

GUIDANCE NOTE

Regular Pathways for Admission and Stay for Migrants in Situations of Vulnerability

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Introduction

1. The [Global Compact for Safe, Orderly and Regular Migration](#) (GCM) has brought timely attention to the ways in which pathways for regular migration, including new and expanded regular pathways to admission and stay, can be an effective tool to ensure the protection of migrants and their rights, including migrants in situations of vulnerability. This responds to the reality of many migrants who lack access to regular migration options, but are compelled to leave their countries of origin due to *inter alia* lack of access to rights, separation from families, gender based violence and inequalities, as well as disasters, the adverse effects of climate change and environmental degradation.
2. Providing migrants with access to entry and/or residence through regular channels reduces their need to move, live and work in unsafe circumstances. Regular pathways contribute to reducing the risk of migrants becoming vulnerable to sexual and gender-based violence, abuse, exploitation and exclusion, and ensure the protection of their human rights, including labour rights, decent work and social protection, and access to services while facilitating integration into the community of the destination country. Pathways for regular migration also benefit all countries, helping them to build strong communities, contributing to sustainable development, responding to labour market needs, strengthening their capacity to identify who enters, transits through and remains in the territory, as well as supporting the rule of law by reducing human trafficking and other exploitation, and curbing migrant smuggling across their borders.¹
3. Such an approach is required under commitments made in the GCM, which include an explicit undertaking to enhance availability and flexibility of pathways for regular migration (Objective 5), but also actions to, *inter alia*: Minimize the adverse drivers and structural factors that compel people to leave their country of origin (Objective 2); Provide accurate and timely information at all stages of migration (Objective 3); Address and reduce vulnerabilities in migration (Objective 7); Strengthen the transnational response to smuggling of migrants (Objective 9); Prevent, combat and eradicate trafficking in persons in the context of international migration (Objective 10); Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral (Objective 12); Provide access to basic services for migrants (Objective 15); and Strengthen international cooperation and global partnership for safe, orderly and regular migration (Objective 23).
4. In the GCM States committed to “adapt options and pathways for regular migration in a manner that facilitates labour mobility and decent work reflecting demographic and labour market realities, optimizes education opportunities, upholds the right to family life, and responds to the needs of migrants in a situation of vulnerability, with a view to expanding and diversifying availability of pathways for safe, orderly and regular migration” (Objective 5). Expanding the availability of accessible pathways for admission and stay on the basis of labour migration, family reunification, education and other considerations and working towards their long-term sustainability is an effective means to prevent migrants from entering into situations of vulnerability.

¹ Global Forum on Migration and Development (Ecuador, 2019) Background Paper “*Roundtable session 1.1 –Providing regular pathways from crisis to safety*”.

5. In addition, in the GCM there is a specific commitment to enhance availability and flexibility of pathways for regular migration, “in order to respond to the needs of migrants in situations of vulnerability” (Objective 5). To achieve this, Member States are encouraged by their commitments in the GCM to develop or build on existing national and regional practices for admission and stay, including where based on compassionate, humanitarian, or other considerations.
6. This Guidance Note has been developed by Thematic Workstream 3 (TWG3) of the UN Network on Migration to support implementation of these GCM objectives.² It is particularly intended to support Member States and other stakeholders in their capacity to analyse the need for and strengthen the design, implementation, monitoring and review of pathways for admission and stay for migrants in situations of vulnerability. It considers matters relating to the availability and flexibility of pathways, admission and stay procedures, and the resulting conditions and duration of relevant measures.
7. This Guidance Note is also informed by the impact the COVID-19 pandemic has had on access to regular pathways for migrants and on the protection of their rights. In early 2020, many governments around the world introduced travel restrictions and border closures in an attempt to slow down the spread of the pandemic.³ In many States, migrants, particularly migrant women, were overrepresented among industries deemed ‘essential,’ yet they often suffered from poor living and working conditions, insecure migratory status, and were not always able to equally benefit from protections such as personal protective equipment or access to healthcare. Essential services for migrant survivors of gender-based violence such as justice, health and social services were also often unavailable due to COVID-19 related restrictions. The pandemic also prompted sizeable returns of migrants. Yet capacity gaps during the pandemic impacted some States’ ability to provide immigration support and consular assistance or to respond to the needs of returning migrants, leaving migrants at risk of finding themselves in an irregular situation, or lacking adequate health and other protections while returning in conditions of vulnerability. In this sense, the pandemic exposed many of the challenges faced by migrants that predated the crisis and are likely to persist and be exacerbated in future crises if left unaddressed. However, the pandemic has also prompted some positive responses by States that provide examples for building back better, including *inter alia* by adapting regular migration pathways to shifting health imperatives,⁴ therefore creating momentum to expand regular pathways, as outlined in Annex 1.

