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

The information was provided on: 20 April 2023

The information was provided by:
Republic of Croatia Ministry of the Interior

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?

After expressing the intention to apply for International protection to competent authority (at border crossing, police administration, police station or a reception centre for foreigners), applicant will receive the Certificate of the registration. With certificate applicant will receive the official note with explicit deadline in which he/she must report to Reception centre for applicants for International protection. This information is communicated both orally with the interpreter and in a writing in Croatian language with written address of the reception centre and a written deadline in which he/she must report to the reception centre.

After reporting to the assigned reception centre, he/she will have access to material reception conditions.

How long do these steps normally take?

As stated in The Act on International and Temporary protection, "bodies ... shall register the applicant in the records of the Ministry no later than 3 working days from the day the applicant expressed his/her intention to apply for international protection." In exceptional circumstances, it can be extended to 6 working days maximum.

However, in practice, it is usually done immediately upon arrival and on the same day.

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

Upon arrival and expressing the intention to competent authority, the applicant will receive in writing where and when he/she must report. In most cases, depending on the individual circumstances, the police officers will escort the applicant to the reception centre. Apart from escort by the police, additional assistance to travel is not provided.

Upon arrival at the Reception centre (legal obligation) they all have secured material reception conditions and will receive from the reception centre staff all necessary information regarding reception, accommodation and IP procedure.

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?

Accommodation in the Reception Centre, food and clothing provided in kind, remuneration of the cost of public transport for the purpose of the procedure for the approval international protection, and financial assistance.

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 Ministry of the Interior passed the Ordinance on the exercise of reception material conditions that prescribes the manner and conditions for exercising reception material conditions for applicants for International protection.

Apart from reception centres, managed by the Ministry of the Interior, other forms of collective accommodation (for unaccompanied minors or some other forms vulnerable persons) also provide, within their scope of work, necessary material condition.

If applicant has sufficient means, after reporting to the reception centre and lodging the application for International protection he/she can choose to reside in a private accommodation.

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?

No.

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?

N/A

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

As stated in the Act on International and temporary protection, “Health care of applicants shall include emergency medical assistance and necessary treatment of illnesses and serious mental disorders.” In addition, the Act states that applicants who need special reception and/or procedural guarantees, especially victims of torture, rape or other serious forms of psychological, physical or sexual violence, shall be provided with the appropriate health care related to their specific condition or the consequences of those offences.

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 provisions of the Act state that the Ministry competent for health provides for the medical examination and the health care.

Additionally, the Ministry of the Health brought for the "Ordinance on health care standards of applicants of international protection and aliens under temporary protection". Ordinance establishes health care standards for applicants for international protection and for foreigners under temporary protection.

Medical screening is conducted by MDM medical team upon arrival at the reception centre. They are also present within the facility from Monday to Friday and available to all applicants in need of medical exam.

Additionally, a general practitioner is located within the walking distance from the reception centre, specially appointed to provide services for all applicants. Furthermore, when needed, driving assistance from reception centre to medical institution is also provided from MDM or NGO personnel to applicants in need of services provided by Hospital Centres.

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)?

The Act on International and Temporary protection states that when accommodating applicants in the Reception Centre, account shall be taken in particular of gender, age, position in a vulnerable group, applicants with special reception needs and family unity.

Additionally, the Act also states that applicants who need special reception and/or procedural guarantees, especially victims of torture, rape or other serious forms of psychological, physical or sexual violence, shall be provided with the appropriate health care related to their specific condition or the consequences of those offences. Moreover, measures for vulnerable persons include accommodation in a room in a different facility wing more suitable to the persons needs or transfer to another facility, constant monitoring of psychological and mental health from psychologist and social workers, food deliverance to room when needed and etc.

Furthermore, NGO's and other international organisations that work to protect the rights of refugees or that engage in humanitarian work with the prior consent of the Ministry also help to provide forms of aid and assistance.

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?

The Ministry of the Health passed the "Ordinance on health care standards of applicants of international protection and aliens under temporary protection". Ordinance establishes health care standards for applicants for international protection and for an alien under temporary protection, as well as for an applicant for international protection and an alien under temporary protection who needs a special reception and/or procedural guarantee, in particular for victims of torture, rape or other serious forms of psychological, physical or sexual violence.

When conducting medical screening or lodging the application for international protection (conducting the first interview with Ministry officials and the official interpreter), basic identification is done throughout entire screening or conversation. When some special vulnerabilities or issues are detected, concreate measures are applied.

Additionally, The Ministry of the Interior also adopted the Standard Operating Procedure on the Prevention and Response to Sexual and Gender-Based Violence in Reception Centres for Applicants for International Protection.

Furthermore, to address the trafficking of human beings “Protocol on identification, assistance and protection of victims of human trafficking” was also adopted.

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?

