

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

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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?

How long do these steps normally take?

If the asylum process in Finland has not been completed at the time of the Dublin transfer, the applicant has access to accommodation and reception services immediately after arrival. If the asylum process has been completed, the applicant must apply again in order to gain access to accommodation and reception services. The applicant can apply for asylum at the time of arrival if he/she so wishes. The applicant is entitled to services immediately after applying and he/she is forwarded to a reception centre directly from Police or Boarder Guard after the application has been registered.

If the applicant has money s/he is given instructions to use public transport to get to the reception centre. If s/he hasn't got money or s/he is in a vulnerable position, a taxi can pick her/him up. In some cases, the applicant is picked up from the police station by the staff of the reception centre. All of these opinions can be used depending on the situation.

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

At the time of arrival by the authorities, who are meeting the applicant at the airport. If the applicant is a unaccompanied minor, he/she receives the information already before transfer.

**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, health care, social care, reception allowance (financial allowance) and/or meal service, work and study activities, interpretation and daily guidance and information sharing. If applicant has own financial means, that could affect applicants' right to have reception allowance. Reception conditions for unaccompanied minors could also include full board and institutional care arrangements that aim to produce a safe growth environment and balanced and well-rounded development for minor.

**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?

See also answer to question 1.1. Applicants receive information concerning practical services (e.g. how to access, rights, responsibilities). That reception centre, where applicant is registered, is responsible for providing material reception conditions, if needed. Finnish Immigration Service steers and monitors reception centres and provisions. Finnish Immigration service monitors centers according to special monitoring

program. Practical monitoring measures include for example steering, monitoring visits and processing of complaints. More practically, actual provisions (what, depth, manner, practicalities) are covered in Finnish Immigration Services instructions to reception centres. These cover relevant aspects of provisions.

**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?

Applicant for international protection is entitled to have health care from all fields of health care, when assessed necessary for applicant's state and condition, by health care professional.

**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?

Practical arrangements are in place in reception centres (nurses) and outside private and public service providers (how access to services is done, steering, need estimations). Finnish Immigration Services have issued instructions to reception centres and monitors how health care is provided.

**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)?

There are specific unaccompanied minor units for unaccompanied minors, that are size-wise small and with intensive/large staffing. Besides providing common reception services (e.g. health care, social care) unaccompanied minor unit could also include full board and institutional care arrangements that aim to produce a safe growth environment and balanced and well-rounded development for minor. For other vulnerable groups, specific support measures are defined based on individual need assessment(s). Support measures could include for example counselling and therapeutic help, medical support and different kind of help (also material) that support daily living and handling of daily tasks.

**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?

Practical arrangements are in place in reception centres (staff, practices), and outside private and public service providers (e.g. how access to services is done, steering, assessments). Finnish Immigration Services have issued instructions to reception centres and monitors how activities are provided.

**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?

Applicant for international protection can take the issue to reception centres manager if s/he consider that his/her rights are not met accordingly. Applicants for international protection can also submit a complaint to the Finnish Immigration Service. Applicants for international protection can also submit an official complaint to for example the Parliamentary Ombudsman (The Ombudsman oversees the legality of actions taken by the authorities).

## 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?

The application for international protection can only be lodged with the police or the Finnish Border Guard. If the person makes an application to any other authority, they must be guided to the right authority.

When a person is transferred to Finland as a Dublin transfer s/he is received by the police or the Finnish Border Guard at the airport or other point of entry (port). There are two possible scenarios.

If the application of the person has not been examined by any Member State (usually a take charge situation), the application is automatically registered after arrival. If the person transferred informs that s/he doesn't want to apply for asylum, the application is registered nonetheless but the person needs to withdraw it in written form. In this case also, the Finnish Immigration Service is the competent authority to make the decision about the withdrawal.

If the application has been examined before (usually a take back situation) the transferred person informs the police or the border control unit in person that s/he wants to lodge an application for asylum. The police or the Finnish Border Guard registers the application to the immigration case management system. After that the application is handed over to the Finnish Immigration Service for processing.

In some cases, there might be previous ongoing asylum process or appeal process and in those situations they are continued as provided in law.

How long do these steps normally take?

Normally these steps are taken when the person is received in Finland. According to the Finnish Alien's Act the police or the Finnish Border Guard must register the application to the system without delay and latest after three days.

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

If the transferred person's previous application has been examined in Finland and a decision is made by the Finnish Immigration Service, the person has the possibility to lodge a subsequent application. In this case also, the police or the Finnish Border Guard registers the application to the case managements system.

A subsequent application is an application that a person lodges after receiving a final decision from the Finnish Immigration Service or from the Administrative Court to the application made earlier while s/he is still resides in the country or has left the country only for a short period of time. A subsequent application is not an application made after

the Finnish Immigration Service has decided about the withdrawal of the earlier application.

