

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

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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?

How long do these steps normally take?

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

The Danish Immigration Service is responsible for providing and operating reception and accommodation centres for asylum seekers and irregular migrants, cf. the Danish Aliens Act section 42 a, subsection. 5. An applicant will as a general rule be accommodated in Reception Center Sandholm following a Dublin transfer to Denmark. In some cases, the applicant can be accommodated at one of the other accommodation or return centres rather than Reception Centre Sandholm, e.g. in case the person has previously been accommodated at the relevant centre.

The Danish Return Agency will provide the necessary information on how to access accommodation. In the reception centre, the applicant will be receive information on reception conditions etc.

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?

In the initial phase, applicants for international protection are accommodated in a reception centre where the reception conditions include housing, food and clothing provided in kind. Furthermore, the applicants are eligible to obtain a small financial allowance if they fulfil a contract with the Danish Red Cross who is operating the reception centre on behalf of the Danish Immigration Service.

Furthermore, once it has been decided by the Danish Immigration Service that an application for international protection will be examined in Denmark, the applicant will move to an accommodation centre where he or she will receive a financial allowance to cater for them self.

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 Danish Immigration Service has contracts with the Danish Red Cross, two local authorities as well as the Danish Prison and Probation Service on providing applications for international protection and irregular migrants with material reception conditions. As measures to monitor the provision of the material reception conditions, the Danish Immigration Service conduct internal revisions at the centre to monitor the material reception and accommodation conditions as well as e.g. the possibilities of education and

activation for adults. Additionally, other authorities are also conducting inspections of the centres, including the Parliamentary Ombudsman.

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?

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

Applicants for international protections are entitled to necessary healthcare covered by the Danish Immigration Service until the applicant is granted a residence permit, leaves Denmark or is returned. Children of applicants of international protection have the same access to healthcare as Danish children.

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 Danish Immigration Service has contracts with the Danish Red Cross, two local authorities as well as the Danish Prison and Probation Service on providing applications for international protection with access to healthcare.

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)?

Any applicant with special needs will have access to special support measures. E.g. an unaccompanied minor will be accommodated in facilities only for unaccompanied minors where the staff has special training.

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?

This is regulated in the contracts between the Danish Immigration Service and the Danish Red Cross, local authorities and the Danish Prison and Probation Service. In these contracts it is stated that the operators of the centres will have to ensure that the

management of the centres is in accordance with law, including the RCD. The Danish Immigration Service does monitor the compliance of these rules at the internal reviews.

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?

The applicants for international protection have a right to complain for the material reception conditions. Decisions made by the operators of the centres, such as withdrawal in benefits, can be complaint to the Danish Immigration Service, as well as decisions made by the Danish Immigration Service for withdrawal of benefits can be complaint to the Immigration Appeals Board.

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?

Dublin transfers to Denmark are primarily conducted via Copenhagen Airport, where the Danish Return Agency receives the applicant/third country national in the airport and escorts the applicant/third country national to the police for identity check and registration of an application for asylum in Denmark. The application for asylum is then forwarded to the Danish Immigration Service.

On arrival in Denmark, the Danish Return Agency will guide the applicant/third country national on the possibility of applying for asylum in Denmark except for the cases, where the applicant/third country has already received a final rejection on such an application.

After identity check and registration, the Danish Return Agency will escort the applicant/third country national to the train and provide the applicant/third country national with train tickets and a travel guide. From here, the applicant/third country national travels to the relevant place of accommodation. An applicant/third country national will normally be referred to the reception centre Sandholm. Once the applicant/third country national has reached the reception centre Sandholm, the Danish Immigration Service will immediately start the process of examining the application/third country national as a new case.

If the applicant/third country national has applied for asylum in Denmark before, the Danish Immigration Service will reopen the asylum case, if no decision was made in the first instance at the time of the applicant's disappearance. The asylum case will be processed from the stage where the asylum case was discontinued. If the case was pending by the Refugee Appeals Board, second instance, at the time of the disappearance, the Danish Immigration Service will inform the Refugee Appeals Board that the applicant/third country national has reappeared, and the Refugee Appeals Board will be responsible for handling the case.

How long do these steps normally take?

The asylum case will be reopened immediately after the applicant/third country national has presented himself/herself to the Danish Immigration Service.

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

In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of the Asylum Procedure Directive and is not bound by it or subject to its application. Thus, subsequent applications as defined in the Asylum Procedure Directive are not directly transferable to Danish legislation.

If an applicant/third country national has received a final decision in the asylum case, the applicant/third country national can request for a reopening. There are no formal requirements regarding the form of the request and no fees are applicable. See further in 2.2.

How long do these steps normally take?

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

The applicant/third country national will receive the necessary information regarding his/her asylum case once he/she has submitted an application for asylum in Denmark or when he/she reappears to the authorities and asks for the case to be reopened.