As stated in the Act, on the basis of a case by case assessment, the Reception Centre shall render a decision to restrict or deny some of the material reception conditions referred which is proportionate to the aim pursued, maintaining the dignity of the standard of living of the applicant. No appeal is permitted against the decision, but a claim may be brought before the Administrative Court within 8 days of the day the decision is served.

All applicants are entitled to reception material conditions from the day they express intent to apply for international protection. If they decide to officially leave the facility and be accommodated in private arrangement, additional documents need to be provided to Ministry officials.

If there are findings that can result in withdrawal of some reception material conditions, Reception centre shall make such an administrative decision, against which the applicant has a right to bring an appeal against that administrative decision to the Administrative Court.

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?

Same as the procedural steps to gain access to accommodation and other material reception conditions, upon arrival to competent authority (at border crossing, police administration, police station or a reception centre for foreigners), applicant must express his/her intention to apply for international protection. After expressing the intention, the competent authority will issue the applicant with the Certificate of the registration and the official note with a deadline in which he/she must report to Reception centre for applicants for International protection. The Reception centre starts the asylum procedure and informs the applicant when he/she will lodge an application for International protection and about all future steps.

How long do these steps normally take?

As stated in the Act, "within the shortest possible time and no later than within 15 days from registration of their status in the records of the Ministry."

In practice, depending on the availability of the official translator for language that applicants can speak and understand, lodging of the applications is done as soon as possible.

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

As stated in the Act, when lodging the subsequent application, applicant does it directly in writing or orally if the person is illiterate.

Upon lodging, as stated in the Act, the admissibility of the subsequent application must be assessed based on the facts and evidence it contains, and in connection with the facts and evidence already used in the previous procedure.

The Act also states that a subsequent application by a foreigner under a transfer shall be considered in the responsible member state of the European Economic Area, but a subsequent application lodged in the Republic of Croatia shall be dismissed as inadmissible. The subsequent application must be comprehensible and contain the relevant facts and evidence which arose after the finality of the decision, or which the applicant for justified reasons did not present during the previous procedure relating to establishing the meeting of the conditions for approval of international protection.

The admissibility of the subsequent application shall be assessed on the basis of the facts and evidence it contains, and in connection with the facts and evidence already used in the previous procedure.

When it is established that the subsequent application is inadmissible, the Ministry of the Interior shall decide on the subsequent application no later than within 15 days from the day of receiving it. The subsequent application shall be dismissed if it is established that it is inadmissible.

How long do these steps normally take?

The Act states that the Ministry shall decide on the subsequent application no later than within 15 days to 2 months depending on admissibility from the day of receiving it.

In practice, lodging is done as soon as possible, usually the same day or the first day after the arrival at the reception centre.

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

As stated in the Act, the Ministry shall inform applicants within 15 days of the expression of intention of how the procedure of approval of international protection is conducted, on the rights and obligations they have in that procedure.

In practice, before lodging the application for International protection, applicant is informed, both orally and in writing, about procedures, rights and obligations, and about subsequent application and its procedural steps.

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

The subsequent application must be comprehensible and contain the relevant facts and evidence which arose after the finality of the decision or which the applicant for justified reasons did not present during the previous procedure relating to establishing the meeting of the conditions for approval of international protection.

The admissibility of the subsequent application shall be assessed on the basis of the facts and evidence it contains, and in connection with the facts and evidence already used in the previous procedure.

When it is established that the subsequent application is inadmissible, the Ministry of the Interior shall decide on the subsequent application no later than within 15 days from the day of receiving it. The subsequent application shall be dismissed if it is established that it is inadmissible.

When it is established that the subsequent application is admissible, a decision shall be rendered once again on the substance of the application, and the previous decision revoked. The Ministry of the Interior shall then render a decision in an accelerated procedure no later than within 2 months from the day an admissible subsequent application is lodged.

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?

Yes, under the following grounds of the Article33(2):

a) another Member State has granted international protection;
b) a country which is not a Member State is considered as a first country of asylum for the applicant, pursuant to Article 35;
c) a country which is not a Member State is considered as a safe third country for the applicant, pursuant to Article 38;
d) the application is a subsequent application, where no new elements or findings relating to the examination of whether the applicant qualifies as a beneficiary of international protection by virtue of Directive 2011/95/EU have arisen or have been presented by the applicant

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.

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.

N/A

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

The Act states that no appeal is permitted against the decision, but a claim may be brought before the Administrative Court, within 8 days of the day of service of the decision. When the Ministry has concrete findings that there are reasons for an applicant to be placed in detention, the Ministry will issue a written administrative decision. Applicant has a right to bring a claim on this administrative decision to the Administrative court. New amendments of the Act, however, state that Administrative Court will also put in a examination an administrative decision specially if the detention is longer than one month.

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?

