

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

The information was provided on: 30 May 2023

The information was provided by:
Polish office for foreigners

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?

An applicant for international protection who has been transferred under the Dublin III procedure in order to receive social assistance should report to the Reception Centre in Podkowa Leśna – Dębak.

An epidemiological filtering procedure is applied to all first-time applicants for social assistance. After registering at the reception centre, the applicant may receive assistance in the form of accommodation at the centre or benefits in cash to cover the costs of his/her stay on the territory of the Republic of Poland.

The applicant doesn't have to make an appointment. The reception centre receives applicants from 8:00 till 16:00 every working day. The applicant receives leaflets concerning social assistance and medical care in a language understandable for him/her.

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?

Social assistance may be provided to applicants for international protection on the territory of the Republic of Poland:

- at the centre which includes:

- accommodation,
- daily food rations compliant with the cultural norms of foreign nationals,
- cash equivalent instead of food rations in the amount of PLN 11/day for children up to the age of 6 and primary or secondary school students granted for organisational reasons,
- a monthly allowance for personal expenditures in the amount of PLN 50/month,
- a continuous financial assistance for purchasing cleaning and personal hygiene products in the amount of PLN 20/month.
- a single financial assistance for the purchase of clothing items and shoes in the amount of PLN 140
- additional allowance for works carried out for the benefit of the centre in the amount of PLN 50/month.

or

- outside the centre, in the form of cash benefits to cover the costs of the stay in the territory of the Republic of Poland, granted by decision on the application or ex officio. Social assistance may be provided in the form of cash benefits where it is necessary or appropriate for organisational reasons or:

- ensuring the safety of the applicant for international protection, with particular attention to the situation of single women,
- protection of public order
- protecting and maintaining family relationships
- preparing the applicant to lead an independent life outside the centre,
- upon receipt of a decision on the granting of refugee status or a decision on the refusal of refugee status if subsidiary protection has been granted.

Applicants are free to decide for themselves where they wish to live on the territory of the Republic of Poland.

The amount of cash benefits is currently as follows:

1. for a single person – PLN 25/day
2. for a two-person family – PLN 20/day/person
3. for a family of three – PLN 15/day/person
4. for a family of four and more PLN 12.5/day/person.

In addition, applicants in receipt of the above forms of social assistance are also eligible to:

- assistance in the form of the Polish language lessons and basic materials necessary for learning the language and
- teaching aids for children receiving education and care in public institutions, primary schools or secondary schools;
- cover, as far as possible, the costs of children's extra-curricular and recreational activities;
- use public transport funding:
 - in order to participate in international protection proceedings,
 - for medical treatment or immunisation,
 - in other particularly justified cases.

Social assistance is paid by the 15th of each month to the address indicated by the applicant.

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 Department for Social Assistance performs the tasks of the Head of the Office related to social assistance and medical care provided to applicants for international protection on the territory of the Republic of Poland.

Applicants for international protection are entitled to social assistance and medical care, unless the negative conditions specified in the Act on the Granting of Protection to Foreigners on the Territory of the Republic of Poland are met. Social assistance and medical care is not available to a third country national who:

- 1) enjoys subsidiary protection;
- 2) is staying on the territory of the Republic of Poland on the basis of a humanitarian residence permit or a permit for tolerated stay – after expiry of the periods referred to in Article 74 item 1 of the aforementioned Act.
- 3) resides on the territory of the Republic of Poland on the basis of a temporary residence permit, a permanent residence permit or a residence permit for a long-term EU resident;
- 4) is in foster care;
- 5) is in a guarded centre or custody for foreigners;
- 6) is in pre-trial detention or serving a custodial sentence.

