

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

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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 ⁽¹⁾ (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 ⁽²⁾.

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.

(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?

Once a Dublin transfer is completed, the applicant is escorted to one of the reception units of the Registration and Reception centre (RRC) in Sofia – Vrazhdebna. This applies to all applicants who have successfully arrived in Bulgaria on the same day and their procedure in regard to the examining their application for international protection is not completed with a decision on its merits. The employees of the reception facility make the necessary checks as to where the applicant was accommodated when he first entered the territory of the Republic of Bulgaria. Then, the applicant is provided with instructions which RRC should they appear and lodge a request for his procedure to be continued in order to examine their application. Dublin transferees, whose applications for international protection have been rejected and the decision has gained legal force are handed over to the Migration Directorate with the Ministry of Interior (Mol) since they are considered as illegally residing foreigners and do not enjoy the right to reside in a RRC of SAR.

How long do these steps normally take?

All transferees whose applications have not been examined on their merits are escorted to the reception facility after the last scheduled flight for a Dublin transferee lands on the airport and the Border authorities have registered the arrival in their systems. All steps are completed by the end of the day of arrival.

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

The employees of the reception facility make the necessary checks as to where the applicant was accommodated when he first entered the territory of the Republic of Bulgaria. Then, the applicant is provided with instructions which RRC should they appear and lodge a request for his procedure to be continued in order to examine their application.

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?

As part of the CEAS legislation, Directive 2013/33/EU has been transposed into the national legislation (Law on Asylum and Refugees (LAR)). There is no difference between the reception conditions between the applicants for international protection and those, transferred under Dublin Regulation. Applicants are accommodated in an open reception centre where the living conditions meet the minimum legal standards. A medical team is available in the centre as well as social workers.

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?

Given that the RCD is transposed into the national legislation, the material conditions as defined in Article 2(g) of RCD in line with Article 17 and 18 of RCD, are applicable for all of the applicants for international protection in Bulgaria. Upon their accommodation in the centre, applicants for international protection are provided with a bedroom set and toiletries and they sign a protocol in their mother tongue which states that they have received them. The amenities are provided by the State Agency for Refugees with the Council of Ministers. Various NGOs also make donations to SAR in the form of blankets, clothes and other necessities which are also distributed among the applicants in the reception centres.

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. In accordance with LAR, during the examination of a subsequent application, the applicants do not have the rights for food, shelter, and social support which are provided by SAR. If the applicant is identified as a vulnerable person or a person with special needs, these rules do not apply, and they have access to all their rights under art. 29 of LAR.

Applicants who have submitted a subsequent application could and often are accommodated in the special centres for accommodating foreigners in Busmanci or Lyubimets which are under the management of the Migration Directorate with the Ministry of Interior.

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?

In accordance with LAR, the applicants whose material reception conditions have been reduced have access to free health care during their procedure for examining their subsequent application.

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

In line with Article 19 RCD and Article 29 (5) and (6) of LAR the applicants for international protection are entitled to receive health insurance, accessible medical care and free medical service under the conditions and pursuant to the procedure applicable to the Bulgarian citizens as well as:

- initial tests upon registration;
- permanent medical supervision;
- provision of first medical aid;
- control over hygienic status;

- permanent monitoring for compliance with hygiene requirements;
- drawing up and maintenance of medical documentation for every applicant.

During the initial medical check-up, it shall be found out whether the applicants belong to a vulnerable group and whether they have any special needs. In addition, during the procedure for international protection the applicants have granted access to the national social-security system and can appoint a GP.

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?

Medical staff, consisted of a doctor and nurse/s, is available in the accommodation centres, governed by SAR. Social experts of SAR are also available and provide all of the relevant information with regards to the health care, including an appointment of GP, and assistance in cases where hospitalization is necessary. In line with Article 19 RCD and Article 29 (5) of LAR the applicants for international protection are entitled to receive health insurance, accessible medical care and free medical service under the conditions and pursuant to the procedure applicable to the Bulgarian citizens.

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)?

