Dublin procedure - Romania

Overview

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Relevant EU legislation

Romania is bound by the Dublin III Regulation and enforces its provisions directly.

National legislation

18 May 2006: Law No 122 of 4 May 2006 concerning asylum in Romania | Lege nr. 122 din 4 mai 2006 privind azilul în România

22 July 2015: Order No 441 of 4 April 2008 for determining the attributions of the authorities responsible for implementing the data in the Eurodac system and for establishing the practical methodology of cooperation in the application of European regulations in the field. | Ordin nr. 441/2008 din 4 aprilie 2008 pentru stabilirea atribuţiilor autorităţilor responsabile cu implementarea datelor în sistemul Eurodac şi pentru stabilirea metodologiei practice de cooperare în vederea aplicării regulamentelor europene în domeniu

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, General Inspectorate of Immigration | Serviciul Dublin, Inspectoratul General pentru Imigrări (IGI)

Place in the institutional framework: The Dublin Unit is part of the Directorate for Asylum and Integration of the General Inspectorate for Immigration, which belongs to the Ministry of Internal Affairs.

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)
Yes	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

Stakeholders involved in the procedure:

Handing over the common leaflet on the Dublin procedure	Accommodation Centres, Directorate for Asylum and Integration, General Inspectorate for Immigration | Centre de cazare, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări
Conducting the Dublin interview (specifically for the Dublin procedure, as part of the registration interview or handing the form to be completed during registration)	Accommodation Centres, Directorate for Asylum and Integration, General Inspectorate for Immigration | Centre de cazare, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări
Referral of cases to the Dublin unit	Accommodation Centres, Directorate for Asylum and Integration, General Inspectorate for Immigration | Centre de cazare, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări

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Sending and replying to a take charge or take back request	Dublin Officers, Directorate for Asylum and Integration, General Inspectorate for Immigration | Ofițeri Dublin, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări
Sending and replying to information requests to/from another Member State	Dublin Officers, Directorate for Asylum and Integration, General Inspectorate for Immigration | Ofițeri Dublin, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări
Notification of the transfer decision	Dublin Officers, Directorate for Asylum and Integration, General Inspectorate for Immigration | Ofițeri Dublin, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări Accommodation Centres, Directorate for Asylum and Integration, General Inspectorate for Immigration | Centre de cazare, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări
Free legal assistance during the appeal of a transfer decision	Free legal assistance and representation are provided from public funds. UNHCR, the IOM and AMIF-funded NGOs.
Representation of the asylum authority in an appeal against a transfer decision	General Inspectorate for Immigration | Inspectoratul General pentru Imigrări
Organising the transfer to the responsible Member State	Dublin Officers, Directorate for Asylum and Integration, General Inspectorate for Immigration | Ofițeri Dublin, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări Migration Directorate, General Inspectorate for Immigration | Direcția Migrație, Inspectoratul General pentru Imigrări
Providing information on the transfer modalities to the applicant	Accommodation Centres, Directorate for Asylum and Integration, General Inspectorate for Immigration | Centre de cazare, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări

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Accompanying/escorting applicants during a Dublin transfer when necessary	Border Police | Poliția de Frontieră Română Returns Unit, Directorate for Migration, General Inspectorate for Immigration | Serviciul Returnări, Direcția Migrație, Inspectoratul General pentru Imigrări
Receiving applicants transferred under the Dublin procedure (meeting applicants at the airport/border crossing)	Border Police | Poliția de Frontieră Română Directorate for Migration, General Inspectorate for Immigration | Direcția Migrație, Inspectoratul General pentru Imigrări Accomodation Centers, Directorate for Asylum and Integration, General Inspectorate for Immigration | Centrele de Cazare, Direcția Azil și Integrare, Inspectoratul General pentru Imigrări
Court/authority responsible for deciding on an appeal against a transfer decision	District Courts | Judecătorii

Provision of information on the Dublin procedure

According to Article 44(3) of Law No 122/2006 on asylum, there is an obligation to inform the applicant on the date of submitting the asylum application with the General Inspectorate for Immigration or with its regional units, in writing, of the fact that the information in the application and the fingerprints, can be the subject of information exchange between EU Member States or other states which have made a special agreement on participating in such a mechanism, with the exclusive goal of establishing the responsible Member State for analysing the application for asylum.

According to Article 127 of Law No 122/2006 on asylum, throughout the procedure for the determination of the state responsible for the examination of an asylum application, the person enjoys the same rights as those provided to applicants in the regular procedure in Articles 17-19, including the right to information and to legal assistance, until the actual transfer takes place.

