Dublin procedure - Germany

Overview

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Relevant EU legislation

Germany is bound by the Dublin III Regulation (AMMR) and applies its provisions directly.

National legislation

The Dublin III Regulation is directly applicable in Germany, however, references to the Regulation can be found in the Asylum Act | Asylgesetz (AsylG).

Competent authorities and stakeholders

Entity responsible for the Dublin procedure (the application of the criteria and mechanisms for determining the Member State responsible): Dublin Unit, Federal Office for Migration and Refugees | Dublin Unit, Bundesamt für Migration und Flüchtlinge (BAMF)

Place in the institutional framework:

The Dublin Unit is situated within the Group 32 “Dublin procedure” of the Federal Office for Migration and Refugees (BAMF), which falls under the jurisdiction of the Ministry of the Interior.

Group 32 is positioned within the Directorate-General 3 ‘Business processes of asylum, Statistics, Dublin procedure’ of the Federal Office and consists of six divisions: Division 32A is responsible for operational management of the Dublin procedure including Eurodac; Division 32B is responsible for transfer requests and coordination of transfers from Member States; Division 32C coordinates transfers to Member States; and the remaining three divisions (32D (Berlin Dublin Centre), 32E (Bochum Dublin Centre) and 32F (Bayreuth Dublin Centre))

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coordinate transfer requests to Member States, Dublin notices, apprehensions and detentions.

Competencies of the entity:

No	Conducting the Dublin interview (specifically for the Dublin procedure, as part of the registration interview or handling the form to be completed during registration)
Yes	Organising Dublin transfers
Yes	Notifying about the transfer decision
No	Accompanying/escorting applicants during a Dublin transfer
Yes	Sending and replying to take charge and take back requests to/from other Member States
No	Receiving applicants transferred under the Dublin procedure (meeting applicants at the airport/border crossing)
Yes	Sending and replying to information requests to/from other Member States

Stakeholders involved in the procedure:

Handing over the common leaflet on the Dublin procedure	Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge Federal Police | Bundespolizei Police of the Federal States | Länderpolizei

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Conducting the Dublin interview (specifically for the Dublin procedure, as part of the registration interview or handing the form to be completed during registration)	Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge
Referral of cases to the Dublin unit	Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge
Sending and replying to a take charge or take back request	Dublin Unit, Federal Office for Migration and Refugees | Dublin Unit, Bundesamt für Migration und Flüchtlinge
Sending and replying to information requests to/from another Member State	Dublin Unit, Federal Office for Migration and Refugees | Dublin Unit, Bundesamt für Migration und Flüchtlinge
Notification of the transfer decision	Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge
Free legal assistance during the appeal of a transfer decision	The Regional Administrative Courts | Verwaltungsgerichte may grant legal aid which is provided by NGOs and welfare organisations
Representation of the asylum authority in an appeal against a transfer decision	Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge
Organising the transfer to the responsible Member State	Dublin Unit, Federal Office for Migration and Refugees | Dublin Unit, Bundesamt für Migration und Flüchtlinge Immigration Offices of the Federal States | Ausländerbehörden Federal Police | Bundespolizei

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Providing information on the transfer modalities to the applicant	Immigration Offices of the Federal States | Ausländerbehörden
Accompanying/escorting applicants during a Dublin transfer when necessary	Federal Police | Bundespolizei
Receiving applicants transferred under the Dublin procedure (meeting applicants at the airport/border crossing)	Federal Police | Bundespolizei
Court/authority responsible for deciding on an appeal against a transfer decision	Regional Administrative Courts | Verwaltungsgerichte

Provision of information on the Dublin procedure

In the regular procedure, all asylum seekers receive information on the Dublin Regulation. The common information leaflet under the Commission implementing Regulation (EU) no. 118/2014 is currently being implemented. The same information leaflet is distributed by the Federal Police at border zones. A specific information leaflet for children is also provided. Generally, the information is available in the main language of the applicant.

Right to legal counselling on the Dublin procedure

In accordance with Section 12a of the Asylum Act, an independent asylum procedure counselling is provided by non-governmental organisations. It can include legal counselling and is open to all protection seekers, including persons

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in the Dublin procedure. The counselling is free of charge and the participation is voluntary. The representation in court is not covered by the asylum procedure counselling. If applicants decide to appeal a transfer decision of the Federal Office, they may apply to the court for legal aid.

Personal interview for determining the Member State responsible

Organisation of the interview: A separate personal interview is conducted for the determination of the responsible Member State. This is usually carried out shortly after the registration interview. The Dublin interview is documented in a written transcript.

Persons present during the interview: Case officers of the Federal Office are responsible for conducting the personal interview; an interpreter is also present during the interview.

Notification of the transfer decision

Applicants are notified about the transfer decision by the Federal Office. If Germany is found responsible, no formal decision is made, but reasoning regarding the Dublin procedure is included in the decision on international protection. If another Member State is found responsible and the applicant has not applied for international protection, only a decision on transfer is made. If the applicant has instead applied for international protection, then the decision concerns both inadmissibility and transfer. Dublin decisions are provided in written form to the asylum seeker. They contain information about possible legal remedies, particularly regarding the option to file a request for a suspensive effect with a Regional Administrative Court in order to halt the transfer until a court decision is reached.

Remedies

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Competent authority/court	Regional Administrative Court
Deadline for review/appeal	One week
Deadline for decision on the review/appeal	There is no deadline by which the court must reach its decision.
Suspensive effect of the review/appeal	There is no automatic suspensive effect of the appeal. However, the applicant can request it at the court.

Transfer arrangements

The Dublin Unit of the Federal Office is responsible for organising transfers, while the actual enforcement of the transfer falls under the responsibility of the Aliens Authorities and the Federal Police. This also includes setting a date for the transfer.

Transfers are usually carried out as escorted returns.

The transfer must take place within six months after receiving the acceptance notice from the Member State. If the individual in question is in custody, the transfer period is 12 months. If the individual in question has absconded, the transfer period is 18 months. If a request for a suspensive effect has been filed with the court, the transfer period is interrupted until a court decision is reached.

Guarantees for minors in the Dublin procedure

There are no provisions in the national legislation specifically addressing children and unaccompanied minors. The provisions of the Dublin III Regulation, particularly Art. 6 and Art. 8, are applied directly. However, national guidance notes outline the procedure for assessing the best interests of the child, which

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involves local Aliens Authorities and the Youth Welfare Service. These guidance notes are classified ‘for internal use only’ and cannot be disclosed. They stipulate that a personal interview must always be conducted with an unaccompanied minor. When the unaccompanied minor has a family member or relative who is legally present in another Member State, the Federal Office has to obtain the consent of both parties: the unaccompanied minor and the family member or relative. The Federal Office must determine whether the family member or relative can take care of the child before reuniting the minor with them.

The representatives appointed for unaccompanied minors for the international protection procedure remain the same throughout the Dublin procedure. They participate in the Dublin personal interview and are involved in assessing the best interests of the child.

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