesting institution is, for instance, governed by a Memorandum of Understanding (MOU) or other agreement, such an agreement, along with these Guidelines, should form the framework within which decisions on the sharing of IC information are made.<sup>24</sup> If no formal terms exist, or if an existing agreement does not address confidentiality issues,<sup>25</sup> the request for IC information should be evaluated in the light of the Checklist.

51. In a number of cases, such as if the Office of the High Commissioner for Human Rights (OHCHR) or the ICRC seeks information to trace the whereabouts of family members of an IC, co-operation is not problematic.<sup>26</sup> However, even in such unproblematic cases, consent of the IC should be obtained beforehand, and a decision should be made as to what is necessary to meet the request in question.

## ***VII. Sharing of IC Information with International Tribunals***

Requests for confidential IC information from International Tribunals should be referred to DIP.

52. UNHCR is increasingly operating in contexts where serious human rights violations occur. This includes war crimes, crimes against humanity and other international crimes which fall under the jurisdiction of the existing *ad hoc* International Tribunals (ICTY, ICTR) or, once the Statute enters into force, of the International Criminal Court (ICC).

53. UNHCR has an interest in co-operating with the Tribunals and the yet to be established ICC, not least in regard to the application of the exclusion clauses (Article 1 F of the 1951 Convention). However, providing information in the course of criminal investigations and trials raises a number of serious concerns. For UNHCR, guaranteeing the security of operations, of refugees and of its staff are all of primary importance. Such concerns need to be taken into account when considering how to respond to information requests from the Tribunals.

<sup>24</sup> Examples in this respect are: Note on Cooperation between UNHCR and the United Nations Human Rights Field Operation in Rwanda of 29 September 1995; Memorandum of Understanding between the Southern African Development Community and UNHCR of 25 July 1996.

<sup>25</sup> See, e.g., the Memorandum of Understanding between UNHCR and the International Organisation for Migration of 15 May 1997, attached to IOM/39/97 – FOM/44/97 of 27 May 1997.

<sup>26</sup> See also UNHCR's Resettlement Handbook (1998), Chapter 5.8.2.

54. For these reasons, all requests for the sharing of IC information should be forwarded to DIP. With regard to all internal and confidential documents, an assessment involving offices in the field needs to be made as to whether the request can be acceded to without prejudice to the interests of the Organisation including any particular (security) interests of the specific operation.<sup>27</sup> In many instances, such an assessment requires a careful analysis of all the issues concerned, including a thorough knowledge of the rules of evidence and procedure of the Tribunals. In addition, any sharing of information needs to be in line with operational arrangements and procedures agreed upon at Headquarters level between UNHCR and ICTY/ICTR, in particular when involving the Office of the Prosecutor (OTP). Offices in the field may, however, share information not related to ICs, which are within the public domain, directly with the Tribunals. A separate instruction on relations with the Tribunals will shortly be forthcoming.

### ***VIII. Sharing of IC Information with Non-Governmental Organisations (NGOs)***

Information may be shared with NGOs which are working closely with UNHCR under certain conditions.

55. UNHCR maintains close working relations with NGOs, in particular with its implementing partners. Effective co-operation with NGOs frequently involves the exchange of IC information. However, requests by NGOs should be strictly assessed according to the criteria set out in the Checklist. In particular, UNHCR should share IC information only with the consent of the IC concerned. Moreover, the sharing of IC information in such instances should be done against the background of providing a service to the IC that is compatible with UNHCR's international protection mandate.

56. Generally, IC information should only be shared with an NGO if it has a humanitarian, durable solutions- or protection-related mandate. It is therefore important to assess the status, structure and function of the requesting NGO. This enables a targeted sharing of IC information with NGOs. For example, an NGO with a food distribution function should not necessarily need or receive information relating to refugee status determination.

57. Furthermore, it should be borne in mind that, depending on the country situation, information sharing with local NGOs or local staff of international NGOs may be problematic because their vulnerability may render them more exposed to pressure from state authorities, secret services or other interested third parties. As a possible preventive measure, all available technological means, such as encryption, should be used to avoid confidential IC information falling into the wrong hands. In particular, there should be no communication of case-specific information with NGOs in countries of origin, particularly not for the purpose of verifying claims made in the context of refugee status determination.

58. In case of long-term co-operation or for the purpose of implementing a specific project, the general terms of information sharing should be regulated in a standard agreement between UNHCR and the NGO. Such agreements should address *inter alia* the respect of confidentiality, the measures to be taken by the NGO in this respect and, if necessary, agreement on the full transfer of IC information to UNHCR, which should retain legal ownership of the information, upon completion of the project.

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<sup>27</sup> An example of such considerations can be found in the "Guidelines concerning UNHCR's co-operation with the ICTY in the context of the Kosovo emergency operation" of 14 April 1999.

### *IX. Sharing of IC Information with the Media*

UNHCR should in principle not share IC information with the media.

59. Media coverage of refugee problems is valuable and encouraged by UNHCR as an important means of informing the public and favourably influencing public opinion on refugee issues.<sup>28</sup> Press reporting on particular cases, through which the IC involved is easily identifiable, may potentially jeopardise the safety of the IC and her or his associates. In view of the unforeseeable risks surrounding publicity of ICs, UNHCR needs to take particular precautions when dealing with ICs in the media.<sup>29</sup> The overall purpose of using the media is to highlight situations, rather than to draw attention to ICs. When approached by the media to discuss a case, the policy is not to speak about ICs as such but to comment on the relevant situation or policy. This is particularly important when dealing with IC children and victims of sexual violence.

60. In situations where the media ask an IC for an interview, which will highlight her or his current situation, UNHCR staff should counsel the IC on the purpose of the interview, advising that s/he has the right to refuse it or remain anonymous.<sup>30</sup> Furthermore, UNHCR staff should encourage the media to respect the confidentiality of IC information already in their possession and not to reveal the IC's identity.<sup>31</sup> The publication of case histories, photographs or films concerning an IC should not occur without the IC's explicit approval. This does not apply to media images of refugees *en masse*, which do not engender the same level of risk as those in which individual refugees can easily be identified.

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<sup>28</sup> See Paragraph 2 of [IOM/FOM/92/99](#) on Contacts with the Media of 30 September 1999, and paragraph 1 of [IOM/120/89 - FOM/99/89](#) on the Promotion among the Media of the Confidentiality of Privileged Information concerning Individual Refugee Asylum-seekers of 24 October 1989.

<sup>29</sup> See also Paragraph 6 of [IOM/FOM/92/99](#) on Contacts with the Media of 30 September 1999.

<sup>30</sup> See UNHCR's Resettlement Handbook (1998), Chapter 10.3.

<sup>31</sup> See Paragraph 4 of [IOM/120/89 - FOM/99/89](#) on the Promotion among the Media of the Confidentiality of Privileged Information concerning Individual Refugee Asylum-seekers of 24 October 1989.