Assistance for applicants applying for international protection includes:

- 1) accommodation in the centre with the included social assistance package (item 1.2);
- 2) a cash benefit to cover their own stay in the territory of the Republic of Poland;
- 3) medical care;
- 4) assistance in voluntary return;
- 5) assistance in the event of the applicant's transfer to another Member State responsible for examining an application for international protection under Regulation 604/2013

In accordance with the Act on granting protection to foreigners on the territory of the Republic of Poland, social assistance and medical care are provided throughout the procedure for granting international protection, i.e.:

- from the day the applicant reports to the centre, except in special situations involving a threat to the applicants' life or health, where medical care is provided from the day the application for international protection is lodged;
- for 2 months following notification of the final decision granting international protection;
- for a period of 14 days from the date of notification of the final decision to close the procedure, if the procedure for granting international protection has been closed;
- for a period of 30 days from the date of notification of the final decision refusing refugee status or subsidiary protection or declaring the application for international protection inadmissible;
- for 2 months from the date of notification of the final decision on the application for international protection in other cases.

The period of social assistance and medical care is extended until the day on which the applicant should leave the territory of the Republic of Poland if he/she has submitted an application for assistance in voluntary return, has notified the Head of the Office in writing of his/her intention to return voluntarily after a decision on refusal to grant refugee status or subsidiary protection has been issued against him/her, is transferred to another Member State responsible for examining the application for international protection pursuant to Regulation 604/2013.

Social assistance and medical care may also be extended if a separate procedure for international protection is pending in respect of the spouse or their minor children staying in the centre, in which case the period of assistance for the spouse and their minor children will end at the same time as the extended period of assistance.

All centres for applicants have an open structure. Currently, the Head of the Office runs nine centres. Applicants staying in the centres are obliged to comply with the legal regulations in force on the territory of the Republic of Poland, as well as with the rules and regulations for staying in the centres for applicants. Orientation courses are organised in the centres for newly arrived applicants as well as for applicants under the care of the Department for Social Assistance of the Office for Foreigners, where information is provided on topics related to social assistance and basic functioning in Poland, i.e. norms, customs, traditions, education, medical care and employment issues. The orientation courses are organised according to age groups, i.e. children, young people and adults.

Stay in the refugee centre starts from registration of the applicant's personal data. After the registration the applicant receives identifier, regulations concerning stay in the centre (including the applicant's rights and obligations), leaflets concerning: social assistance and medical help, NGOs and CSOs dealing with applicants' cases, procedures of preventing violence in the refugee centres. The applicant receives also what he needs, namely: towel, cutlery, dishes and bedding. The applicant has to give all above mentioned things back when leaving the centre.

Range of the assistance that is providing in the reception centre covers: accommodation; daily food; financial assistance (pocket money); financial assistance for personal care

products; one-time financial assistance for shoes and clothes; reimbursement of travel expenses when the applicant travels with the aim to: - fulfil requirements resulting from the application for international protection (i.e. interview), - appear for medical treatment or protective vaccination, - other justified cases; courses of the Polish language and basic materials necessary to learn it; teaching aid for children – namely: school starter kit or a voucher to buy it as well as textbooks for students who do not receive them at school; financial equivalent instead of food (concerns children under 6 primary and high school students), reimbursement of costs (as far as possible) of extracurricular activities and leisure and sport activities for children.

All refugee centres run by the Head of the Office for Foreigners are open. It means that applicants are allowed to leave the centre during the day, however they should go back to the centre till 23:00. In case they wouldn't go back to the centre within 2 days they will be deprived of the social assistance (they will be deleted from the list of residents).

A applicant admitted to the centre shall be accommodated in the living quarters of the centre together with his/her minor children if this is in the best interest of the minor children and, if possible, with the consent of the minor, also with other members of his/her family. Accommodation in the centre is based on the age and sex of the resident. An applicant requiring special treatment will be accommodated according to his special needs (of the 9 centres for applicants run by the Office for Foreigners – 6 are adapted for persons with disabilities).

Also taking into account the needs of single women and women with children related to improving the security of this group of applicants, the Office for Foreigners has separated one of the buildings of the centre in Dębak, which is intended to accommodate single women and women with children.

Each centre has a medical point (doctor's, nurse's and psychologist's offices), a room for isolation of the sick with a separate sanitary unit, a canteen with kitchen facilities for preparation of meals or a room for their distribution (accommodated persons receive full board, i.e. 3 meals adapted to cultural norms and medical recommendations, while children under 6 years of age and primary or secondary school pupils, in accordance with the provisions of the Act on granting protection to applicants within the territory of the Republic of Poland, receive a cash equivalent in exchange for board), kitchens for foreigners, a day room, a classroom, educational rooms, a prayer room, a children's playroom, a laundry/dry room.