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In the Dublin procedure, applicants are provided with the common leaflets provided by the European Commission Implementing Regulation (EU) No 118/2014. The registration workers in the accommodation centres within the Asylum and Integration Directorate of the General Inspectorate for Immigration provide this information. The content of the information provided concerns the entire Dublin procedure, the applicant’s rights and obligations, available remedies, the necessity to take fingerprints, the Eurodac system and time-limits.

Information is provided only in printed format, not digitally by videos, multimedia, etc. The information is provided orally when it is request by the applicant or by the legal representative to understand the Dublin procedure, and especially in the case of unaccompanied minors.

To provide information during the Dublin procedure, the authorities cooperate with UNHCR, IOM and NGO's, which may also provide legal assistance to applicants throughout the Dublin procedure. The General Inspectorate for Immigration produces, screens and approves the information provided by civil society organisations.

The applicant is informed about the Dublin interview when the national regular procedure is suspended, and the Dublin procedure starts. This information is conveyed orally and also in written form, by the accommodation centre’s case worker. The applicant is informed in the leaflet and at the beginning of the interview in a language that he/she understands. At the same time, during the interview, the Dublin case worker asks several times if he/she really understands what is the scope of the Dublin procedure, the stage of the procedure, the possibility that another Member State can be responsible for the asylum application etc.

The information provided (leaflet, etc.) is signed by the applicant and archived in his/her file. This file is checked during the entire asylum procedure. This procedure ensures that the applicant understand information concerning the objectives of the Dublin III Regulation, the objective of the personal interview, the possibility to challenge the transfer decision, his or her right to access data relating to him or her, his or her rights and obligations during the procedure. It does not cover the understanding of the criteria of hierarchy or that Member States can exchange data on him or her.

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Right to legal counselling on the Dublin procedure

According to Article 127 of Law No 122/2006 on asylum in Romania, the same rights to free legal assistance that are provided in the regular procedure (under Articles 17-19 of Law No 122/2006) are also provided in the Dublin procedure.

According to Article 17(1)(e) of Law No 122/2006 on asylum in Romania, applicants for international protection have the right to be advised and assisted by a representative of non-governmental organizations, Romanian or foreign, in any phase of the asylum procedure.

In addition, according to Article 17(1)(s) of Law No 122/2006 on asylum in Romania, applicants for international protection have the right to be provided, upon request, with legal and procedural information, including information regarding the procedure in the administrative phase, under the terms of the legislation on public judicial aid in civil matters, taking into account the personal situation of the applicant.

Personal interview for determining the Member State responsible

Organisation of the interview: In the Dublin procedure there is separate personal interview specifically for the determination of the Member State responsible. The interview is held during the registration phase of the asylum claim by case workers from the Accommodation Centres for Asylum Applicants. The national regular asylum procedure is suspended during the Dublin procedure, and the interview takes place within this period. This interview differs from the personal interview for international protection claim. During this personal interview, a standard form with predefined requests (which can be extended, depending on the information provided) is completed on a case-by-case basis with specific questions related to the Dublin procedure: family members, visas, residence permits, Eurodac hits, earlier asylum claims in different Member States etc.

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The applicant can be provided with the assistance of an interpreter and with legal assistance during the Dublin interview. According to Article 127 of Law No 122/2006 on asylum, applicants in the Dublin procedure have the same rights as those in the regular asylum procedure provided in Articles 17-19.

The interview can be omitted if the applicant absconds or if sufficient information has been provided by the applicant in order to analyse the case under the Dublin III Regulation.

The interview is not recorded.

Persons present during interview: If the applicant is a minor, he/she will be accompanied by a legal representative during the Dublin interview.

Legal guardians are present in cases involving unaccompanied minors.

There are no specific requirements (e.g. qualifications) for the actors involved in the Dublin procedure.

Notification of the transfer decision

According to Article 120(2) of Law No 122/2006 on asylum, a decision is issued by the Dublin case worker:

a) Rejecting access to the asylum procedure in Romania and ordering the transfer to the responsible state (if another Member State is responsible);

b) Resuming the asylum application assessment time limit (if Romania is found responsible).

According to Article 120(3) of Law No 122/2006 on asylum, the decision of the General Inspectorate for Immigration is substantiated both in fact and in law. The rejection decision contains the reasons for denying access to the asylum procedure in Romania and the transfer order to the Member State responsible for examining the asylum application (Article 120(4) of Law No 122/2006 on asylum). The decision also includes available remedies to challenge the decision, the time limit to submit an appeal, the district court in charge of analysing the appeal, the rights and obligations and the possibility to request the suspension of the transfer.

