

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

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National Directorate-General for Aliens Policing of Hungary

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?

If under the Dublin regulations the asylum authority takes charge of a foreign national applying for asylum in another Member State, the foreign national is to be provided with the opportunity to submit an application. If the foreign national does not want to submit an application, the asylum authority shall notify the aliens policing authority of the fact, so that the necessary measures will be taken. From the date on which the application for international protection is lodged, the foreign national applicant may be accommodated in a reception centre if (s)he is in need and is entitled to the reception conditions laid down by law free of charge.

How long do these steps normally take?

It takes only hours from the actual appearance before the National Directorate-General for Aliens Policing, Hungary (hereinafter referred to as NDGAP) to the declaration as described above. In practice, the most time-consuming element of the declaration procedure is the arrangement of ensuring communication in the native language of the person concerned, as well as the accurate drawing up and recording of the minutes.

An asylum interview, which is mandatory to take place under the rules of the asylum procedure, is typically not held at this time, as it would take too long after the transfer has taken place, and pose a detriment to the applicant for international protection after the travel/transit.

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

In practice, the actual contact with the applicant for international protection in case of a need for international protection expressed in another Member State and maintained in Hungary is precisely about this information and the designation of accommodation. The information is provided on the initial contact with the applicant. An asylum interview, which is mandatory to take place under the rules of the asylum procedure, is typically not held at this time, as it would take too long after the transfer has taken place, and pose a detriment to the applicant after the travel/transit.

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 a reception centre, provision of three meals a day, seasonal clothing, sanitary utensils, tableware, medical care are made available.

The applicant is entitled to the following allowances and benefits:

- financial conditions of admission: accommodation and supply in a reception centre, travel allowances, public burial expenses,
- medical care,
- reimbursement of education and training costs,
- cash benefits.

Cash grants: support for permanent departure from the country.

Accommodation and care in a reception centre:

- accommodation,
- three meals a day (breakfast, lunch, dinner) or an equivalent contribution to meals,
- for personal use, eating utensils and toilet facilities, or an equivalent sanitary allowance and clothing,
- the right of family members to share accommodation to protect family unity

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?

Material reception conditions are provided to the persons under a Dublin procedure as per the applicable legislation in effect (see answer to Question 1.2).

The staff of the reception centres ensure that the applicants receive adequate conditions. Applicants may submit a written complain about inadequate care, which are investigated by the NDGAP.

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

Yes.

If 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?

Case-by-case, individualized assessments are conducted.

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

A person seeking international protection is entitled to the following health care services free of charge, if (s)he is not covered by social security:

- a) primary healthcare, examinations and treatment within the scope of general medical practice;

- b) examinations and medical treatment provided by outpatient specialised care in case of urgent need along with the medications and materials for medical dressings used in care;
- c) care in an inpatient medical institution in case of urgent need, as well as medical treatment as prescribed by the doctor treating the patient of the urgent case – including surgical interventions, as well as the medical supplies and prosthetic devices used in the medical treatment –, medical care, medications, materials for medical dressings for the medical treatment and meals;
- d) following outpatient specialised care or care in an inpatient medical institution, up until recovery or the condition is stabilised
 - da) required examinations and treatments;
 - db) medicinal products not included in Point h) and which cannot be substituted by any other medicinal products along with medical aids required for the administration of the medicinal product;
 - e) in addition to those defined in Subpoint db) of Point d), other medical aids ordered by a doctor and their repair;
 - f) emergency dental care and orthodontic treatment for the retention of teeth provided that the treatment falls into the reimbursement category of the lowest rate;
 - g) prenatal and obstetric care, and intervention for the purpose of terminating a pregnancy under the conditions laid down in the Act on the Protection of Foetal Life;
 - h) medications and medical dressings that may be ordered either free of charge for those “entitled to public healthcare” as per separate legislation, or with 90% or 100% social insurance coverage as per a ”healthcare provision”;
 - i) patient transport in case of services defined in Point b), Point c), Subpoint da) of Point d) and Point g), provided that their medical condition does not allow any other types of transportation;
 - j) compulsory vaccinations by age.

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?

Persons seeking international protection shall receive health care provided by a general practitioner at the reception centre or asylum detention. Persons seeking international protection staying in private accommodation shall be entitled to health care provided by the general practitioner with a territorial service provision obligation at the place of accommodation of the persons seeking international protection.

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

If the person seeking international protection is an unaccompanied minor, the asylum authority shall take action to trace the person responsible for the minor with the exception where it can be presumed on the basis of information received by the asylum authority that there is conflict of interest between the person responsible for the minor and the minor or, if tracing the person responsible for the minor is not justified for other reasons bearing in mind the best interests of the child. The asylum authority shall dispose on the placement of the unaccompanied minor in a child care institution.