² See: For further information on the Thematic Working Group 3 and its multi-stakeholder membership, please see [webpage](#). This Guidance Note has been informed by a mapping study, responses to a multi-stakeholder questionnaire, desk research, and the outcomes of a multi-stakeholder workshop.

³ See UN Network on Migration, [The Global Compact for Migration \(GCM\): Well Governed Migration as an Essential Element of Effective COVID-19 Response](#).

⁴ It is important to note, however, that the temporary measures put in place by some States to prevent migrants falling into an irregular status often did not ensure that other vulnerabilities—such as non-payment of wages or changed conditions of work—would be addressed.

How do migrants find themselves in situations of vulnerability?

8. The GCM recognizes that migrants may face situations of vulnerability due to the circumstances in which they travel or the conditions they face in countries of origin, transit or destination and encourages States to take into consideration relevant recommendations of the Global Migration Group's [*Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations*](#).
9. There is no commonly agreed definition of 'situations of vulnerability' in international law but it has been understood as arising from both personal factors⁵ (such as physical and mental health, age, gender, sexual orientation and gender identity, ethnicity, race, religion, nationality, disability, pregnancy, maternity or migration status) as well as situational factors (including circumstances faced in countries of origin, transit or destination such as exclusion from health care, detention and risks of deportation). Therefore, a range of factors can give rise to situations of vulnerability for migrants. These factors may intersect or coexist simultaneously, influencing and exacerbating each other and also evolving or changing over time as circumstances, locations and duty bearers change.⁶
10. Based on the above understanding, migrants who face situations of vulnerability include:⁷
 - a) **Migrants who are compelled to leave their country of origin** in the context of disasters, the adverse effect of climate change and environmental degradation, gender inequalities, separation from family, and lack of access to economic and social rights, including adequate food, healthcare, social protection, decent work, land, and water. These drivers are often characterized by a certain degree of compulsion, which increase migrants' reliance on irregular channels and reduces their ability to assert their rights and seek redress.
 - b) **Migrants who face vulnerable situations during their journey and at destination.** While in transit or in destination countries, many migrants find themselves in irregular and precarious conditions, unable to access services or justice and at risk of a range of human rights violations and abuses, including trafficking in persons, sexual and gender-based violence and treatment that may amount to torture and other cruel, inhuman or degrading treatment or punishment. Migrants in an irregular situation also face challenges in the exercise of human rights, including accessing labour rights, social protection, health and education systems, essential services and adequate housing. Irregularity thus increases exclusion and exposes migrants to greater risk of discrimination and other human rights violations, abuse and exploitation. Migrants can also transit through countries that are experiencing a disaster, crisis or a conflict.

⁵ The identification of gender, sexual orientation and gender identity, ethnicity, race, religion, nationality political or other opinion, as factors of migrants' vulnerability is without prejudice to the more specific circumstances where they give rise to refugee status. The GCM and this Guidance Note do not apply to refugees.

⁶ Global Migration Group, [*Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations*](#), p. 5-7.

⁷ See also Global Forum on Migration and Development (Ecuador, 2019) Background Paper "Roundtable session 1.1 –Providing regular pathways from crisis to safety" and Global Migration Group [*Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations*](#), p.5-7.

c) **Migrants who are at heightened risk because of their identity or personal circumstances**, for example, pregnant or nursing women, trafficked persons, survivors of sexual and gender-based violence, persons in poor health (including those living with HIV), persons with disabilities, older persons, and children (including unaccompanied or separated children), all of whom can be particularly at risk. Some will experience discrimination due, *inter alia*, to their age, gender, ethnicity, race, nationality, religion, language, sexual orientation and gender identity or migration status.⁸ Many experience discrimination on several and often intersecting grounds.

