

# Information on procedural elements and rights of applicants subject to a Dublin transfer to Sweden

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## **About this document**

*The ‘Roadmap for improving the implementation of transfers under the Dublin III Regulation’ was endorsed in the meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) of the Council of the European Union on 29 November 2022. The roadmap identified a clear need for objective and neutral information on reception and detention conditions and the asylum procedure in all the Member States, which can serve as reference in transfer decisions and that can be used in national courts when the person concerned has exercised his or her right to an effective remedy.*

*This data collection is based on Article 5 of the regulation on the European Union Agency for Asylum <sup>(1)</sup> (EUAA). Member States were requested to provide information that reflects both the relevant legal provisions and the practical implementation of these provisions. The scope of the fact sheet is limited to rules and conditions applicable to applicants for international protection as well as other persons that are subject to a transfer under the Dublin III regulation <sup>(2)</sup>.*

*The European Commission and the EUAA jointly developed the template which served as the basis for this fact sheet. The EUAA gathers and stores the fact sheets and requests Member States to update the information at least one time per year. The relevant national authorities of the Member States provide all the information contained within the fact sheet and are responsible for ensuring that it is accurate and up-to-date.*

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(1) [Regulation \(EU\) 2021/2303](#) of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021).

(2) [Regulation \(EU\) No 604/2013](#) of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (OJ L 180, 29.6.2013).

## 1. Access to material reception conditions

**1.1** What steps should an applicant complete following a Dublin transfer in order to gain access to accommodation and other material reception conditions in your Member State?

When applicants are transferred to Sweden they will get information about practical issues, such as right to housing, medical care and schooling for children when they arrive at the Swedish Migration Agency's office at the airport upon arrival to Sweden, see also 1.3, 1.5 and 1.6 below. The Swedish Migration Agency (SMA) is responsible for providing material reception conditions including housing, see 1.3 below.

If the provisions of subsequent applications are applicable for a Dublin returnee, there might not be a right to reception conditions, see 1.4 below.

Dublin returnees are notified and, in these cases, the SMA or the Police will meet the person upon arrival. The person will then get in contact with SMA. If s/he has the right to accommodation and needs it, it is provided by the SMA.

How long do these steps normally take?

The applicant has to visit one of the SMA's reception centres. Accommodation is provided the same day wherever there is available accommodation. There is no time limit. The person may go to family or friends and then choose to visit the SMA.

When and how is the applicant provided with information on how to gain access to accommodation and other material reception conditions?

See above and 1.3 below.

**1.2** What material reception conditions (as per Article 2(g) Directive 2013/33/EU laying down standards for the reception of applicants for international protection (recast) (RCD) are available to applicants for international protection entitled to these in your Member State?

According to the Reception of Asylum Seekers Act (lag (1994:237) om mottagande av asylsökande m. fl. (LMA)), applicants for international protection have right to housing, daily allowance for everyday expenses including clothing and food, and grant for special needs, e.g. winter clothes, eyeglasses, or baby equipment, see Sections 13 and 18 LMA.

To get assistance with accommodation the applicant has to visit one of the SMA's reception centres. The SMA will provide accommodation wherever in Sweden the agency has available housing at the moment.

**1.3.** How does your Member State ensure that applicants for international protection in your Member State are provided with full access to the material reception conditions as defined in Article 2(g) of RCD in line with Article 17 and 18 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

The SMA is responsible for providing material reception conditions. The applicants are informed on their right to material reception conditions as soon as possible and at latest 15 days after the application is lodged, see Section 2 a, Subparagraph 1, Ordinance on reception of asylum applicants (2 a § första stycket förordningen (1994:361) om mottagande av asylsökande m.fl. (FMA). Normally, the making, lodging and registration of an application for international protection in accordance with the APD, take place at the same moment.

**1.4.** Does your Member State apply a policy in line with Article 20.1(c) of reducing or in duly justified exceptional cases withdrawing the access to reception conditions for applicants in cases the applicant lodged a subsequent application?

Yes.

If the previous application has been unfounded and a return decision according to the RCD has been issued, and the person does not leave the country in due time, the right to reception conditions ceases, see Section 11, Subparagraph 2 LMA. If a subsequent application thereafter is lodged, there is no right to reception conditions during the preliminary examination according to Article 40.2 APD. If the preliminary examination results in a further examination according to Article 40.3 APD, or the expulsion is suspended by the responsible authority or a court, the right to reception conditions starts again.