Pursuant to the Regulation of the Minister of the Interior of 23 October 2015 on the regulations for the stay in a centre for foreigners (Journal of Laws of 2015 item 1828) the application of procedures for counteracting all cases of violence and reacting to them at the centre, in particular taking into consideration violence against applicants below 18 years of age,

The Department for Social Assistance cooperates on an ongoing basis with the Police and the Border Guard on security issues and takes immediate action in the event of a threat to the security of applicants for international protection. The security staff employed at the centres ensure the safety of applicants. Public tenders are also used to select companies to provide personal and property guarding services. In managed centres, on the other hand, physical protection is the responsibility of the organisation running the centre, with which the Immigration Service has signed a contract to run the centres. Security is provided 24 hours a day by security guards working in shifts. It should be noted that issues related to the safety of applicants in the centres are handled with particular care and sensitivity by all staff of the centres.

Since 25 March 2008, the Office for Foreigners is a party to the Agreement on Standard Operating Procedures for Identifying, Preventing and Responding to Cases of Sexual or Gender Based Violence against applicants placed in Centres for Applicants for International Protection. The parties to the agreement are the Head of the Office for Foreigners, the Commander-in-Chief of the Police, the Office of the United Nations High Commissioner for Refugees, the La Strada Foundation and the Anna Lindh Legal Aid Centre. The form of cooperation between the parties to the agreement is Local Interaction Teams (LIT). They include, among others:

- an employee of the Office for Foreigners responsible for the centre concerned,
- an officer of the local police unit in whose area the centre operates,
- a representative of the NGO party to the agreement or any other NGO invited to cooperate.

Local Interaction Teams also work together with medical personnel, the centre administrator, representatives of the refugee community.

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

In case the applicant lodged a subsequent application and will appear in the reception centre he/she can receive the same social assistance as the applicants applying for international protection for the first time.

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?

Medical care for persons applying for protection on the territory of the Republic of Poland is determined by the provisions of Polish law and is the same for applicants and Polish citizens, including basic medical care, diagnostics, specialist care, hospital care, vaccination of children. The scope of the right to health care for the above-mentioned group of applicants is the same as the scope of the right to publicly funded health care for persons covered by compulsory or voluntary health insurance. The only exception to this rule is spa treatment and rehabilitation, which are excluded from the list of services provided free of charge to applicants. Foreigners use the same medical facilities as Polish citizens, have access to the same diagnostic methods and treatments, including surgery, and receive free medicines and dental care. They are eligible for drug treatment programmes, including antiretroviral treatment, when clinically indicated. The children take part in the calendar vaccinations and, if necessary, so-called individual vaccination calendars are set up for them. Both outpatient and inpatient rehabilitation services are available to applicants. When medically necessary, they are also placed in residential care facilities. Applicants for international protection are therefore guaranteed comprehensive medical care, including access to compulsory vaccinations.

Medical care is available at the medical points in all the centres for applicants and at the complex of services for foreigners at ul. Taborowa 33 Each point is staffed by a doctor, nurse and psychologist who provide primary care and referrals for specialist testing. Health care for applicants living outside the centres is provided by facilities in provincial towns. The registration and coordination of medical appointments is done by telephone via a helpline, where the applicant is given information about the time and place of the appointment and how to fill prescriptions.

Medical care for applicants for international protection in Poland is provided by a medical institution on the basis of a civil law agreement concluded with the Office for Foreigners.

In the field of health care, the Office for Foreigners carries out epidemiological protection procedures, which involve a thorough check of the health status of foreigners crossing Polish borders and applying for international protection, aimed primarily at the diagnosis, isolation and immediate treatment of patients suffering from infectious diseases that pose a direct epidemiological threat to our society. The implementation of this policy is through the use of epidemiological filters in the reception centres in Biała Podlaska and Dębak - Podkowa Leśna. Every foreigner who is admitted, both in our own centres and in rented centres, undergoes a special three-stage preliminary procedure under the Sanitary and Epidemiological Filter, which includes an interview with a medical questionnaire and a medical examination, a laboratory examination of blood and urine (e.g. for B and C virus inflammation, HIV positive and positive (+) VDRL syphilis reactions) and a chest x-ray.