11. In the context of international migration, **children** may be in a situation of double or multiple vulnerabilities, both as children, and as children affected by migration who (a) are migrants themselves, either alone or with their families, (b) were born to migrant parents in countries of destination or transit and might not have access to documents or (c) remain in their country of origin or a third country, while one or both parents have migrated to another country. Additional vulnerabilities could relate to their national, ethnic or social origin; gender; sexual orientation and gender identity; religion; disability; migration or residence status; citizenship status; age; economic status; political or other opinion; or other status.⁹ Migrant children are often exposed to various forms of abuse, including sexual and gender-based violence, exploitation and trafficking and face barriers to accessing education, health care, child protection, essential services for victims of sexual and gender-based violence and justice, particularly if they are undocumented. Migrant children may also face risks in transit and destination countries due to exclusion from child-sensitive and gender-responsive essential services, precarious or irregular residence status, exposure to child labour, inadequate child protection arrangements and safeguards, which expose them to further human rights violations. Restrictive family reunification laws, regulations and practices may result in children being separated from their family members and principal caregivers, exacerbating their vulnerability.
12. There are specific vulnerabilities faced by migrants, particularly **women and girls**, emanating from exploitative and illegal recruitment practices, including those related to the payment of recruitment fees, and poor working conditions.¹⁰ This includes people who may have been recruited in their country of origin or transit, as well as undocumented migrant workers. Some sectors often depend on an informal workforce or workers with irregular status, who are more vulnerable to potential exploitation. Migrant women are overrepresented in the informal economy without access to decent work and social protection, labour rights or services. Women migrants are at increased risk of workplace violence and harassment and sexual and gender-based violence and are often reluctant to report crimes and transgressions due to their precarious immigration status and therefore unable to exercise their rights and seek appropriate and effective remedies. Migrant domestic workers are particularly vulnerable to human rights violations, including sexual and gender-based violence.
13. As noted in GCM Objective 2, **disasters, the adverse effects of climate change and environmental degradation** are among the adverse drivers and structural factors that compel people to move. On the one hand, this includes people having to leave and/or those who are unable to return to their homes in the

⁸ See footnote 5.

⁹ See footnote 5.

¹⁰ See also the work of TWG 4 on Bilateral Labour Migration Agreements (BLMA), TWG 6 on Access to Services and SDG 10.7

context of sudden-onset disasters. On the other hand, the adverse effects of climate change are also linked to slow-onset events and processes, which may negatively impact people’s rights, livelihoods and their wider socio-economic situation, necessitating adaptive behaviour that may include seasonal, short- or longer term, as well as permanent migration, and in some cases planned relocation (see GCM Objective 5). Immobility can also be a response to these climatic and environmental factors, and can occur either voluntarily – where people decide to remain *in situ* and adapt locally – or involuntarily, where people lack the resources to move.

What are regular pathways for admission and stay?

14. For the purpose of this Guidance Note, regular migration pathways for admission and stay are understood to be legal, policy and/or administrative mechanisms that provide for regular travel, admission and/or stay in the territory of a State (regardless of whether the initial entry was regular and/or temporary).
15. This includes both **discretionary and non-discretionary** regular pathways. While non-discretionary pathways give effect to international human rights law obligations, discretionary pathways are not strictly required by international law and are put in place as an exercise of discretion, international cooperation and solidarity by the concerned State authorities. Regular pathways for admission and stay are an effective tool to ensure the protection of migrants and their rights, including migrants in situations of vulnerability.
16. Regular migration pathways can be provided through:
 - I. Obtaining a visa prior to arrival at a PORT OF ENTRY;
 - II. Obtaining a visa upon arrival at a PORT OF ENTRY;
 - III. A process of regularization or grant of residence and/or work permit for migrants in an irregular situation ALREADY ON THE TERRITORY;
 - IV. Adjustment of status from one migration status to another for migrants ALREADY ON THE TERRITORY, whether because the original status will be expiring or because another status is available.
17. Some examples responding to the above scenarios include pathways such as visa and residence/work permit procedures that:

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| <p>Prior to/upon arrival</p> | <ul style="list-style-type: none"> • Facilitate the regular and safe admission and transit of migrants who face situations of vulnerability in their country of origin, including by providing humanitarian visas, family reunification, private sponsorships, and work permits. • Allow migrants, including those in transit, to travel to the destination State in a regular and safe manner for compassionate, humanitarian or other reasons. |
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| Already on the territory | <ul style="list-style-type: none"> • Provide access to regular status when the return of a migrant may be in breach of human rights obligations, including but not limited to the principle of <i>non-refoulement</i> under international human rights law;¹¹ • Provide an extension of temporary stay; • Uphold the right to private and family life and maintain family unity; • Guarantee the best interests of the child; • Offer regularization to address situations of vulnerability, uphold access to rights and ensure the wellbeing and inclusion of migrants in society; • Uphold the rights of survivors of sexual gender-based violence, violence and harassment, human trafficking, forced labour, and abusive recruitment practices; • Provide adjustment from one migration status to another for migrants already on the territory; • Ensure that loss of employment does not automatically result in loss of regular migration status; • Respond to labour market needs. |
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18. **Complementary pathways for refugees** include humanitarian admission programs, refugee family reunification, private sponsorship, and opportunities for labour mobility and education. These pathways have been developed as avenues by which persons in need of international protection are admitted to third countries and provide a link to a permanent solution for refugees.¹²

What are compassionate, humanitarian, or other considerations?

19. Human rights law, humanitarian and other considerations relevant to migrants in situations of vulnerability can establish grounds of admission and stay which give effect to international human rights obligations and principles. These include *inter alia* the right to private and family life, and the derivative obligation to maintain family unity, the principle of the best interests of the child, the right to health, the principle of equality and non-discrimination, the fundamental principles and rights at work, and the principle of *non-refoulement*, amongst others.

20. Even where not strictly required by international law, extending pathways of admission or stay for compassionate, humanitarian, or other considerations can also be done as an exercise of discretion, international cooperation and solidarity. States may offer pathways for regular admission and stay to groups in situations of vulnerability on the grounds of humanitarian considerations, as a matter of international

¹¹ In Objective 21 of the GCM, States reaffirmed their commitment to uphold the prohibition of returning migrants when there is a real and foreseeable risk of death, torture and other cruel, inhuman and degrading treatment or punishment, or other irreparable harm (*non-refoulement*), in accordance with our obligations under international human rights law. See also UN Network on Migration, Position Paper, [Ensuring Safe and Dignified Return and Sustainable Reintegration](#).

¹² While the GCM and this Guidance Note do not apply to refugees, reference to “complementary pathways for refugees” is made here to distinguish them from the pathways for regular admission.

solidarity or a commitment for the future. Such pathways could be applied in a number of different situations, including humanitarian emergencies, during public health emergencies, or to address mobility-related challenges linked to climate change. For example, some States have developed a multitude of discretionary measures at the (sub-) regional level to exceptionally admit groups of people compelled to move in the context of disasters, the adverse effects of climate change, and environmental degradation based upon humanitarian and solidarity principles.

Admission and stay based on human rights, humanitarian grounds or other considerations may be relevant for migrants who find themselves in situations of vulnerability. These include but are not limited to the following:

- Migrants who are pursuing family unity;
- Children whose best interests are determined to be served through local integration with secure status;
- Children whose best interests are determined to be served by relocation to a third country;
- Children and young people who have lived in the country of residence since childhood and would otherwise risk becoming undocumented at 18 years of age;
- Migrants compelled to move and/or unable to return in the context of disasters, the adverse effects of climate change and environmental degradation;
- Migrants who might be at risk of death, torture, and other cruel, inhuman, and degrading treatment or punishment, or other irreparable harm (*non-refoulement* under international human rights law);
- Migrants whose return would be impossible for practical reasons, including lack of documents;
- Migrants suffering from serious or chronic health conditions;
- Pregnant women and girls, and women providing neo-natal care;
- Survivors of torture;
- Migrants who have developed enduring emotional, personal, economic or social ties to the destination country;
- Survivors of crime, including in the context of transit migration;
- Survivors of sexual and gender-based violence and harassment;
- Survivors of forced labour or other forms of labour exploitation;
- Survivors of trafficking in persons;
- Migrants subjected to aggravated forms of smuggling.

Examples of regular pathways

21. **Protection of the family life and unity** is a fundamental human right, yet migration frequently causes the separation of families. Families that have been separated during the migration process face many obstacles for reunification, leading to prolonged separation. These obstacles include the absence of regular pathways enabling a family unit to remain together, complex administrative requirements, restrictive eligibility criteria, heavy financial requirements, lack of information and support, as well as logistical barriers. Effective and accessible **family reunification** should allow for both entry into the territory and regularization on the

territory. In addition, it should provide family members with the same residency status as the initial applicant. Well-designed and well-governed family reunification pathways support governments in their efforts to enhance regular migration pathways while upholding the right to family life and family unity, as well as the rights of the child, and reducing vulnerabilities throughout the migration process. Accessible, dignified and timely family reunification benefits both migrants and their host societies, creating socio-cultural stability, facilitating integration, and thus promoting economic and social cohesion.