A municipality may always give social allowance according to Chapter 4, Section 2 the Social Services Act (socialtjänstlagen 2001:453). It might be for emergency needs. It is not a general right to allowance. Every municipality has an independent right to decide this and to give allowance in individual cases.

If yes, what material support is provided to persons whose material reception conditions have been reduced or withdrawn in accordance with Article 20(1)(c) in your Member State to ensure a dignified standard of living and access to health care?

According to lag (2013:407) om hälso- och sjukvård till vissa utlänningar som vistas i Sverige utan nödvändiga tillstånd, persons who stay in Sweden without a residence permit have right to emergency health care. A child is entitled to the same health care as a child resident in the same region in Sweden. The Swedish municipalities may in some cases give social allowance to persons in need.

**1.5** What health care is an applicant for international protection entitled to in your Member State in line with Article 19 RCD?

According to law on health care for asylum applicants (lagen (2008:344) om hälso- och sjukvård åt asylsökande m.fl.), adult applicants are entitled to emergency health care and emergency dental care. A child is entitled to the same health care as a child resident in the same region in Sweden.

**1.6** What steps are taken to ensure that applicants for international protection in your Member State have full/effective access to health care, in line with Article 19 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

The applicants can get access to health care in the same ways as persons resident in Sweden. To prove that they are applicants of international protection and that they are entitled to health care, all applicants get a LMA-card, showing that the person is entitled to reception conditions, from the SMA. When in need of health care, they may contact health care institutions on themselves and show this card. The applicants are informed on their right to health care as soon as possible and at latest 15 days after the application is lodged, see Section 2 a, Subparagraph 3 Ordinance on reception of asylum applicants (2 a § tredje stycket förordningen (1994:361) om mottagande av asylsökande m.fl. (FMA).

**1.7** Please describe what are the support measures available/provided to persons with special reception needs in your Member State in line with Article 21 RCD (e.g. minors, unaccompanied minors)?

If an applicant, minor or adult, have special receptions needs, s/he can, when needed, get an adapted accommodation from the SMA. If the applicant has a very strong need of something not covered by the daily allowance, s/he can apply for a special grant for it. The SMA always makes an individual evaluation of the need, see section 18 LMA.

Adapted may also mean suitable. A person in a wheelchair may get accommodation on the ground floor without stairs. A family with school children may get accommodation near a school or near a school bus. A person with a serious illness that requires medical supervision may get accommodation near a health centre.

For unaccompanied minors the municipalities are responsible for adapted accommodation and to give the minor a guardian, see for example section 3 LMA. The SMA is mainly responsible for providing financial support and if the minor has a very strong need of something not covered by the daily allowance, he or she can apply for a special grant for it, see section 13 and 18 LMA.

**1.8** How does your Member State ensure that applicants for international protection with special reception needs in your Member State are provided with full access to the reception conditions, which cater for their special reception needs, in line with Article 21(1) of RCD, and, where relevant, more favourable provisions set out in your national legislation?

When a person with special needs apply for international protection s/he is informed on their right to material reception conditions and health care, see Section 2 a, Subparagraph 1 and 3 FMA (2 a § första och tredje stycket förordningen (1994:361) om mottagande av asylsökande m.fl. (FMA).

If needed the applicant can get more information by a case officer at the SMA on contacts with health care institutions and accommodation adapted for the certain special needs.

**1.9** How can an applicant for international protection avail themselves of a legal remedy in line with Article 26 RCD, in case they consider that their rights to material reception conditions are not being met in your Member State?

They can appeal a decision on material reception conditions to an administrative court, see Section 22 LMA.

## 2. Access to the asylum procedure

**2.1** What are the procedural steps that an applicant for international protection transferred to your Member State needs to undertake in order to gain access to the asylum procedure following a Dublin transfer to your Member State?

How long do these steps normally take?

Are there any different steps to take for persons whose applications would be considered as subsequent applications? (Location to register, fees, admissibility procedure etc.)

How long do these steps normally take?

Where can the applicant find this information, or be provided with this information?

The procedural steps depend on if the applicant earlier has initiated an asylum application in Sweden, and the corresponding procedural stages in that proceeding.