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 universal health insurance system is not the basis for the health care guaranteed in Poland to applicants for international protection. The legislation in force in Poland provides for applicants for international protection to have access to health care financed from a separate budget, with the majority of health services remaining at the disposal of the Head of the Office for Foreigners. The prevention and treatment of this group of patients is funded from this budget. In the case of certain health services, e.g. those provided as part of programmes or immunisations, the source of funding is the budget of the minister responsible for health or the budget of another government agency. However, the above does not change the general principle that the Head of the Office for Foreigners is responsible for the proper functioning of the health care system for applicants for international protection on the territory of the Republic of Poland. The medical services are provided on the basis of an agreement under civil law between the Office for Foreigners and the medical service provider.

The scope of the right to health care for the above-mentioned group of applicants is the same as the scope of the right to publicly funded health care for persons covered by compulsory or voluntary health insurance. The only exception to this rule is spa treatment and rehabilitation, which are excluded from the list of services provided free of charge to foreigners. Applicants for international protection are therefore guaranteed comprehensive medical care, including access to compulsory vaccinations.

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)?

In accordance with the provisions of the Act on the Protection of Foreigners on the Territory of the Republic of Poland, a person is considered to be in need of special treatment with regard to social assistance if one of the following needs are present:

- 1) When accommodation is provided in the centre:
 - a) accommodation needs to be adapted to the needs of person with disabilities,
 - b) there is a need for providing a single room,
 - c) there is a need for accommodation that is intended exclusively for women or women with children;
- 2) There is a need for placement in a nursing, assisted living or hospice facility;
- 3) There is a need for placement in foster care that corresponds to their psycho-physical situation;
- 4) There is a need for adapting the diet to the condition.

In order to realise appropriate identification and medical care for people from so-called vulnerable groups, appropriate provisions were ensured in the contract with the Medical Provider providing medical care. The provisions of the agreement include an obligation for medical personnel to participate in the process of identifying applicants in need of special treatment in international protection procedures or in connection with the social assistance provided to them, in particular with regard to accommodation and food.

A procedure for dealing with applicants in need of special treatment has been established for the purposes of the Social Welfare Department of the Office for Foreigners. It describes in detail the stages of assistance provided to a vulnerable person who requires special treatment in international protection procedures or in relation to the social assistance granted.

Taking into account the needs of single women and women with children related to improving the security of this group of applicants, the Office for Foreigners has separated one of the buildings of the centre in Dębak, which is intended to accommodate single women and women with children.

Psychological care for applicants for international protection on the territory of the Republic of Poland is provided by psychologists working in the centres for applicants and in the team of the Foreigners' Service. Within the framework of health and psychological care, Petra Medica provides a psychologist on duty in the Centres for Foreigners and the Foreigners' Service Team – at least 4 hours per week for a group of 120 applicants and an additional 1 hour per week of on-call time for each additional group of 50 foreigners, from Monday to Friday, except on public holidays, from 8:00 to 16:00.

In addition, in cases deemed exceptional by the Office for Foreigners, the medical operator provides a psychologist's consultation for children and adolescents. The need to provide a child with immediate psychological counselling in the centre for foreigners with jurisdiction over the child's place of residence shall be notified by telephone by an employee of the centre, and the date of the counselling shall not be later than 2 working days (i.e. days from Monday to Friday, excluding public holidays) from the date of the notification.

Under the Act of 14 December 2016 on the Education Act, minors applying for international protection are entitled to education and care in public kindergartens, public primary schools and secondary schools under the same conditions as Polish citizens until they reach the age of 18 or graduate from secondary school. In fulfilment of the obligations imposed by the Act on the Protection of Foreigners on the Territory of the Republic of Poland, the Head of the Office provides underage applicants who are being educated and cared for in public institutions, primary and secondary schools with educational material in the form of a school kit, as well as the purchase of textbooks for those pupils who do not receive them at school or in an institution.

The Office provides applicants receiving social assistance from the Office for Foreigners with Polish language tuition and basic materials necessary for learning the language and, as far as possible, with the costs of children's extracurricular and recreational activities.