22. Pathways for regular admission can help reduce migrants' reliance on and susceptibility to irregular migration and help both migrants and States plan more reliably for their future. In the context of **labour migration**, pathways can be supported by proactive identification of labour market needs across a wide spectrum of skill levels, as well as tailored skills development. Vulnerabilities can be addressed and avoided by the provision of such pathways, actions to ensure fair recruitment in line with international labour standards and international guidance to protect migrant workers and their families, through for example eliminating recruitment fees and ensuring that migrant workers enjoy decent work conditions on the basis of equality with national workers and in line with fundamental principles and rights at work in countries of destination.
23. Pathways for **humanitarian admission** can be an effective alternative to irregular migration, providing an entry point to migrants in situations of vulnerability ahead of their travel or in transit guided by the application of international human rights law and other applicable standards. Delivering visas to migrants through humanitarian admission schemes in countries of origin will facilitate migrants' access to rights and services in the country of destination. These pathways can help avoid migrants undertaking irregular, long and dangerous migration journeys, becoming survivors of sexual and gender-based violence or other forms of exploitation, and running the risk of falling prey to migrant smuggling and trafficking networks.
24. In the context of **disasters, the adverse effects of climate change and environmental degradation**, a variety of measures have been applied to facilitate admission and stay, including the use of regular migration categories, such as temporary residence and work permits, the provision of exceptional migration measures, such as humanitarian visas and temporary protection status, the relaxing of visa requirements and fees including through regional and sub-regional agreements for the free movement of persons, the use of special certificates or other supplemental documentation such as pastoralist transhumance agreements, and the application of international human rights law standards.
25. Pathways based on **health-related considerations** provide for the regular admission and/or stay on the basis of health status. This includes the grant of regular residence to migrants already on the territory who are suffering from serious or chronic health conditions. Temporary regular status can be also granted when there are practical reasons that impede return, including the practical inability to travel on health grounds. While some countries offer visas for admission for medical treatment, allowing for a short or long stay to undergo medical treatment in hospitals, these are often not accessible for migrants in vulnerable situations, due to heavy financial requirements.
26. **Regularization programmes** are commonly used by States for migrants in an irregular situation already on the territory to provide them with or to extend work and residency permits. Specific ad hoc and time bound

regularization programmes can be put in place for a variety of purposes, including to respond to emergency situations, provide access to health care, tackle undeclared work and labour exploitation, address and reduce the situations of vulnerability faced by irregular migrants in destination countries, provide residence status based on time spent or integration in the country or in order to maintain family unity. Ad hoc and time-bound regularization programmes can be effective in the short term, but they should be accompanied by standard and permanent mechanisms of admission and stay, including in-country access to regular status, which respond to the needs of migrants in vulnerable situations. Some regularization criteria related to regional integration consist of bi- or multilateral agreements that reduce and simplify the documentation required for entry and stay, regardless of the reasons for migration.

27. Specific regularization pathways for **survivors of sexual and gender-based violence, sexual or labour exploitation or human trafficking** are often used by some States to enable access to rights, services and justice for instance providing specific visas, extension of stay or extended leave to remain as well as temporary or long term employment opportunities.

How can States move forward on regular pathways?

28. **Guiding principles:** Procedures to assess admission and stay claims submitted by migrants in situations of vulnerability should be people-centred, child-sensitive, including the best interests of the child, gender-responsive, trauma-informed, and uphold international human rights and labour standards, including the prohibition of discrimination. States should institute human rights-based, gender-responsive and child-sensitive procedural safeguards to ensure that all migrants are able to present their cases on the basis of equality and non-discrimination.
29. **Criteria:** States can enhance the flexibility and accessibility of pathways of admission and stay by ensuring that the criteria used are clear, transparent and rights-based, and respond to the specific needs of migrants, the situations of vulnerability they face, and their socio-demographic and economic reality. This includes expanding opportunities for admission and stay based on human rights and humanitarian grounds according to international standards and international best practices; facilitating access to regular admission by waiving onerous requirements or application fees; streamlining and expediting procedures, including clear information on the various steps and requirements, manageable timelines and easily accessible evidentiary documentation; broadening the definition of family for family reunification cases; and dedicated support for migrants in vulnerable situations.
30. **Accessibility:** Migrants in situations of vulnerability face several obstacles in accessing pathways for admission and stay, including a lack of documentation; limited mechanisms for their identification and referrals; a lack of information in a language they understand and in formats they can access; lack of decent work; geographical distance from the authority in charge of the procedure; lack of computer or internet connection; lack of access to consular support; lack of access to complaint mechanisms and legal aid or effective and appropriate remedies; difficulties in navigating the system; isolation; fear of approaching the authorities because of their irregular migration status or the risk of being classified as perpetrators of illegal conduct as a consequence of their being trafficked; and lack of autonomy in application procedures. In order to address these obstacles, mechanisms for identification and referral of migrants in vulnerable situations should be put in place and implemented by trained, qualified and competent authorities and other