To identify the vulnerable persons and persons with special needs, the experts of SAR work with established tools - identification and assessment of the needs, support plan, rapid and comprehensive assessment of the best interest of the child. The experts use the guidelines of the EUAA Tool for identification of persons with special needs (IPSN). Plus, an individual approach is applied and social interviews and consultations are conducted regularly.

As for the UAMs – applying an individual approach and taking special care of the unaccompanied children, in view of the best interest of the child, is a guiding principle of work. Upon their registration, UAMs are provided with a legal representative from the National Bureau of Legal Aid, who has the obligation to represent him before all government institutions and the courts in the Republic of Bulgaria. This obligation ceases only when the applicant is already full of age, has been reunited with a family member on the territory of the Republic of Bulgaria, or upon any concern that the representative might not be acting in their best interest.

A nationwide Inter-institutional and Coordination Mechanism has been put in place. It is an approach wherein the child protection authorities at central, regional and local level, other responsible institutions and organizations, within the framework of their powers, according to the current legislation, are obliged to undertake identification (actions); guaranteeing the rights of UACs and children separated from their families, by ensuring an appropriate standard of living for them, access to health care, education, social

support and adaptation; long-term decision for the protection of UACs or children separated from their families.

The accommodation of the children is carried out in accordance with their ethnicity, country of origin, age, gender, state of health, etc. The accommodation in the Safety Zones (two in RRC – Sofia and one in RRC - Harmanli) is carried out in accordance with the Regulations for the conditions of accommodation and the internal rules of the SAR centres.

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?

According to Art. 30a of the Law on Asylum and Refugees, where a foreigner seeking international protection is found to belong to a vulnerable group or to have special needs, needs identification and assessment shall be conducted and, where necessary, a support plan shall be drafted. Foreigners belonging to a vulnerable group or having special needs are monitored and, if necessary, provided with appropriate assistance in view of their particular situation.

The conditions for the reception and accommodation of the foreigners seeking protection in the territorial units are fully compliant with the requirements of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013, laying down standards for the reception of applicants for international protection.

The accommodation in the territorial units is carried out after assessing the health, the family and financial situation of the foreigners. When accommodating the applicants for international protection, their nationality, ethnicity, gender, family status, belonging to a vulnerable group, etc. are taken into account. There are separate accommodations for the persons belonging to a vulnerable group. Families are also accommodated separately.

When determining the place of the accommodation of an unaccompanied minor, his/her opinion is taken into account. Usually siblings are placed together, taking into account the best interests of the child.

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?

At every stage of the procedure for international protection, the applicants have right to free legal aid and have the right to lodge an appeal with the relevant administrative court in the Republic of Bulgaria.

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?

In case of a Dublin transfer based on a take charge request, the procedure for granting international protection is initiated as of the registration of the applicant. The application could be lodged at the airport upon the arrival of the applicant or at a reception centre of SAR. If the application is made to another authority, they have the obligation to submit it to SAR in order for the registration process to begin in the foreseen time limits.

In case of a Dublin transfer based on a take back request, the procedure for international protection shall be considered resumed when the applicant requests the examination of his/her application to be completed. The examination of the application shall be resumed from the stage, at which the procedure was terminated. The applicant submits a written request (in a language that they understand) which states that he would like for his procedure to be resumed. The request is submitted upon the applicant's arrival at the reception centre. If there is already a decision which rejects the application of the transferee and it has gained legal force, the applicant has the right to lodge a subsequent application which is examined by a case worker of SAR. If the subsequent application is admitted, the applicant is registered with SAR and a new procedure for examining the application on its merits begins.

How long do these steps normally take?

In case of a transfer after a request for taking charge – the registration of the applicant takes within 3 days following the submission of the application for international protection.

In case of a transfer after a request for taking back – there is no explicitly specified time limit. Once the request for resuming the procedure is submitted, the procedure is considered as resumed.

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

A Dublin transferee whose application for international protection has been rejected and the decision has gained legal force, has the right to lodge a subsequent application which is examined by a case worker of SAR. If the subsequent application is admitted, the applicant is registered with SAR and a new procedure for examining the application on its merits begins.

How long do these steps normally take?

