
Dublin procedure - Poland | DIP EUAA

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Overview

Relevant EU legislation

Poland is bound by the Dublin III Regulation and applies its provisions directly.

National legislation

Article 36(1) of the [Act of 13 June 2003](#) on the Protection of Foreigners provides that as soon as an application for international protection is transferred by the Border Guard authority, the Head of the Office for Foreigners will carry out the procedure for determining the Member State responsible referred to in Article 20 of Regulation 604/2013. Furthermore, Article 393 of the Act of 12 December 2013 on Foreigners is also relevant when there is no asylum application lodged in Poland and the applicant is staying illegally.

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, Department of Refugee Procedures, [Office for Foreigners](#) | Wydział Postępowania Dublińskich, Departament Postępowania Uchodźczych, [Urząd do Spraw Cudzoziemców](#)

Place in the institutional framework: The Dublin Unit is part of the Department of the Refugee Procedures of the [Office for Foreigners](#), which falls under the Ministry of the Interior and Administration. The Dublin Unit is organised into three working teams: an IN section, OUT section and office services/secretariat.

Competencies of the entity:

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| 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) |
| No | Organising Dublin transfers |
| Yes | Notifying 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 |
| Handing over the common leaflet on the Dublin procedure | Border Guard Straż Graniczna Legal guardian for unaccompanied minors |

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| <p>Conducting the Dublin interview (specifically for the Dublin procedure, as part of the registration interview or handing the form to be completed during registration)</p> | <p>Border Guard Straż Graniczna</p> |
| <p>Referral of cases to the Dublin unit</p> | <p>Border Guard Straż Graniczna and the office services (secretariat) of the Department for Refugee Procedures of the Office for Foreigners</p> |
| <p>Sending and replying to a take charge or take back request</p> | <p>Dublin Unit, Department of Refugee Procedures, Office for Foreigners Wydział Postępowania Dubliniskich, Departament Postępowania Uchodźczych, Urząd do Spraw Cudzoziemców</p> |
| <p>Sending and replying to information requests to/from another Member State</p> | <p>Dublin Unit, Department of Refugee Procedures, Office for Foreigners Wydział Postępowania Dubliniskich, Departament Postępowania Uchodźczych, Urząd do Spraw Cudzoziemców</p> |
| <p>Notification of the transfer decision</p> | <p>Dublin Unit, Department of Refugee Procedures, Office for Foreigners Wydział Postępowania Dubliniskich, Departament Postępowania Uchodźczych, Urząd do Spraw Cudzoziemców</p> |
| <p>Free legal assistance during the appeal of a transfer decision</p> | <p>Legal aid is provided by the Office for Foreigners Urząd do Spraw Cudzoziemców Providers are selected advocates, legal counsellors or three NGOs contracted by the Office for Foreigners Urząd do Spraw Cudzoziemców</p> |

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| <p>Representation of the asylum authority in an appeal against a transfer decision</p> | <p>In the procedure before the Refugee Board, the Head of the Office for Foreigners is not a party (Article 28 Code of Administrative Procedure). In the court, the asylum authority is represented by an authorized employee or a lawyer.</p> |
| <p>Organising the transfer to the responsible Member State</p> | <p>Dublin Proceedings Section of the Border Guard Straż Graniczna</p> |
| <p>Providing information on the transfer modalities to the applicant</p> | <p>Dublin Proceedings Section of the Border Guard Straż Graniczna</p> |
| <p>Accompanying/escorting applicants during a Dublin transfer when necessary</p> | <p>Dublin Proceedings Section of the Border Guard Straż Graniczna</p> <p>Legal guardian for unaccompanied minors</p> |
| <p>Receiving applicants transferred under the Dublin procedure (meeting applicants at the airport/border crossing)</p> | <p>Border Guard Straż Graniczna</p> |
| <p>Court/authority responsible for deciding on an appeal against a transfer decision</p> | <p>Refugee Board Rada do Spraw Uchodźców</p> |

Provision of information on the Dublin procedure

Information on the Dublin procedure is provided by the Border Guard at the moment of lodging the application for international protection. The applicant is provided with the common information leaflet which is also complemented with specific national information on persons/authorities responsible for different stages of the procedure including the Eurodac controller, asylum authority, national appeal authority, UNHCR

office, legal aid providers/refugee/child supporting organisations, national authority for children and the responsible authority for carrying out the Dublin procedure.

Unaccompanied minors receive the specific leaflet for unaccompanied minors, based on the [Commission Implementing Regulation \(EU\) No 118/2014](#).

Throughout their stay in Poland, applicants also receive information on the Dublin procedure from staff in reception centres, and they can also contact the Dublin Unit to receive information about their case.

General information on the Dublin procedure is also available in the official [website](#) of the Office for Foreigners.

Right to legal counselling on the Dublin procedure

Free legal information is provided by the staff of the Dublin Unit of the Office for Foreigners, during the Dublin procedure. Legal aid is only provided free of charge at the appeal stage, when a decision on a Dublin transfer is appealed. Legal aid is provided by legal counsellors, advocates or NGOs which are on a list approved by the Head of the Office for Foreigners.

Personal interview for determining the Member State responsible

Organisation of the interview: There is a separate personal interview conducted by the Border Guard during the lodging of the asylum application by a foreigner. Moreover, questions related to the application of the criteria set out in the Dublin III Regulation are included in the [registration form](#) which is filled in by the Border Guard and included into the case file.