personnel, including child welfare authorities, in line with a multi-disciplinary, child sensitive, gender-responsive approach. Adequate and accessible information and advice should be available in a language that migrants can understand. Migrant women should be able to access information independently and not depend on their partners who might be abusive.

31. **Affordability:** Costs to submit an application for entry and stay permits, additional costs for the issuance of the documents to be submitted in the application or resulting from the residence procedure, and fines for those in an irregular situation represent concrete obstacles for migrants, especially for migrant women and LGBTIQ migrants and those who are unemployed or working in precarious conditions and in the informal economy. Pathways for admission and stay for migrants in situations of vulnerability should be affordable or free of charge, including obtaining the required documentation. This entails providing clear instructions for application procedures to ensure migrants do not approach unscrupulous brokers to facilitate the procedures for them, for a fee. Mechanisms for requesting exemption from paying related fees should be clear, accessible, timely and transparent. Pathways-related costs should be paid per family group and the procedure should be free of charge for children. States should avoid charging fines on account of irregular migration status.
32. **Procedures:** Regardless of the specific procedure in place, human rights and humanitarian grounds and other considerations relevant to migrants in vulnerable situations should be included in law or regulations as grounds to apply for admission and residence permit through a clear procedure. States should avoid situations where an individual cannot submit a specific request for admission and stay. Situations in which migrant workers in regular situations find their work or residence permits automatically withdrawn due to the mere loss of employment should also be avoided. States should give priority to applications for family reunification involving children and apply accelerated procedures in cases involving children. While ad hoc and time-bound regularization programme can be effective in the short term, States should also establish standard and permanent procedures to grant admission and stay to migrants in situations of vulnerability.
33. **Procedural safeguards:** When an application for admission and stay is lodged, States should issue formal and individualised decisions in writing and give reasons for rejections. Procedures should be in conformity with essential procedural safeguards, notably the guarantee of a prompt and transparent process, the application of best interests procedures for children, the administrative and judicial review of a negative decision and the suspensive effect of the appeal. States should also ensure access to information in an accessible format, free and independent legal advice and qualified and independent interpreters. States should ensure that migrants can apply for procedures themselves and have access to all related information and documentation, so that they do not have to rely on family members, abusive partners, sponsors, unscrupulous agents, law enforcement actors or others to submit and follow their application procedure. Applicants should be assured that their data will not be used for immigration enforcement purposes should their application not be successful.
34. **Individual determination:** The decision to grant admission and stay should be based on clear and transparent criteria and not be taken solely at the discretion of the official in charge of the case to avoid discrimination and abuses of power. The scope of the grounds of admission and stay should be defined by law, regulation and case law. Regardless of whether the criteria relate to individual or group situations, each case should

be individually, impartially and independently examined by the State on its own merits through the competent administrative and/or judicial authorities.