The asylum authority provides the physical material conditions for the education of minors accommodated in a reception centre. They are entitled to five meals a day, and expectant mothers are also entitled to five meals a day. Other persons in need of special treatment are provided with the necessary health and psycho-social care is provided.

People with special needs:

- have the right to separate accommodation in the reception centre,
- the minor applicant for international protection has the right to be provided with food, clothing, mental and health care, care and education appropriate to his/her age, health and other needs, in order to promote his/her physical, mental, emotional and moral development during the placement in the reception centre,
- health care services justified by the state of health of persons with special needs, rehabilitation, psychological and clinical psychological care and psychotherapeutic treatment.

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 asylum authority shall examine whether in respect of the persons seeking international protection the rules applicable to persons in need of special treatment apply.

In order to determine whether the person seeking international protection is in need of special treatment, the asylum authority may use the assistance of a medical or psychological expert. Such an examination may only be conducted with the consent of the person concerned.

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?

Pursuant to Section (1) of § 31 of Act LXXX of 2007 on Asylum (hereinafter referred to as Asylum Act), if the asylum authority has limited or withdrawn the material reception conditions, a request for judicial review shall be submitted to the asylum authority within

three days from the communication of the decision. The asylum authority shall forward the request for judicial review, together with the documents of the case and its counter-application, to the court without delay. Moreover, Act I of 2017 on the Code of Administrative Court Procedure provides for the institution of immediate judicial protection.

In addition to the above, the person accommodated may also make a complaint about the reception conditions in writing or in verbal form.

Pursuant to Subpoint af) of Section (3) of § 31/F of the Asylum Act the person seeking international protection placed in asylum detention shall be entitled, in addition to the material conditions of reception, to make objections, complaints and public announcements and to submit requests. Pursuant to § 31/G of the Asylum Act, if the asylum authority has not complied with the obligation stipulated by Sections 31/E-F, the person held in asylum detention may submit a complaint addressed to the head of the detention facility. In case of a rejection of the complaint, the person held in asylum detention may turn to the Head of the asylum authority within 8 days. In the event of a further dispute over the final reply to the complaint, the partial issue raised in the complaint may be challenged in a request for review brought against the decision on the merits or the order closing the case. [Section (6) of § 32/R and Section (1) of § 68 of the Asylum Act.] The provisions on the handling of a complaint submitted by a person seeking international protection placed in asylum detention are set out in the following pieces of legislation: § 13-14 of Interior Minister Decree no. 29/2013 (VI.28.) on the rules of execution of asylum detention and bail, the Director-General's measure no. 9/2020 on NDGAP's complaints handling policy, the Director-General's measure no. 14/2019, and the Director-General's measure no 19/2017. Other applicable legislation elements are: Section (4) of § 1 and Subpoint a)-d) of Section (1) of § 3 of Act CLXV/2013 on complaints and public announcements, as well as Act XXXIV of 1994 on the Police.

It is not only the person accommodated who may make a complaint about the reception conditions in writing or in verbal form. The Director-General's measure no. 9/2020 on NDGAP's complaints handling policy sets out the rules for the examination of complaints. Other applicable legislation elements are: Section (4) of § 1 and Subpoint a)-d) of Section (1) of § 3 of Act CLXV/2013 on complaints and public announcements, as well as Act XXXIV of 1994 on the Police. In the event of a further dispute, the partial issue raised in the complaint may be challenged in a request for review brought against the decision on the merits or the order closing the case by a person seeking international protection accommodated in an open reception centre. [Section (6) of § 32/R and Section (1) of § 68 of the Asylum Act.]

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?

Following a Dublin transfer to Hungary, the applicant needs to declare that he/she wants Hungary to conduct the asylum procedure initiated on the basis of his/her application in another Member State.

The applicant will be interviewed by the aliens policing authority upon arrival. If he or she declares that he or she wishes to have his or her application examined by Hungary, the asylum authority immediately registers him or her as an asylum seeker and, if necessary, allocates him or her accommodation for the duration of the procedure.

The applicant will be informed of his/her rights and obligations in relation to the procedure and that he/she will be interviewed in person by the asylum authority at a later stage. The registration is completed at port of arrival.

How long do these steps normally take?

Making a declaration takes place practically immediately after transfer.

Upon the declaration of the applicant the status of the application is “lodged”. The asylum authority takes fingerprint, makes EURODAC search, takes photo from the applicant and records the application in the asylum system. These procedural steps are taken at the port of arrival.

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 applicant no longer has the legal right to remain in the territory of Hungary in view of his/her subsequent application, an aliens policing measure may be ordered.