Within 14 working days after the submission of a subsequent application for international protection, a case worker based only on written proofs, provided by the applicant, without conducting a personal interview, shall take a decision by which:

- Allows a subsequent application to be examined;
- Does not allow a subsequent application to be examined.

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

All applicants for international protection are provided with instructions concerning the method of submission of application for international protection, the procedure that follows and their rights and obligations as asylum seekers in the Republic of Bulgaria. The instructions contain information for the possible outcomes of the procedure, the Dublin procedure that might be initiated, the serving of the decisions and their rights to appeal. If a subsequent application is lodged, the applicant is provided with instructions in regard to the time limit for issuing a decision and their right to appeal.

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

During the procedure for preliminary examination of a subsequent application the applicant may benefit from the following rights:

- assistance provided by UNHCR, other relevant UN agencies and NGOs;
- provision of translator or interpreter;
- access to the collected information, based on which a decision shall be taken, except for in cases where:
 - the disclosure of information or of the sources thereof could endanger national security, the security of organizations or of persons providing information or of the person it is related to, or
 - this would prevent the consideration of the application for international protection, or
 - this would impede international relations of the Member States.

The right to remain on the territory of the Republic of Bulgaria during the preliminary examination of a subsequent application shall not be granted to an applicant where:

- he/she files a first subsequent application for international protection only in order to delay or to prevent the execution of the applied enforcement administrative measure of “withdrawal of the right of stay in Republic of Bulgaria”, “return” or “expulsion”, or
- he/she files another subsequent application for international protection, and the previous subsequent application has been considered inadmissible or has been considered by the merits and for whom returning to their country of origin or to a third safe country will not endanger their life or freedom on the grounds of a race, religion, nationality, political views or affiliation with a specific social group or exposure to a risk of torture or other forms of cruel, unhuman or humiliating attitude or punishment.

During the procedure for preliminary examination of a subsequent application, the applicant shall not be granted with the following rights:

- accommodation;
- social support;
- health insurance, accessible medical care and free medical service under the conditions and pursuant to the procedure applicable to the Bulgarian citizens;
- psychological assistance;
- to obtain registration card.

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?

All of the legal grounds listed in Art. 33 (2) of APD are applicable as per the national legislation, given that the APD is fully transposed. Given the above, an applicant's application for international protection, who is transferred to Bulgaria through the Dublin procedure would be considered as inadmissible if another Member State has granted international protection to the same applicant or another Member State is considered as first country of asylum in accordance with Art. 33 (2) (a) and (b). However, it should be noted that if another Member State has granted international protection or is considered the responsible Member State, Dublin transfers should not be completed to a Member State which is not the responsible one.

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?

Yes.

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.

In accordance with Art. 29 (4) of LAR, the foreigners shall be subject to medical check-up and tests and shall remain isolated until the results become known. The applicants are isolated in a separate room in the Reception centre where they are to be accommodated during their procedure. When the results are finalised and it is established that the applicant does not have a disease which could affect other asylum seekers and employees, he is released and accommodated with the other applicants.

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

There is one appeal stage in front of the competent administrative court. An appeal against the decision could be lodged by the applicant within 14 days of the formal submission of the decision to them.

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?

In accordance with Art. 45b (1) of LAR, after an assessment of the circumstances on an individual basis, an applicant for international protection can be accommodated temporarily and for a period as short as possible in a close-type centre:

1. for establishing or verification of his/her identity or nationality;
2. for establishing of facts and circumstances based on which the application for international protection is filed, where this cannot be done in a different way and there is a risk that the applicant can abscond;
3. where this is required for the protection of national security or public order;
4. for establishing the state competent to consider the application for international protection and transferring of foreigner to the competent state, and where there is a serious risk that the foreigner can abscond.

The director of a close-type centre where an applicant for international protection is accommodated, shall carry out a monthly inspection for the existence of the grounds for accommodation and shall report to the Chairperson of SAR or an official authorized thereby.

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

As mentioned above, the director of a close-type centre where an applicant for international protection is accommodated, shall carry out a monthly inspection for the existence of the grounds for accommodation and shall report to the Chairperson of SAR or an official authorized thereby.