- i. In the case the foreigner transferred has not applied for asylum earlier and has no permit to stay in Sweden or no application in process, the foreigner is met upon arrival either by Swedish Border Police or by the SMA and the foreigner is informed about the possibility to apply for asylum. In the case the foreigner transferred expresses a wish to apply for asylum the foreigner is immediately referred to the Swedish Migration Agency, where an asylum application is lodged and registered the same day. In the case the foreigner transferred has a pending application for a permit to stay in Sweden on other grounds than asylum, the foreigner is informed about the possibility to apply for asylum if an asylum application has not been made.
- ii. In the case the foreigner's asylum proceeding has been finished with a negative decision and a return decision, the foreigner is met by Swedish Border Police, which in this case is responsible to carry out the order, and if the foreigner in this situation claims international protection s/he is referred to launch a subsequent application at the Migration Agency. Subsequent applications are subjected to a preliminary examination in a written procedure whether new elements or findings have arisen or have been presented, see also 2.3 below. A subsequent application is registered immediately at the Agency during work hours.
- iii. In the case the foreigner's asylum proceeding has been finished with a negative decision in conjunction with a return decision but the statutory limitation of four years for the enforcement is expired (according to Chapter 12, section 22 the Aliens Act), the steps will be identical to the steps in (i) above.
- iv. In the few cases the foreigner is detained either in a criminal investigation or due to penalty enforcement upon the arrival and the foreigner expresses a wish to apply for asylum Swedish Police will, depending on the stage in the proceedings, contact the SMA, which will ensure the lodging and registration and subsequent processing of the application or inform the foreigner about the possibility to launch a subsequent application. In this case the asylum process may be delayed due to the proceedings in the criminal procedure.

There are no fees for asylum applications or subsequent applications. In addition to the information provided to the applicant under the stages above information about the asylum proceedings and subsequent applications are available at the SMA's website and offices.

**2.2** What are the procedural consequences in your Member State of an application for international protection being considered a subsequent application?

A subsequent application is subject for a preliminary examination according to Article 40.2 APD. SE has implemented Article 42.2 a) in national legislation, see Chapter 12, Section 19, the Aliens Act. The preliminary examination is mainly in writing.

**2.3** Does your Member State avail itself of the possibility under Article 33(2) Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast) (APD) to consider an application for international protection lodged by an applicant transferred to your country through the Dublin procedure as inadmissible? If so, under which of the grounds listed in this Article?

Article 33.2 a), b) and c) are transposed into national legislation, but these may be applied on all applicants, not only Dublin returnees, Chapter 5, Section 1 b, the Aliens Act.

A subsequent application without new elements or findings may be considered as inadmissible (see Article 33.2 d) APD), if the previous application has been unfounded and a return decision according to the RCD has been issued, normally in the same decision, see Chapter 12, Section 19, the Aliens Act. So, if a person previously has applied for international protection, which has been considered as unfounded and a return decision has been issued, and the person leaves SE and later is transferred back according to the Dublin Regulation, his or her application will be a subsequent application. In lack of new elements or findings, that subsequent application may be considered as inadmissible.

### 3. Detention and limitations to the freedom of movement of applicants

**3.1** Are there any circumstances under which your Member State an applicant for international protection could be detained on public health grounds (e.g. quarantine), under applicable provisions of national law unrelated to Article 9 RCD?

No, an applicant cannot be detained on public health grounds according to national legislation.

If yes, please describe these different types of circumstances, the legal basis for the detention, duration, conditions (incl. type of facilities), and the legal remedies available to challenge such a decision.

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**3.2** How can an applicant challenge a decision to place them in detention according to Articles 8 and 9 RCD?

They can appeal against the decision on detention to the migration court, Chapter 14, Section 9, the Aliens Act.

**3.3** What are the limits set out in national law to the duration that an applicant may be placed in detention according to Article 9 RCD?

There is no formal limit for the duration of detention of an applicant. However, for any period that extends beyond two weeks, Swedish law requires there be extraordinary reasons, Chapter 10, Section 9 the Aliens Act.

At what intervals does the judicial authority needs to review a detention decision according to Article 9(5) RCD?