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The decision is immediately communicated, in writing, to the applicant, through direct communication by the representatives of the General Inspectorate for Immigration or by post, to the latest declared residence (Article 120(5), Law No 122/2006 on asylum).

The decision of the Romanian General Inspectorate for Immigration is enforceable (Article 120(6), Law No 122/2006 on asylum).

Remedies

Competent authority/court	District courts | Judecătorii
Deadline for review/appeal	According to Article 121 of Law No 122/2006 on asylum, an appeal can be lodged against the decision within 5 days from the notification. The transfer to the Member State responsible is be suspended until the expiry of the legal deadline for lodging the appeal.
Deadline for decision on the review/appeal	According to Article 121(6) of Law No 122/2006 on asylum, the court decides within maximum 30 days and issues a reasoned decision, which: rejects the complaint and maintains the decision of the General Inspectorate for Immigration; accepts the complaint, cancels the transfer decision and resumes the deadline for examining the application for international protection in Romania. The court's decision is final and there is no second appeal (Article 121(7), Law No 122/2006 on asylum). If the court decision admits the complaint and orders the resumption of the term for resolving the application for international protection in Romania, and the applicant has already been transferred to the responsible Member State, the General Inspectorate for Immigration takes the necessary steps for readmission to the territory of Romania (Article 121(8), Law No 122/2006 on asylum).

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Suspensive effect of the review/appeal	The appeal does not have automatic suspensive effect, but the applicant may request the suspension of the implementation of the decision on a Dublin transfer. In addition, Dublin case workers may decide, ex officio, to suspend the transfer decision until the court has ruled on the complaint (Article 121(5), Law No 122/2006 on asylum). The applicant's request for suspension is resolved as a matter of urgency in the council chamber (meaning not publicly), summoning the parties, by a final decision. An appeal against a decision rejecting suspensive effect may be lodged within 5 days from the pronouncement of the court decision (Articles 14-15 of the Administrative Litigation Law) and this second appeal does not have automatic suspensive effect.

Transfer arrangements

The decision rejecting access to the asylum procedure and transfer to another Member State is communicated to the applicant, if present or not, within 6 months, to arrange the transfer. The notification of the decision relates to the formalities for arranging the transfer to the responsible Member State and possibly with taking the applicant into public custody. Other alternative measures can be taken to secure the transfer (taking into public custody is a measure of last resort and is applicable after the alternative measures were used without efficiency).

As an alternative measure, the applicant may be request to present him/herself at the Accommodation Centre's registration desk at a certain period of time or his/her residence might be established at the Accommodation Center.

According to Article 125 of Law No 122/2006 on asylum, national coordination for transfer of persons subject to the Dublin procedure lies with the Ministry of Internal Affairs through the General Inspectorate for Immigration. The Dublin Unit and the Migration Directorate of the General Inspectorate for Immigration implements the transfer measure to and from the responsible Member State.

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Regarding the modalities of transfer, the Dublin decision officer informs orally the applicant about the exact date and time of departure, whether the applicant will be escorted or not, the specific means of transportation and any other information requested by the applicant concerning the transfer.

To carry out the transfer in the responsible Member State, removal of the third country national from the territory may be done voluntarily, controlled by the border guiding or escorting to the country of destination (Article 125(2^1), Law No 122/2006 on asylum). For the transfer of persons to the responsible Member State, the General Inspectorate for Immigration issues a laissez-passer (Article 125(3), Law No 122/2006 on asylum).

The necessary amounts to cover the costs incurred by the internal and international transport of the transferred persons, their guarding and escorting during the transport, the release of the laissez-passer for the crossing of the external borders are financed from the budget of the Ministry of Internal Affairs, through the General Inspectorate for Immigration, depending on the actual costs, within the limits of the funds allocated for this purpose from the state budget (Article 125(3), Law No 122/2006 on asylum).

To identify and address an applicant’s special needs for the implementation of a transfer, the procedure is the same as in identification of the special needs in reception.

Guarantees for minors in the Dublin procedure

Assessment of the best interests of the child: The principle of the best interests of the child is applied in all decisions regarding minors (Article 8, Law No 122/2006 on asylum in Romania). There are no specific provisions or guidance specifically for the purposes of the Dublin procedure.

Legal guardian: There are no specific tasks listed in national legislation on the role of a legal guardian in supporting the minor in the Dublin procedure. The legal guardian of an unaccompanied minor is assisting the minor through all the procedures regarding the international protection request. The legal guardians are not specifically trained on the Dublin procedure.

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Detection of potential family reunification cases: The preliminary interview which is held in the registration phase of the asylum claim follows specific rules which address the early detection of potential family reunification cases (see organisation of the interview).

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