Children's Polish language learning emphasises the language of school education. However, as appropriate, remedial classes and homework help are also part of the activities. The teacher in charge is in contact with the schools attended by the children, which allows for the exchange of information on progress and any learning problems giving the opportunity to adapt the activities carried out to the children's needs. Children who start their compulsory schooling in Poland have the opportunity to participate in a Polish language course designed to facilitate their adaptation to the school community. It should be remembered that these courses are in the form of learning Polish as a foreign language with realistic and socio-cultural elements. The Office has also introduced language teaching in the form of distance learning for children receiving support outside the centres for applicants.

Polish language courses are also offered to adult applicants for international protection and temporary protection and who receive social assistance from the Office. In addition, Polish language courses are organised in Warsaw for adult applicants who receive cash benefits to cover the costs of their own stay on the territory of the Republic of Poland and who reside in Warsaw or the surrounding area. In addition, the possibility of providing the above-mentioned courses at a distance, which can be used by applicants under the supervision of the Office for Foreigners and residing anywhere in Poland, has been introduced. Teaching in adult groups is based on standardised teaching materials at A1 and A2 levels with B1 elements, and the programmes take into account the specific communication needs of applicants for international protection in Poland, including real-life and socio-cultural content.

In addition, centres for applicants provide educational and adaptation classes for children between the ages of 3 and 6. Classes are 5 hours a day, 5 days a week, taught by qualified and experienced teachers. The activities are designed to engage pre-school children in cooperative activities and games, and to create a friendly atmosphere and sense of security. As a basis for their entry into compulsory education, the classes also focus on the children's didactic, motor and emotional development. Educational talks on children's rights and protection from violence and abuse are given during classes in accordance with the Child Protection from Abuse Policy.

In November 2016, the Office for Foreigners, in cooperation with the Empowering Children Foundation, adopted and implemented the "Policy for the Protection of Children from Abuse in Centres for Foreigners." The policy was developed within the framework of the project 'We protect children in refugee centres - a comprehensive system to protect children from violence and abuse', co-financed by the National Asylum, Migration and Integration Fund Programme and the state budget, and it obliges all employees of the Department for Social Assistance at the Office for Foreigners, as well as employees of companies and organisations that work on behalf of the Head of the Office on the premises of the centres or run projects in the centres aimed at their residents, to take measures to ensure the safety of all foreign children.

Unaccompanied minors seeking protection in Poland are subject to the same legal provisions that apply to unaccompanied children in Poland. Therefore, unaccompanied minors are not accommodated in centres for foreigners run by the Office for Foreigners,

and from the very beginning of their stay on the territory of Poland, they are placed in foster homes for unaccompanied minors. The Act on the Protection of Foreigners on the Territory of the Republic of Poland limits the competence of the Head of the Office for Foreigners to cover the costs of the stay of unaccompanied minors in foster care to the costs related to the stay of minors in a professional foster family fulfilling the function of a family emergency centre or in an intervention-type foster care centre and to medical care.

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?

Regarding the adaptation of infrastructure to the needs of applicants with disabilities, of the 9 centres for foreigners run by the Aliens Office, 6 are adapted for people with disabilities (both the entrance to the centre building and the rooms and bathrooms inside).

Both outpatient and inpatient rehabilitation services are available to applicants. In addition, in order to ensure proper medical care for persons from so-called vulnerable groups, including persons with disabilities, appropriate provisions have been made in the contract with the Medical Provider providing medical services to applicants. For disabled applicants staying at the centre, the Foreigners' Office provides transport to specialist examinations and rehabilitation courses if their physical condition requires it. On the other hand, applicants for international protection in the Republic of Poland who are handicapped, severely handicapped or bedridden, and whose care cannot be provided in a centre for foreigners, are accommodated in specialised care and treatment centres providing 24-hour care or in inpatient hospices or – home care.

Within the framework of the project “Material and educational support for foreigners applying for international protection in Poland,” co-financed under AMIF funds, purchases of orthopaedic/rehabilitation equipment for the vulnerable group are made as far as possible, including stair lifts, wheelchairs, elbow crutches, rehabilitation beds, anti-decubitus mattresses, rehabilitation bicycles, exercise balls, exercise mats, orthopaedic pillows, walkers, a chair for the disabled, etc.