The admissibility of a subsequent application requires that the application includes new elements or findings that have not been examined earlier. Also, other elements, such as COI, is considered when evaluating the admissibility. These new findings should increase the likelihood that the applicant would qualify as a beneficiary of international protection. The Finnish Immigration Service may examine the criteria for admissibility solely on the basis of written submissions provided by the police of the Border Guard when registering the application. The Finnish Immigration Service is the competent authority to decide on the admissibility and further also to examine it if admissible.

An application for international protection is not subject to a fee.

How long do these steps normally take?

The police of the Finnish Border Guard must register subsequent applications without delay and latest after three days. The decision about admissibility is primarily taken based on written material.

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

The applicants are provided with information leaflets about their application when applying at the police or the Finnish Border Guard. More information is available at the reception centre and on the internet page of the Finnish Immigration Service ([migri.fi](http://migri.fi)). Public legal aid is also available.

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

The Finnish Immigration Service first evaluates on the admissibility of a subsequent application and only then, if admissible, examines it.

**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. There are no restrictions to apply those admissibility criteria that have been implemented in Finnish law: Article 33(2) points a), b), c) and d) (not including point e)).

### 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, this is not possible under the Alien's act.

However, e.g. official quarantine is an administrative decision made by a communicable disease control physician. A communicable disease control physician may order an asymptomatic person to be quarantined if he or she has been exposed to a generally hazardous infectious disease and the transmission of the disease cannot be prevented otherwise. Isolation means that a person with an infectious disease is isolated from those who are healthy. The purpose is to avoid possible further transmissions. A communicable disease control physician gives the order to isolate and determines the duration of isolation.

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?

Detainee has the right to appeal the detention decision to a district court. A decision on a less coercive precautionary measure cannot be appealed. The district court's decision may not be appealed but the detainee may make a complaint about it. There is no deadline for the complaint. The complaint shall be handled with urgency.

On the basis of a complaint on the basis of procedural fault, a final judgment may be annulled:

- (1) if the court had no quorum or if the case had been taken up for consideration of the merits even though there was a circumstance on the basis of which the court should have dismissed the case on its own motion without considering the merits;
- (2) if an absent person who had not been summoned is convicted or if a person who had not been heard otherwise suffers inconvenience on the basis of the judgment;
- (3) if the judgment is so confused or defective that it is not apparent from the judgment what has been decided in the case; or
- (4) if another procedural error has occurred in the proceedings which is found or can be assumed to have essentially influenced the result of the case.

It is stated on the Act on the Treatment of Aliens Placed in Detention and Detention Units that the detained applicant has the right to see and communicate with a lawyer who is his or her representative. Also, the director of the detention unit shall see to it that the detained applicant has an opportunity to draw up an appeal document and a practical opportunity to participate in the processing of the appeal in the court. A foreign national has the right to use a counsel and interpreter in matters related to this act.

Pursuant to Section 123 of the Aliens Act, when deciding on detention, the person detained or his or her legal representative shall be notified in writing immediately, in a language that he or she understands of the grounds for detention and shall be given information about the processing of the matter on which the detention is based and of the possibility of obtaining legal aid.

**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 authorities handling the matter shall order a detained applicant to be released immediately once the grounds for detention cease to exist. A detained applicant shall be released no later than six months after the decision on detention was made. The period of detention may be longer than this, however not exceeding 12 months, if the detained applicant does not cooperate in enforcing the return or if the third country fails to produce necessary return documents, and the enforcement of the removal is delayed for these reasons.

An unaccompanied child under 15 years of age may not be detained. If the child is aged 15 years or more section 122 of the Alien's Act concerning the detaining of a child, is implemented. An unaccompanied child aged 15 years or more who is applying for international protection may not be detained before a decision on his or her removal from the country has become enforceable. A detained unaccompanied child shall be released no later than 72 hours after the start of the detention. For special reasons, the detention may be extended by up to 72 hours.

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

Where a detained applicant has not been ordered to be released, the district court with jurisdiction over the place of detention shall, at the request of the person detained, rehear the matter concerning the detention or exceptional placement referred to in section 123 a (2–3). The matter shall be reheard without delay and no later than four days after the submission of the request. However, a detention matter does not have to be reheard earlier than two weeks after the decision of the district court to continue the detention of the applicant at the facility concerned. The provisions of section 5 of the Act on the Calculation of Statutory Time Limits (150/1930) do not apply to the determination of time limits referred to in this section.

When a decision concerning the detention of a child held in detention with the person who has custody of the child is reheard by the district court, the court shall reserve the



opportunity for a social worker to provide his or her statement. The district court shall release the child, unless there are special reasons for continuing the detention.