Once the applicant/third country national is accommodated at the reception centre Sandholm, he/she will also receive the necessary information about the asylum application process in general and his/her rights and obligations as an asylum seeker in Denmark both from the Danish Immigration Service, Red Cross and the Danish Refugee Council.

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

When the Refugee Appeals Board has decided a case, the applicant/third country national may request the Board to reopen the asylum proceedings. It is free, and there are no formal requirements regarding the form of the application. An applicant/third country national or their legal representative can appear at the Board's secretariat in person or they can contact the Board in writing. It is to be noted that the Refugee Appeals Board can only process a request for reopening, if the Board is aware of the residence of the applicant.

In general the Board's secretariat will present the requests for reopening to the chairperson of the panel in the order the requests were received. As a main rule it is for the chairperson of the panel that has earlier decided the case to make an assessment of whether the request holds new essential information that gives rise to the reopening of the proceedings for the reconsideration of the case.

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?

In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of the Asylum Procedure Directive and is not bound by it or subject to its application.

However, according to Danish national legislation an asylum application can be dismissed if the applicant/third country national already has an international protection status in a Dublin Member State.

Further, an asylum application can be rejected, if another country is considered as first country of asylum for 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.

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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?

If an applicant/third country national is placed in administrative detention, the case will be presented before a judge within 72 hours, where it is possible for the said person to challenge the decision of administrative detention.

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?

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

A detention can only be obtained for up to four weeks at a time. After four weeks, the case will be presented before a judge, who assesses the grounds for detention once again. This assessment includes a consideration of the specific circumstances in the case with specific focus on the proportionality of the detention and in this regard the length of the detention and the progress in the case. Continued detention presupposes progress and momentum in the case processing. As a general rule, no detention can be prolonged for longer than a total of 18 months.

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

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?

In order to ensure the presence of an applicant/third country national and the implementation of a decision on rejection, expulsion, transfer or deportation, the Danish authorities may decide, that this applicant/third country national must 1) deposit a passport, other travel document and ticket, 2) take up residence as instructed, and 3) present himself/herself as instructed.

If it is deemed necessary to ensure the presence of an applicant/third country national or the cooperation of this person, Danish authorities may decide that this person is obliged to report his/her presence to the authorities.

Under certain circumstances, the Danish authorities may also decide, that an applicant/third country national is obliged to reside at a specific place of accommodation, and that this person must notify the accommodation operator, if the foreigner leaves the place between 23.00 and 6.00.

Under certain circumstances an applicant/third country national may also have an obligation to inform the Danish authorities of his/her permanent place of residence, when this is not the place of accommodation that the authorities has provided for.

Above mentioned is governed by The Danish Return Act for foreigners without legal residence.

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)?

All of the abovementioned conditions are provided for an applicant/third country national in detention, as they are placed in specific detention centres, except for the cases where the applicant/third country national is detained due to charges of a criminal offense.

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?

The applicant/third country national has the right to legal aid throughout the whole asylum procedure, but it is not provided free of charge until the applicant receives a negative decision on his or her asylum application and it is appealed to the Refugee Appeals Board.

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?

Once an applicant/third country national receives a negative decision on his or her asylum application the decision is automatically appealed to the Refugee Appeals Board who then appoints legal aid free of charge, unless the applicant wishes to provide legal aid on their own. The legal aid is provided to all asylum applicants and it is not differentiated between international protection or subsidiary protection.

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?

Once an applicant/third country national receives a negative decision regarding his or her asylum application the decision is automatically appealed to the Refugee Appeals Board.

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

There are no formal requirements as it happens automatically.

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 accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of the Asylum Procedure Directive and is not bound by it or subject to its application.

In general, an applicant/third country national has the right to remain in Denmark during the asylum examination in the first instance and during the appeal in the second instance.

An applicant/third country national has the right to remain in Denmark during the asylum examination, irrespective of a request for extradition. If there is such a request, the specific case will be prioritized by the Refugee Appeals Board.

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?

Regarding requests for reopening, it is to be noted that the submission of a request for reopening of a case does not imply a right to stay in Denmark during the Board's processing of the request. However, it is stated in the Aliens Act that a request for reopening can imply a right to stay, when a request is submitted before the expiry of the departure time limit, cf. section 33 a (2), or when a request is submitted after the expiry of the departure time limit under certain circumstances, cf. section 33 a (3)(1). Moreover, it is stated in section 33 b (2) that a request can be given suspensive effect under certain circumstances. When the Refugee Appeals Board receives a request for information about hindrance to return from the Danish Return Agency, the Refugee Appeals Board will examine if the refused asylum-seeker has a pending case regarding a request for reopening. If that is the case, the Refugee Appeals Board will decide on the request for reopening before the planned return. If the latter is not possible before the date of the planned return, the Board can decide on the matter of whether the refused asylum-seeker has the right to stay in Denmark during the reopening proceedings or if the request should be given suspensive effect.

If a case is reopened, the applicant/third country national has the right to remain in Denmark during the asylum examination. Denmark does not have exceptions from the right to stay in the country during the asylum procedure.