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?

In accordance with the Act on granting protection to foreigners in the territory of the Republic of Poland, applicants admitted in the centre have the right to submit complaints and requests to the Head of the Office for Foreigners on the functioning of the centre and living conditions. The complaints in their native languages can be submitted directly in the centre, in the application office located in the seat of the Office for Foreigners at 33 Taborowa Street in Warsaw or by sending correspondence to address of the Office.

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?

How long do these steps normally take?

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

How long do these steps normally take?

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

If it turns out after the transfer under the Dublin procedure that the third country national in question has not applied for international protection in Poland, they may submit an application for international protection.

Suppose the applicant left the territory of the Republic of Poland during the procedure for international protection, which was discontinued after the transfer under the Dublin procedure. In that case, they can submit a declaration of intent to continue applying for international protection. Such a declaration is submitted to a Border Guard post, which forwards it to the Head of the Office within 48 hours. The condition is that up to 9 months have passed since the discontinuation of the proceedings. Such a statement can be made regardless of whether it is the first or subsequent proceedings. The statement can only be submitted once during one proceeding.

If it turns out after the transfer under the Dublin procedure that the third country national in question has already applied for international protection in Poland, and the proceedings have been completed with a final decision, they may file subsequent application. There is no limit to the number of applications submitted, and no fees are charged for subsequent applications. The following application shall be submitted at a Border Guard Post (just like the first application, but it does not have to be the same post), and all persons to be covered by this application must be present. There is no separate form for the subsequent application (it is the same as for the first application).

Suppose the Border Guard Unit/Post Commander has previously issued a decision to oblige the third country national to return, and the applicant has submitted the first or the first subsequent application (i.e. the second application in total). In that case, the decision to oblige the applicant to return is not implemented until the proceedings for international protection have been completed.

Each time the application is submitted, the applicant is instructed about their rights and obligations during the procedure. They receive an information leaflet.

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

A subsequent application is *an application for international protection submitted by or on behalf of a third country national after a final decision has been issued about a previous application for international protection concerning them, including discontinuance of the proceedings (Article 2(7a) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland).*

If the applicant has previously been the subject of a spouse's application and/or has given different reasons for the application than previously, they should be summoned for questioning. No hearing shall be held if the motives for applying for protection are the same as in the first proceedings.

If new and relevant circumstances are found that increase the likelihood of granting protection, the Head of the Office issues a decision on the admissibility of the application (there is no complaint possible) and then a decision on the merits (to grant or refuse protection); the decision can be appealed to the Refugee Council.

If it turns out that there are no new circumstances in the case, the Head of the Office issues a decision to declare the application inadmissible (also concerning an applicant who was previously covered by a spouse's application). There is a right of appeal against the decision to the Refugee Council.

If the application is made by a person previously covered by a parent's application as a minor, such a person must be heard. It is a subsequent application within the meaning of the Act but the first independent one, so an entire evidentiary procedure is carried out, and no decision of inadmissibility is issued (only granting or refusing international protection or discontinuing the proceedings).

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?

Article 38 of the Act of 13 June 2003 on granting protection to foreigners on the territory of the Republic of Poland:

An application for international protection is an inadmissible application if:

- 1) another Member State has already granted international protection to the applicant;
- 2) a country which is not a Member State is considered to be a country of first asylum for the applicant;

3) it is a subsequent application for international protection, and no new evidence or facts, or legal circumstances have arisen or been presented by the applicant which significantly increases the likelihood that international protection will be granted;

4) a spouse who has previously consented to the applicant making an application on their behalf has submitted a separate application for international protection, and there are no factual circumstances concerning that spouse which justify making a separate application.

This article does not refer to Article 33(2)(c) of Directive 2013/32/EU: (c) a country which is not a Member State is recognised as a safe third country in respect of the applicant under Article 38 (The safe third country concept).

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?

An applicant has the right to lodge a complaint against the court's decision on placing in a guarded centre/arrest for foreigners/applicants to the regional court within 7 days from the date of the serving of the decision. The court shall consider the complaint within 7 days.