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

In accordance with Art. 29 (4) of LAR, the Chairperson of SAR has approved Rules of procedure (RoP) regarding the accommodation of asylum seekers in the territorial units of SAR. In line with RoP, if an applicant does not comply with the rules in the reception centre, he is warned that he might be transferred to another reception centre, that he might be removed from the centre, or that he might be placed in detention.

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?

The alternative measures are used in cases where an applicant does not comply with the rules in the reception centre. These rules are presented to them during their registration through a certified translator or interpreter. A written copy in their mother tongue is provided to them and they sign that they have received a copy and have agreed to comply. Upon a breach of the Rules of Procedure by the asylum seekers, the employees at the centre write up a warning protocol which is presented to the applicant and has details regarding his violation. The applicant is instructed that if he continues breaking protocol, he might be moved to another reception centre or be removed from the facility, and he will be obliged to find another address where he would reside during his procedure. If the applicant is not able to find such an address, he is accommodated in a closed-type facility. If the non-compliance results in a violation of the public order, the applicant might be moved to a closed-type premises, depending on the severity of the violation.

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)?

As per Article 45e of LAR, applicants for international protection accommodated in close-type centres, shall be entitled to:

1. access to open areas;
2. visits by their family members;
3. respect of their privacy and personal life;

4. meetings with persons providing legal aid and agency, representatives of UNHCR, NGOs and of international organizations;
5. be informed about the internal regulations of the respective centre, and also about their rights and obligations; information shall be provided in a language understandable thereby.

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?

At every stage of the procedure for international protection, the applicants have right to free legal aid.

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?

If the applicants have no financial resources to hire a legal representative on their own, they are entitled to contact the National Bureau for Legal Aid to hire a free of charge legal representative at every stage of the procedure.

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?

Within 14 days of the formal submission of the above-mentioned decisions, the applicant is entitled to appeal them in writing in front of the competent administrative court through the administrative authority having issued the decision (SAR).

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

As per the above. The appeal must be lodged in Bulgarian language before the competent administrative court in the Republic of Bulgaria. It could be lodged through SAR, which has the obligation to submit it to the administrative court, or it could be lodged directly to the court by the applicant or his duly authorised legal representative. There is no particular form which needs to be followed.

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?

In line with art. 76c (2) of LAR, the right to remain on the territory of the Republic of Bulgaria during the preliminary examination of a subsequent application shall not be granted to an applicant where:

- he/she files a first subsequent application for international protection only in order to delay or to prevent the execution of the applied enforcement administrative measure of “withdrawal of the right of stay in Republic of Bulgaria”, “return” or “expulsion”, or
- he/she files another subsequent application for international protection, and the previous subsequent application has been considered inadmissible or has been considered by the merits and for whom returning to their country of origin or to a third safe country will not endanger their life or freedom on the grounds of a race, religion, nationality, political views or affiliation with a specific social group or exposure to a risk of torture or other forms of cruel, unhuman or humiliating attitude or punishment.

In accordance with Art. 44a of the Law of Foreigners in The Republic of Bulgaria, A foreigner with imposed compulsory administrative measure of expulsion shall not be expelled to a country where his life and freedom are endangered, and he is subjected to a danger of prosecution, torture or inhuman or humiliating treatment. Where the circumstances under this paragraph are established by an effective judicial decision the foreigner shall be issued and served an order by the authority that issued the expulsion order which explicitly states the prohibition of expulsion and the country to which the foreigner should not be deported. The order shall not be subject to appeal.

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?

Yes.

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?

In accordance with Art. 44a of the Law of Foreigners in The Republic of Bulgaria, A foreigner with imposed compulsory administrative measure of expulsion shall not be expelled to a country where his life and freedom are endangered, and he is subjected to a danger of prosecution, torture or inhuman or humiliating treatment. Where the circumstances under this paragraph are established by an effective judicial decision the foreigner shall be issued and served an order by the authority that issued the expulsion order which explicitly states the prohibition of expulsion and the country in which the foreigner should not be deported. The order shall not be subject to appeal.