35. **Monitoring and review:** Independent monitoring of pathways for admission and stay can feed into the design, review, and implementation of mechanisms of admission and stay and therefore contribute to addressing the situations of vulnerability faced by migrants. National human rights institutions, civil society organizations, including migrant-led organizations, women's organizations, workers and employers' organizations, and other relevant stakeholders should be able to meaningfully participate in monitoring. States should make reliable disaggregated data regarding the expansion and availability of pathways undertaken in connection with the GCM publicly available.
36. **Provisional documentation** during the procedure: After submission of an application for admission and stay, a migrant should receive written proof of the procedure. When the application is submitted by a migrant who is already in the territory, this provisional document should prove their provisional regularity before the authorities until a final decision is taken. Police and other enforcement bodies should be made aware of the nature of such provisional status. Migrants should be able to work, or have access to adequate means of subsistence, while their case is being reviewed.
37. **Documentation:** States should ensure that the final document resulting from the admission and stay procedure accredits identity before public officials of all state entities.
38. **Access to rights and services** after grant of regular residence: Regardless of the ground for and length of residence that is granted, migrants should be provided with full and equal access to human and labour rights and essential services, including health, education, an adequate standard of living, justice, social protection and decent work. All migrants should enjoy freedom of association and the right to collective bargaining. Where it is not lawful, legitimate, necessary and proportionate, differential treatment in relation to access to rights and services based on migration status and the grounds under which residence is granted amounts to discrimination. Moreover, limited access to rights and services can itself be a further cause of vulnerability for the individual.
39. **Status transition:** When temporary residence is granted to migrants in vulnerable situations, States should provide for avenues to transition to another status, including those that provide long-term residence. Extensions, renewals, as well as transitions to another regular migration status should be facilitated by States through clear, streamlined, accessible and affordable procedures, with a view to ensuring the continuity of residence and prevent migrants in vulnerable situations from becoming undocumented.

Principles of Multistakeholder Collaboration and Cooperation

40. **Whole-of-society approach:** Civil society organizations including migrant-led organizations, national human rights institutions, bar associations, academia and other stakeholders such as migrant and diaspora, youth and women's organizations, employers and workers' and other organizations that provide assistance, information, and legal advice and representation to migrants in vulnerable situations, as well as migrants themselves, should be involved in the design, implementation, monitoring and review of pathways and the identification of new pathways. In particular States should meaningfully involve relevant stakeholders in

identifying situations of vulnerability to be addressed, providing information and legal advice, monitoring implementation, identifying obstacles and promoting strategies to expand pathways for admission and stay.

41. **Whole-of-government approach:** The multidimensionality of migration requires responses that ensure horizontal and vertical policy coherence across all sectors and levels of government. National strategies and policies related to climate change, disaster risk reduction, combatting trafficking, labour exploitation, gender-based violence, child protection and other situations of vulnerability should also address and incorporate pathways to admission and stay. A whole-of-government approach can also help ensure the accessibility of pathways and admission and stay requirements, as well as streamlined and timely procedures for migrants.
42. **Regional and international cooperation:** Regional and international cooperation can contribute to enhance the availability, flexibility and effectiveness of pathways for admission and stay of migrants in situations of vulnerability. The establishment of mechanisms for the admission and stay of migrants should not be conditional on country of origin's willingness to increase cooperation on readmission.

The United Nations Network on Migration was established to ensure effective, timely and coordinated system-wide support to States in their implementation, follow up and review of the Global Compact for Safe, Orderly and Regular Migration. The Working Group on Regular Pathways for Migrants in Vulnerable Situations is one of thematic working groups established under the Network, tasked with supporting States in expanding and diversifying the availability of pathways for safe, orderly and regular migration. The Working Group is co- led by the Office of the High Commissioner for Human Rights (OHCHR), ACT Alliance and the Asia Pacific Refugee Rights Network (APRRN) and is comprised of representatives of UN agencies, civil society organizations, and technical experts working on pathways for safe and regular migration all over the world. The drafting of this document has benefitted from their broad and diverse experience.

Annex: Measures introduced in the context of COVID-19¹³

In relation to pathways for admission and stay, some States have *inter alia* extended work and residency permits, simplified access to application and renewal processes, notably through remote solutions including through automated processes which waive the need for an application; regularized status, including for those working in sectors deemed essential such as health care and agriculture; or temporarily suspended forced returns. Some States have strengthened the protection afforded through status, to ensure access to healthcare and other essential services, and to strengthen livelihoods, including for those on temporary visas or seeking regularization.

Other promising practices have included widespread measures to address procedural challenges associated with the pandemic, including shifting to digital platforms for submission and processing of claims, use of teleconferencing for interviews and hearings, and prioritization of urgent migration matters (such as situations of extreme family violence and trafficking) for expedited decisions, notwithstanding delays and suspensions of processing experienced in other migration matters. In some instances, procedures have been diversified and simplified with some administrative requirements being waived, thus significantly easing access for migrants in situations of vulnerability to new or more flexible pathways. In other cases, procedures relating to targeted regularization schemes have been criticized for being complex, administratively burdensome and not inclusive, resulting in lower than anticipated uptake of opportunities.