The guarded refugee centre and arrest concern both applicants and foreigners (third country nationals and stateless persons). There are two Acts of law in Poland that relate to detention – the first one concerns applicants, the second one foreigners.

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?

Period of placing in guarded refugee center/arrest may not exceed 6 months.

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

The court shall consider the complaint against the decision on placement in a guarded centre/arrest for foreigners/applicants within 7 days. When the Border Guard applies to the court for an extension of detention, the court verifies whether the alternative measures are possible to apply.

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?

If the foreigners/applicants cannot be placed in a guarded refugee centre/arrest the authorities will instead examine the possibility to make use of alternative measures. At the

moment of apprehension of the person the Border Guard verifies that placing them in a guarded refugee centre will not result in risks to their health or life, if pursuant to the evidence gathered, detention is considered necessary in this case. The authorities can decide to apply alternative measures by themselves. The court also verifies the necessity of placing the foreigner/the applicant in a guarded refugee centre/arrest every time the Border Guard requests to do so.

If it is not possible to place an applicant/foreigner in a guarded centre/detention centre for foreigners, the applicant/foreigner may be obliged to:

- 1) report at specified intervals to a designated authority,
- 2) pay a monetary security in a specified amount, not lower than double the minimum remuneration provided for in the provisions on the minimum wage for work,
- 3) to reside in the designated place.

It is possible to apply one or more of the above measures.

Placing an applicant/foreigner in a guarded centre/ arrest for foreigners is not possible when:

- 1) it could cause danger to the applicant's/foreigner's life or health;
- 2) the applicant's/foreigner's psychophysical condition may justify a presumption that they are subjected to violence;
- 3) they are unaccompanied minors or disabled persons.

In the above cases, alternative measures to detention may be applied.

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 conditions provided to applicants/foreigners whilst in detention meet the standards set out in the regulation of the Minister of Interior of 24 April 2015 on guarded centres and arrests for foreigners.

The solutions introduced by the Border Guard on the functioning of guarded centres and the situation of applicants/foreigners placed in the aforementioned facilities include the following areas:

- **profiling guarded centres for foreigners/ applicants**

In 2013, the Border Guard decided to profile the guarded centres according to the categories of persons placed there (single men, single women, unaccompanied minors,

families, including families with children). As a result, the infrastructure and conditions in individual centres were optimally adjusted to the needs of a given category of persons (this was particularly important in the case of centres dedicated to families with children and unaccompanied minors). Additionally, one of the guarded centres for foreigners/applicants is adapted to accommodate persons with physical disabilities.

- **implementation of compulsory education**

As a result of the measures taken, in all guarded centres where minors of school age are detained, school classes are conducted by teachers from local schools at a level appropriate to the age of the arrested children, thanks to the cooperation with the local authorities responsible for education. Compulsory education is provided at the primary and secondary school levels. Educational teams have been separated within the structures of guarded centres for foreigners/applicants, whose tasks include, among other things, organising and conducting cultural and educational activities as a supplement to the educational offer of compensatory classes for children in need. These teams carry out their activities in the form of language classes for children and adults, art classes, educational classes (improving manual activities, improving visual functions and logical thinking, mathematics), sports classes for children and adults and integration classes for minor and adult foreigners/applicants.

- **freedom of movement within the guarded centre premises**

The free movement within the guarded centre premises between 7 a.m. and 10 p.m. (excluding administrative parts and time allocated for meals), including use of the centres' internal and external infrastructure, refers to the applicants/foreigner's possibilities to use the Internet, a shared room, a library, a sports field, an outdoor and indoor gym, a children's playground, and the access to various recreational and sports activities using places designated for that purpose.

- **contact with the outside world**

All applicants/foreigners are guaranteed the possibility to use the Internet at computer workstations available in the guarded centre or detention centre for applicants/foreigners. According to the adopted rules, applicants/foreigners detained in the guarded centre can use private mobile phones as long as they do not have a function for recording and registering images and access to the Internet. In addition, applicants/foreigners can contact Polish state authorities, a diplomatic representative or a consular post of a foreign state, non-governmental or international organisations providing assistance to applicants/foreigners, including legal aid, or to contact and see their representative in conditions that do not violate the right to privacy. NGOs' up-to-date details are available on notice boards in the centres. Visits with NGOs and attorneys by conducting the so-called "virtual visits" (online) using an instant messenger were also introduced.