There are no different steps in the lodging procedure if the application is considered as a subsequent application. The lack of legal right to remain is not linked to the admissibility.

According to the Hungarian legislation an application shall be considered inadmissible if the application is a subsequent application, where no new facts or circumstances relating to the examination of whether the applicant qualifies as a refugee or as a beneficiary of subsidiary protection have arisen

How long do these steps normally take?

It varies from case to case.

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

In the legislation in force and in the information material of the authority, as well as from the information provided by the authority.

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

It may result in an accelerated procedure or constitute a ground for inadmissibility.

The examination procedure of the application may be accelerated if the applicant has introduced a subsequent application that is not inadmissible in accordance with the legislation explained in question 2.1.

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 all of them.

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?

The Hungarian legislation does not allow for the ordering of detention for such a reason; however, the applicant may be placed in quarantine from an open reception centre.

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?

He/She may submit an objection against it.

A person seeking asylum may object to the detention order within three days of notification of the decision.

An objection to the detention order may be made orally or in writing. An oral objection shall be recorded in the minutes. The asylum authority will send the objection to the competent district court.

The court of jurisdiction by reference to the asylum seeker's habitual residence shall adopt a decision for such complaints within eight days.

According to the court's decision any measure that has been omitted must be carried out, and/or any infringement must be remedied.

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 maximum duration of detention is 8 months, it is 30 days for families with minors, and unaccompanied minors shall not be detained.

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

The decision may be ordered for 72 hours, which may be extended by court for up to 60 days. It may be extended again in case of continued justification.

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

Ordering a stay at a designated place of residence, subjecting the person concerned to the obligation to appear in person regularly, and in some cases asylum bail is used.

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 abovementioned measures are used in cases when detention is not justified.

A lenient measure is applied when, in the individual case concerned, ordering detention as per the possible legal grounds for detention would impose an excessive and disproportionate burden, in particular because of an objective vulnerability factor. A similar disproportionate hardship may also be taken into account in terms of the place of detention, e.g. if the provisions / accommodation of the person can be better arranged in another way, in another place, for infrastructure or work organisation reasons.

According to the Hungarian legislation:

With a view to conducting the asylum procedure or for the purpose of transfer under the Dublin process, the refugee authority shall be entitled to detain any asylum seeker whose right of residence lies solely based on the application for asylum for the following reasons:

- when the person seeking asylum is detained subject to an expulsion procedure, and it can be substantiated on the basis of objective criteria, including that he or she already had the opportunity to submit an application for international protection, or there are reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the expulsion decision;
- in order to determine those elements on which the application for asylum is based, if those facts and circumstances could not be obtained in the absence of detention, in particular when there is a risk of absconding of the asylum-seeker.

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)?

The implementation of detention is regulated by legislation in Hungary [cf. Interior Minister Decree no. 29/2013 (VI.28.)]. The right of contact with UNHCR and access to institutions, as well as the rights related to legal representatives are also included in the Asylum Act. Even internal norms restricting visits issued during the COVID-19 pandemic did not limit these rights.

Conditions provided to applicants whilst in detention:

- use of native language
- right of representation
- access to contacts (receiving and sending letters, packages; receiving guests by prior arrangement)
- right to maintain contact and communicate/receive visits with legal representative, legal advisers, counsellors ; persons representing NGO-s, UNHCR)
- right to practise religion
- general medical and emergency care
- right to lodge a complaint
- entitled to three meals a day / five for children (meals can be supplemented at own expense)
- right to leave the institution to withdraw money upon request
- sports facilities; access to open-air space
- playrooms pedagogical sessions for children

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 any stage.

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

No test applied. The free legal aid of the district office, which is also available to Hungarian nationals, is available to persons placed in asylum detention and all other applicants for asylum. The relevant contact details are displayed in the reception facilities of NDGAP.

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 7 days from the communication of the decision in the case of inadmissibility and within 8 days from the communication of the decision in case of a decision not to grant international protection.

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

The authority typically accepts an appeal without having to meet any particular formal requirements if the nature of the request is clear from the declaration. The applicant can write the appeal in his/her own language and no specific form is used for the appeal. The only condition is that the appeal must be submitted in person to the asylum authority.

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?

The Hungarian legislation does not avail itself of that possibility.

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?

If the asylum authority establishes that the subsequent application was submitted directly before the implementation of the applicant's expulsion and a decision of refusal is made on the application due to being inadmissible on the grounds of a subsequent application, the applicant shall not be entitled to the right to remain in the territory of Hungary after the decision has been communicated.

If the same applicant submits an application after having received a decision of refusal on a previous subsequent application, which can no longer be legally challenged, the applicant shall not be entitled to the right to remain in the territory of Hungary.