The Act states that the measure of restriction of freedom of movement shall be imposed for as long as there are reasons for this, but for no longer than 3 months. As an exception, for justified reasons, the application of the measure of restriction of freedom of movement may be extended for no longer than three more months.

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

The Ministry, the police administration or the police station, must submit the case file to the Administrative Court no later than within 8 days of the day of receipt of the decision by which the Administrative Court requests the case file. The Administrative Court shall render a decision on the claim after a personal interview within 15 days from the day of receipt of the case file.

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

Less coercive measures to detention are:

1. Prohibition of movement outside the Reception Centre (but applicant not relocated to a closed centre);
2. Prohibition of movement outside a specific area;
3. Appearance in person at the Reception Centre at a specific time;
4. Handing over travel documents or tickets for deposit at the Reception Centre

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

The Act states that the measure of accommodation at the reception centre for foreigners may be imposed if, by individual assessment, it is established that other measures would not achieve the purpose of restriction of freedom of movement.

In practice, by individual assessment of the specific case, applicant will be restricted by less coercive measures first, and only if necessary by the measure of detention. Depending on the individual assessment of the specific case, taking into consideration all relevant facts regarding explicit reason for restriction of the freedom of movement that is stated in the Act on International and Temporary protection, a written administrative decision with less coercive measure is issued. If this does not accomplish the purpose of restriction than a new written decision with more coercive measure will be issued.

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)?

When a measure of accommodation in the reception centre for foreigners is applied, all rights and obligations stated in the Act on International and Temporary protection are applicable. Reception centre for foreigners is a special department within the Ministry of the Interior Border police Directorate. The scope of the work of this department is to manage a closed centre and to provide all of the above mentioned conditions to both foreigners in return procedure and applicants for international protection whose freedom of movement is restricted with this explicit measure.

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?

An applicant who has been transferred to our Member State has the right to legal aid at the same stages as other applicants - after the decision on international protection is issued and delivered. If the decision on restriction of freedom of movement is rendered, an applicant has the right to 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?

The Act states that applicants have the right to free legal aid at their own request if they do not possess sufficient financial resources or things of significant value.

In practice, when lodging the application for International protection, applicant in writing states how much financial resources he/she possesses.

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?

In case of a decision not to grant international protection, the deadline is 30 days except in case of rejection the application in accelerated procedure as clearly unfounded where the deadline in 8 days. In case of a decision not to further examine the application on grounds of inadmissibility, the deadline is 8 days.

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

Apart from lodging it on time to the administrative court, there are no other formal requirements. As far as language is concerned, all appeals are in Croatian, and we do not have any specific form for the appeals.

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?

Article 7. of the Act states that the procedure of approval of international protection does not prevent extradition to a third country of an applicant for whom an international warrant has been issued, unless enforcement of the decision to extradite would undermine the principle of prohibition of expulsion or return (non-refoulement).

Additionally, the Act states that the procedure of surrender of a foreigner under transfer to the responsible member state of the European Economic Area has priority over the enforcement of extradition to a third country of a third-country national or a stateless person for whom an international warrant has been issued.

Furthermore, the Act states that the procedure of approval of international protection shall prevent the enforcement of extradition of an applicant for whom an international warrant has been issued, and for whom a final decision has been rendered on extradition to their country of origin, until the decision on his/her application becomes final.

And, to conclude the Article 7. of the Act, it states that The Ministry of the Interior (hereinafter: the Ministry) is obliged to inform the ministry competent for judicial affairs without delay of the expression of intention to apply for international protection and all other circumstances which may affect the outcome of the enforcement of extradition.

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, applicants who lodge a new subsequent application after a decision has already been rendered on a previous subsequent application shall not have the right of residence in the Republic of Croatia.

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?

The Ministry of the Interior always takes care of the non-refoulement principle through exhaustive country reports. If, in the procedure regarding the request for international protection, it was established that no relevant facts and evidence were presented to fulfill the conditions for asylum and subsidiary protection, and the circumstances in the country of origin are not such that the applicant's life or freedom would be endangered by returning to the country of origin, it has been undoubtedly established that the applicant meets the conditions to be returned whilst respecting the principle of non-refoulement from the Act on International and Temporary Protection.

In the decision on expulsion, which necessarily contains a ban on entering and staying in the EEA for a certain period of time and an order for forced removal. The third country to which the forced removal will be carried out must be stated. When serving the decision, the third country national must be informed, among other things, about the third country to which the forced removal will be carried out.

If a third country national in removal procedure declares that his life, health, etc., are threatened in the third country determined by the decision, and the legal options for re-examine the application for international protection have been exhausted, the forced removal is stopped and the validity of his statement is determined, in a cooperation with the competent services of the Ministry of Interior. If it were determined that statement was

founded, a decision would be made on temporary postponement of forced removal, which is made for a period of one year and can be extended an unlimited number of times.