- **the right to information**

The procedure for admitting an applicant/foreigner to a guarded centre includes instructing the applicant/foreigner, in a language they understand, about their rights and

obligations and familiarising them with the regulations governing the stay in a guarded centre/detention centre for applicants/foreigners. The confirms this fact with their signature. Thus, an applicant/foreigner admitted to a guarded centre for foreigners/applicants receives in writing an instruction about their rights and obligations as well as the rules of stay in the guarded centre (...). The information in question has been centrally translated into the following languages: English, French, Russian, Ukrainian, Arabic, Chinese, Georgian, Hindi, Urdu, Mongolian, Farsi, Armenian, Vietnamese, Bengali, and Spanish and is displayed in publicly accessible places (a library, information boards). The Rules of the Day containing, among others, provisions concerning daily schedule, rules of conducting visits, receiving and sending correspondence, filing complaints and requests, using medical and psychological care, and shopping have been translated as above, which facilitates applicants' /foreigners" daily functioning in the centre. In the case of any communication difficulties with an applicant/foreigner, the Border Guard each time takes measures related to securing the presence of an interpreter as soon as possible.

- **the visitation right**

an applicant/foreigner also has the right to see their relatives or a person authorised by the Border Guard in specially designated rooms, with the consent of the Border Guard authority to which the guarded centre/detention centre for foreigners/applicants is subject.

- **access to medical care**

All applicants/foreigners have the right to receive health care and to be placed in a health care facility if their health condition requires that. As of December 2016, the rules of screening after placing an applicant/foreigner in a guarded centre have been standardised by extending the package of examinations conducted to include additional medical examinations (chest X-ray), electro-cardiological examination and laboratory tests (morphology, glucose, HCV, HBS, HIV, WR, urinalysis and pregnancy test in the case of women aged 18-45). The Public Health Care Centres are responsible for the quality and organisation of medical services. The services are provided by the Public Health Care Centres staff or external entities based on a civil-legal contract. Applicants/Foreigners staying in guarded centres for foreigners/applicants are entitled to the same medical care as Polish citizens. Doctors, nurses and paramedics are available to applicants/foreigners. An ambulance is called in urgent situations, threatening life or health.

- **access to psychological care**

In 2015, the Border Guard implemented a course of action allowing for the early identification of persons belonging to a vulnerable group, the constant monitoring of these persons and the provision of appropriate medical, psychological and psychiatric care to them, depending on their needs in this respect, into its procedures. Applicants/Foreigners detained in guarded centres are provided with ongoing extensive medical assistance and, depending on their needs in that respect, also with psychiatric aid and the possibility of receiving addiction treatment.

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?

In the appeal procedure (second instance).

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?

Legal aid is free of charge for all applicants for international 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?

14 working days in both normal and inadmissibility procedures, and only 7 days in the accelerated procedure.

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

There are no strict formal requirements to lodge an appeal, it's enough just to write that the applicant is not satisfied with the decision, but it doesn't have to be even justified why.

An appeal could be lodge by the applicant or by any other person who represents him/her.

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 such exception in Poland.

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?

It's possible to consider subsequent applications as inadmissible, but still such decision itself doesn't mean that the applicant should be returned. Only the Border Guard can make a decision in this matter but still during this procedure it's required to check whether the return will not result in a violation of the international and Union requirements as per Article 41(1) APD.

There are many of questions asked during the apprehension interview in order to check whether there is any threat to the persons after being returned to the country of origin, i.e. whether they want to return to the country of origin, why they are afraid of going back, what they are afraid of after returning, whether they may be arrested/apprehended/subjected to any sort of violence in the country of origin, whether they may be tortured or subjected to inhuman or degrading treatment after returning home, whether they may be deprived of the right to fair trial there, etc.

The Border Guards always check whether returns to specific countries have not been suspended. And before issuing the decision on obligation to return the Border Guard always consider granting the persons the stay on humanitarian grounds or tolerated stay in Poland.