In **Azerbaijan**, people whose asylum claims were refused prior to COVID-19 have been granted temporary suspension of the requirement to return, not been detained and have been issued with temporary residence permits. Others on temporary visas who have been unable to return to their countries of origin have also been granted automatic extensions of stay, irrespective of their visa category, without need for additional documentation. Early transition to e-services was effective in maintaining access to migration services, including for migrants in remote areas, previously serviced via mobile clinics.

In **Canada**, people with refused asylum claims are amongst those now eligible to apply for permanent residency if they have been working in the health-care sector during the pandemic. Migrants who have fallen out of status during the pandemic have been granted an extension beyond the standard 90-day period to seek to regularize their status, and granted permission to work while their applications are pending. Processing of urgent protection claims from victims of trafficking and family violence have been expedited, whereas other migration processes may have suffered delays.

In March 2021, **Colombia** adopted the Statute for Temporary Protection for Venezuelan Migrants Under a Temporary Protection Regime and other related migration dispositions. This Temporary Protection Regime is a legal mechanism for temporary protection for Venezuelan migrants wishing to remain in Colombia temporarily who comply with the migratory criteria established under a previous decree. Although not directly related to the COVID-19 pandemic, this Temporary Protection for Venezuelan migrants in Colombia is valid for ten years

¹³ This snapshot attempts to highlight promising elements of some specific responses but does not assess each practice comprehensively. As such, the inclusion of an example on the list does not signify that all elements of the response or practice of the country or stakeholder in question are considered positive, or that its practical implementation is flawless.

until 30 May 2031, provides an identification document that bestows migratory regularization and contributes to the protection of and facilitates access to rights.

Italy adopted urgent measures to support workers and the economy during the COVID 19 crisis providing for the formalization of national and migrant informal economy workers in the agriculture and domestic work sectors. For migrant workers, who are over represented in these two sectors, the measures provide that those whose permit expired after the end of October 2019 can obtain an initial six month renewal, which can be subsequently extended if they enter into a formal employment relationship. The same permit is granted to any migrant worker in these two economic sectors – including those who have never had any – upon the request of employers who commit to enter into a formal employment relationship with these migrant workers (Article 103 of decree no. 34 of 19 May 2020).

In the **Republic of Korea**, the employment contracts of temporary foreign workers whose contracts were nearing expiration have been extended by 50 days, all long-term visas are automatically extended when about to lapse, short-term visa holders are able to apply for an extension on-line, and the grace period for migrants with scheduled departures has been extended from 30 to 60 days.

In the **Netherlands**, in recognition of pandemic-related challenges in reporting to the Police and accessing victim's services, the 'reflection period' provided for survivors of trafficking was temporarily extended.

In **Portugal**, consecutive decrees in March and October 2020 resulted in 356 700 migrants with pending residence permit applications receiving temporary residence with access to the same rights as citizens, including health care and social support.

In **Thailand**, medium-term visa extensions have been provided for about 1 million migrant workers from Cambodia, Lao People's Democratic Republic and Myanmar to ease potential labour shortages as the country's economy reopens. And other foreign nationals have been granted automatic visa extensions, with the requirement for applications waived.

In **Zimbabwe**, migrants who were detected without status, where the pandemic was a contributing factor, have been granted special exemption permits and not penalized. An online platform has been established for applications.

There is a need to consolidate, bring to scale and codify some of these promising approaches, which were often developed as part of emergency measures and applied in a discretionary manner. In particular, inclusive public health emergency preparedness and response measures should become a fundamental aspect of migration governance. There is an opportunity to embed some of the promising practices and lessons learned from the COVID-19 pandemic into standard operating procedures grounded in a rights-based approach that would help ensure the efficacy of measures taken to address vulnerabilities faced by migrants in future emergency contexts. Indeed, COVID-19 has highlighted the role that easy access to immigration related processes and stable, protective statuses can play as buffers against rights violations, socio-economic shocks, and related challenges. As States worldwide continue to weather the crisis and prepare for recovery, it has become clear that the

pandemic has also heightened existing issues in migration governance, creating conditions that could further enhance existing vulnerabilities for migrants, particularly when it comes to the availability and flexibility of regular pathways and access to rights, if proper responses and safeguards are not implemented.¹⁴

¹⁴ For more tools and guidance on migration and COVID-19 please visit the dedicated webpage of the UN Network on Migration available at <http://mignet.iomdev.org/covid-19#>.