Persons present during interview: the applicant, Border Guard officer, translator if needed, legal representative, guardian where applicable, other persons if needed.

Notification of the transfer decision

If the Dublin examination carried out by the Dublin Unit of the Office for Foreigners indicates that Poland is not responsible for examining the application for international protection, a take back or a take charge request is sent to the Member State deemed responsible. If the Member State accepts the request, a transfer decision is issued (with a discontinuation of the asylum proceedings in appropriate cases).

The decision indicates, among others, the responsible Member State to which the applicant will be transferred, the final date by which the transfer should be carried out, and instructions on modalities for appealing the decision.

The Dublin Unit is responsible for communicating the decision to the applicant in writing.

Remedies

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| Competent authority/court | The Refugee Board |
| Deadline for review/appeal | The time limit to lodge an appeal is 14 days from the notification of the decision (Article 129(2) Code of Administrative Procedure). |
| Deadline for decision on the review/appeal | 1 month from the date of receipt of the appeal (Article 35(1) and (3) Code on Administrative Procedure). The Refugee Board is obliged to resolve matters without undue delay. |
| Suspensive effect of the review/appeal | Appeals have an automatic suspensive effect (Article 130 Code of Administrative Procedure). |

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| Competent authority/court | If the Refugee Board rejects the appeal, a complaint may be filed with the Voivodship Administrative Court in Warsaw and possibly then a cassation complaint to the Supreme Administrative Court. |
| Deadline for review/appeal | 30 days |
| Deadline for decision on the review/appeal | No time limit. |
| Suspensive effect of the review/appeal | The complaint to the Voivodship Administrative Court and the Supreme Administrative Court do not have an automatic suspensive effect, however the foreigner may request the court for suspension of execution the transfer decision. The administrative body has also competence to suspend it ex officio. (Articles 52(1), 53(1), 61(3), 173(1)(2) Law on Proceedings before Administrative Courts). |

Transfer arrangements

Transfers are arranged and enforced (including with regard to the exchange of medical information) by the Dublin Proceedings Section of the Border Guard. If the applicants are transferred from Poland by plane, they always travel on scheduled flights.

Monitored transfers (transfers under escort) can be arranged in cases when there is a risk or precedent of absconding, or for persons with vulnerabilities who need a medical escort (e.g. due to illness or disability). They are mostly carried out for detainees. Unaccompanied minors are escorted by a guardian appointed by the court.

Most transfers are carried out through supervised departure. In these cases, applicants are consulted on a convenient date, receive assistance for purchasing the airplane ticket and are transported to the airport or border crossing points (they are not escorted to a plane).

Applicants accommodated in reception centres can apply to the Commander-in-Chief of the Border Guard for assistance related to the transfer (e.g. for travel expenses and administrative fees, cost of food and medical care during the journey, providing the laissez-passer to the foreigner (however the document is issued by the Dublin Unit)). Applications for assistance must be submitted within 21 days from the date of delivery of the final decision.

Applicants will then need to present themselves at an indicated place on an agreed date in order to be transferred. In cases where applicants do not apply for assistance, the Department of Refugee Procedures of the Office for Foreigners will notify the Border Guard, who will make the necessary travel arrangements, while the Office for Foreigners will issue a laissez-passer.

Vulnerability identification and assessment follows the same steps and mechanisms as in the regular procedure. An initial screening is carried out by the Border Guard upon lodging, and indicators of vulnerabilities are assessed by the Office for Foreigners during the examination phase. If an applicant has medical problems, a medical authorisation for travelling is usually required and there are mandatory medical checks before the transfer takes place. In addition, Border Guard officers ask applicants how they feel before the transfer.

Guarantees for minors in the Dublin procedure

Assessment of the best interests of the child: There is a specific procedure for assessing the best interests of the child within the Dublin procedure. To the greatest extent possible, and in a way appropriate to the age and maturity of the minor, the minor's point of view is taken into account. The statements of representatives of minors and of family members are also analysed, along with information provided by

other Member States or persons involved (social workers, NGOs). Observations by case officers of the general involvement of a family member in the process of reunification are also relevant in the assessment process. Final decisions are taken individually, on the basis of the documents, information and observations collected.

Legal guardian: In general, the representative appointed to the unaccompanied minor for the Dublin procedure is the same as the representative within the international protection procedure. The representative is present throughout the procedure and is involved in the assessment of the best interests of the child. The representative is also informed about the following steps of the Dublin procedure and supports in relaying Dublin rules to the child, while ensuring that legal provisions are observed.

Detection of potential family reunification cases: For restoring family links in the Dublin context, in addition to the process described in Article 2(7) of the Commission Implementing Regulation (EU) 118/2014, Poland relies on assistance by the Red Cross. This is based on an agreement with the Office for Foreigners. In practice, family tracing is initiated when an unaccompanied minor declares the presence of family members in other Member States. Informal requests from NGOs acting on behalf of unaccompanied children may also initiate family tracing in Poland.

The earliest stage at which a potential family reunification case can be identified is at the individual interview conducted by the Border Guard. The next stage is initial review of the case at the Office for Foreigners (office services/secretariat of the Department for Refugees). Foreigners also request reunification with families and provide documents on their own at later stages of asylum procedure.