There is no mandatory review by courts. Detention decisions have to be reviewed every two weeks (Chapter 10, Section 9, the Aliens Act), by the responsible administrative authority. Each decision made to keep the applicant in detention can be appealed to a migration court.

**3.4** What types of less coercive (alternative) measure to detention are used in your Member State?

The person may be subject to supervision, which means that he or she is obliged to report to the Police authority or the Swedish Migration Agency, Chapter 10, Section 6 and 8 the Aliens Act.

Please elaborate under which conditions these are generally used and how does your Member State ensure that these less coercive alternative measures to detention are used when they can be applied effectively as per Article 8.2 RCD?



Supervision is used when deemed appropriate and sufficient (in relation to detention) to ensure the individual's availability. An individual's freedom shall not be limited to a greater extent than necessary (Chapter 1, section 8 the Aliens act).

**3.5** What conditions, set out in Article 10 RCD, are provided to applicants whilst in detention (specialised detention facilities, access to open-air space, possibility to communicate with UNHCR or an organisation working on behalf of UNHCR, possibility to communicate and receive visits from family members, legal advisers or counsellors and persons representing NGOs, information on the rules of the facility)?

They are informed of the rules of the facility. They have access to open-air space and have right to communicate with other people including family members, legal advisers/counsellors, persons representing UNHCR, NGOs, etc, see Chapter 11, Sections 1, 3, 4 and 10, the Aliens Act.

## 4. Available legal remedies and access to legal aid

**4.1** At which stages of the asylum procedure does an applicant have the right to legal aid after having been transferred to your Member State?

Normally right to legal aid free of charge in the normal asylum procedure in the administrative procedure and the appeal procedure, whether Dublin returnee or not, see Chapter 18, Section 1 the Aliens Act. UAM have right to legal aid free of charge.

If a Dublin returnee has a return decision, see question 2.3 above, there is no right to legal aid free of charge during the preliminary examination according to Article 40.2 APD. If the preliminary examination results in a further examination according to Article 40.3 APD, there will be a right to legal aid free of charge. If the preliminary examination results in denial of a further examination, there is a right to legal aid for appealing that decision, provided that it is not considered obvious that the appeal will fail. (Chapter 18, Section 1 a, the Aliens Act).

The person can always engage a legal counsellor on his/her own expenses.

**4.2** Is the legal aid provided free of charge to applicants for international protection or does your Member State apply any form of means testing? If so how is this applied in practice?

No testing of means.

**4.3** What are the deadlines within which your Member State requires that an applicant lodge an appeal with regards to decisions not to grant international protection or not to further examine the application on grounds of inadmissibility?

Three weeks after the notification of the decision, Section 44 the administrative Act (44 § förvaltningslagen 2017:900).

**4.4** What are the formal requirements when lodging an appeal as referred to in question 4.3?

The applicant or a counsellor with a power of attorney may appeal. The appeal shall be in writing and addressed to the migration court but shall be sent to the SMA.

**4.5** Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State pending the examination of the application in case of a request for extradition of the applicant to a third country? If yes, how do the competent authorities of your Member State ensure that a decision to extradite an applicant to a third country pursuant to Article 9(2) APD is taken in accordance with Article 9(3) APD, i.e. it does not result in direct or indirect refoulement, in violation of international and Union requirements?

Yes, see Chapter 12, Section 8 a, Subparagraph 3 the Aliens Act. The principle of non-refoulement and Article 3 ECHR are implemented in Swedish law (Chapter 12, Sections 1-3 the Aliens Act). There are similar provisions in the Extradition Act on extradition for crime

(lag 1957:668 om utlämning för brott). The Supreme Court and the government decide on extradition for crime to third countries.

**4.6** Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State where a person makes subsequent applications as referred to in Article 41 APD?

If yes, how do the competent authorities of your Member State ensure that a decision to return the applicant to a third country does not result in direct or indirect refoulement, in violation of international and Union requirements as per Article 41(1) APD?

Yes, Article 41.1 b) is implemented in national law, see Chapter 12, Section 19 a, Subparagraph 3 the Aliens Act. The principle of non-refoulement and Article 3 ECHR are implemented in Swedish law (Chapter 12, Sections 1-3 the Aliens Act) and must always be taken into account.

If the return of the person would result in persecution or treatment in violation of e.g. Article 3 ECHR, the return would not take place. The person may get a residence permit instead.