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

Precautionary measures referred to in sections 118–122 and 122 a may be imposed on an applicant if this is essential and proportionate for: 1) establishing that the applicant meets the conditions for entry into or stay in the country; or 2) preparing a decision to remove the applicant from the country or ensuring the enforcement of such a decision, or otherwise supervising his or her departure from the country.

- Obligation to report, this is mostly used precautionary measure
- Other obligations, mostly used precautionary measure
  - An applicant may be ordered to hand over his or her travel document and travel ticket to police or border control authorities or to give them the address where he or she may be reached.
- Obliging to give a security; An applicant may be obliged to give a security to the State for the expenses related to his or her residence and return. This is rarely used.
- Residence obligation, an applicant who has applied for international protection may be ordered to reside in a specified reception centre and report to the centre one to four times a day.
- A child's residence obligation, an unaccompanied child aged 15 years or more who has applied for international protection and been issued with a removal decision that has become enforceable may be ordered to reside in a specified reception centre and report to the centre one to four times a day instead of being detained.

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?

If the precautionary measures referred to in sections are insufficient, the applicant may be detained on the basis of an individual assessment. In addition to the Aliens Act, other guidance has been given to Police Departments by National Police Board.

Less coercive precautionary measures are the primary option. Decisions on detention or the use of less coercive precautionary measures are always based on the case specific consideration of the overall situation, in which the reasonability and necessity of the measures as well as the individual's vulnerability are considered. However, if precautionary measures are considered to be ineffective, the applicant may be detained, provided that the conditions laid down in Section 121 (risk of absconding, establishing identity, the applicant has committed an offence etc.) of the Aliens Act are met. The conditions for detention will not be considered unless the above-mentioned general conditions for imposing precautionary measures are first met and it is not used if the precautionary measure that has already been imposed and it is effective for the person in

question. In cases involving children, social welfare authorities are heard to ensure that the decision made is in the best interest of the child.

**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)?

If a detention decision is made, the third-country national is secured with essential health care and social services for the duration of their detention. The Act on the Treatment of Aliens Placed in Detention and Detention Units states that detainees are provided with accommodation and care as well as full board. They have access to legal aid. The specific needs of vulnerable groups are taken into account. People representing different sexes shall be accommodated separately, unless it is a question of family members wishing to reside in shared accommodation. A detained applicant is entitled to essential health care services. Also, life management support activities that are suitable for the circumstances in the detention unit as well as the opportunity to follow media and use library services shall be arranged.

## 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?

According to the Alien's Act, the applicants for international protection are entitled to legal aid during the entire application process.

**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?

In the Alien's Act it is stated that a person may be granted legal aid when processing a matter discussed in the said Act. It is stated in the Legal Aid Act that legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation.

Legal aid is granted on the basis of the applicant's income, expenditures and maintenance liability, that is, his or her available means. At the moment public legal aid is available for free and with 0% deductible for persons whose available means are up to EUR 600. The limits are based on government decree. Source and details: <https://oikeus.fi/oikeusapu/en/>

**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?

An appeal must be made within 30 days from the service of the decision.

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

The petition of appeal must be submitted to the Finnish Immigration Service. In an asylum matter, the petition of appeal may also be submitted to a competent administrative court. The appeal can be submitted in person, by post, through an attorney, or by courier. The appeal must be received no later than at 16.15 hours on the last day of the deadline. The appeal can also be delivered as a telefax or by email or filed on the online service of the administrative court.

The petition of appeal must indicate

- the appellant's name, municipality of residence, postal address and telephone number
- contact details of the attorney or representative
- the postal address and possible other address to which the documents relating to the judicial procedure may be sent (address for service)
- decision being appealed
- the change requested to the decision
- justifications for the appeal

The following must be attached to the petition of appeal:

- decision being appealed, including appeal instructions
- advice of receipt or other report on when the appeal period began
- documents invoked by the appellant
- the attorney's power of attorney.

**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?

There is no legal provision to implement APD 9(2) in cases of extradition and according to Aliens Act an applicant may reside legally in the country while his or her application is being processed until there is a final decision on the matter or an enforceable decision on his or her removal from the country. It should be noted that Finnish Immigration Service has no authority to examine nor decide extraditions.

**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. In particular situations defined by Aliens Act, subsequent application that is inadmissible does not prevent the enforcement of previous return decision. The assessment of admissibility has to be done by Finnish Immigration Service as determining authority. There is also a general requirement in Aliens Act that any return decision may not be enforced if there is reason to suspect that it would lead to direct or indirect refoulement. In practice, if a suspicion arises, it has to be assessed by Finnish Immigration Service.