Dublin procedure - Italy

Overview

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Relevant EU legislation

Italy is bound by the Dublin III Regulation and enforces it directly. Article 27 of the Dublin III Regulation which provides the appeal procedure against a Dublin transfer decision has been transposed through Legislative Decree No 13/2017.

National legislation

Italy implements the Dublin III Regulation (AMMR) directly and the provision on the appeal procedure against a Dublin transfer decision has been transposed through Legislative Decree No 13/2017 | Decreto Legislativo 17 febbraio 2017, n. 13.

Competent authority and stakeholders

Entity responsible for the Dublin procedure (the application of the criteria and mechanisms for determining the Member State responsible): Dublin Unit | Unità di Dublino, as foreseen by article 3 of Legislative Decree 25/2008.

Place in the institutional framework: The Dublin unit is located in the Department for Civil Liberties and Immigration, Central Directorate for Civil Services for Immigration and Asylum at the Ministry of the Interior.

The activities of the Dublin unit are organised into four teams: one manages incoming requests, one manages outgoing requests, one manages litigations and appeals, and ones manages relocation procedures. In 2016, a specialised sector was included within the Dublin unit to facilitate family reunifications within the Dublin procedure.

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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
No	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 Dublin	Police Immigration Office | Ufficio Immigrazione Questura
Conducting the Dublin interview (specific for the Dublin procedure, or as part of the registration interview, or handling the form that is to be filled out during registration)	Police Immigration Office | Ufficio Immigrazione Questura
Referral of cases to the Dublin unit	Police Immigration Office | Ufficio Immigrazione Questura

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Sending and replying to a take charge or take back request	Dublin Unit, Department for Civil liberties and immigration, Ministry of the Interior | Unità di Dublino, Dipartimento per le libertà civili e l'immigrazione, Ministero dell'interno
Sending and replying to information requests to/from other Member	Dublin Unit, Department for Civil liberties and immigration, Ministry of the Interior | Unità di Dublino, Dipartimento per le libertà civili e l'immigrazione, Ministero dell'interno
Notification of the transfer decision	Police Immigration Office | Ufficio Immigrazione Questura
Free legal assistance during the appeal of a transfer decision	A decision on state-funded legal aid is adopted by the Bar Council, and then implicitly confirmed by the judge. The Bar Council | Consiglio dell'Ordine degli Avvocati of a territory proposes a lawyer or attorney when it is not appointed by the judge from a list. Free legal assistance is usually also provided by NGOs.
Representation of the asylum authority in appeals against a transfer decision	Dublin Unit, Department for Civil liberties and immigration, Ministry of the Interior | Unità di Dublino, Dipartimento per le libertà civili e l'immigrazione, Ministero dell'interno
Organising the transfer to the responsible Member State	Dublin Unit, Department for Civil liberties and immigration, Ministry of the Interior | Unità di Dublino, Dipartimento per le libertà civili e l'immigrazione, Ministero dell'interno Police Immigration Office | Ufficio Immigrazione Questura
Providing information on the transfer modalities to the applicant	Police Immigration Office | Ufficio Immigrazione Questura

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Accompany/escort applicants during Dublin transfers when necessary	Police Immigration Office | Ufficio Immigrazione Questura
Receiving applicants transferred under the Dublin procedure (meeting applicants at the airport/border crossing)	Police Immigration Office | Ufficio Immigrazione Questura
Court/authority responsible for deciding on appeals against a transfer decision	Civil Court (ad hoc sections on immigration and international protection) | Tribunali (Sezioni specializzate in materia di immigrazione e protezione internazionale)

Provision of information on the Dublin procedure

The Police Immigration Office | Ufficio Immigrazione Questura is responsible for providing information about the Dublin procedure since the Italian Dublin Unit does not have a front office accessible to applicants.

The applicant is provided with information about the Dublin procedure, together with general information about the asylum procedure, rights and obligations. The information is provided orally and in writing upon lodging an application (using brochures drafted by the National Commission for the Right for Asylum which are available in 12 languages - Italian, English, French, Spanish, Arabic, Turkish, Farsi, Pashtun, Somalian and Tigrinya). The National Commission for the Right to Asylum has also drafted the Practical Guide for Applicants for International Protection in Italy, which is available in 14 languages - Italian, English, French, Spanish, Arabic, Bengali, Amharic, Kurdish, Farsi, Russian, Ukrainian, Urdu, Somalian and Tigrinya. The guide and brochures are delivered to applicants for protection by the competent offices of the Border Police or Police Headquarters.

Specific information provision drafted by EUAA in support to the Department of Public Security:

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- Information on the Dublin Regulation for international protection applicants pursuant to Article 4 of EU Regulation No. 604/2013 available in 11 languages.
- Information for unaccompanied minors applying for international protection pursuant to Article 4 of EU Regulation No. 604/2013 available in 11 languages.
- Information for guardians of unaccompanied minors applying for international protection, in accordance with Article 4 of EU Regulation No. 604/2013;

Various international organisations (UNHCR and IOM) and NGOs may carry out information activities aimed at foreigners in landing sites, as provided for by relevant legislation, including about the asylum procedure. For decisions on transfers, all elements are translated into English and in particular cases into French.

For unaccompanied minors, a specific leaflet is used, as provided in Commission Implementing Regulation (EU) No 118/2014 as Annex X and Annex XI. Information to unaccompanied minors is provided through the legal representative/guardian of the child (in writing and orally in every case - in Italian, English, French, Arabic and Bengali).

Dublin returnees upon arrival in Italy have the right to consult the asylum desks run by the authority, based on specific agreements with the prefectures/the Department for Civil Liberties and Immigration, Central Directorate for Civil Services for Immigration and Asylum. These desks are a very important source of information for people returned to Italy under the Dublin procedure about the asylum procedure in Italy, especially for asylum seekers. Moreover, usually the Dublin Unit sends official notes on the arrival of the foreigner under the Dublin procedure to the prefectures. There are also information desks at the airport in Venice, Milan and Rome.

Right to legal counselling

As foreseen by Article 16 of Decree Law No 25/2008, during the administrative phase legal assistance is optional and must be paid by the applicant. However, if the applicant decides to appeal the Territorial Commission’s decision in a court, legal representation becomes mandatory and the law provides for access to free legal aid if needed (e.g. if the applicant’s income does not exceed a certain limit

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established by law).

The third-country national that do not have sufficient financial sources is entitled to the “patrocinio a spese dello stato”, which is a legal assistance covered by the Italian State and provide a lawyer (avvocato d’ufficio) free of charge. Free legal assistance is provided if the applicant for international protection meets the requirements. The lawyer can be required also for appeal the negative decision. A list of lawyers is available under the website of the Ordine degli Avvocati of the municipality in which the third-country national is residing.

Unaccompanied minors are entitled to free legal aid as provided by the same law.

Personal interview to determine the Member State responsible

Organisation of the interview: The Dublin interview is conducted by the competent Police Headquarters at the time of registering the application, when filling in the set form in the SUA database (Modello C3).

During the interview, the police officer asks the applicant a set of questions related to the Dublin procedure, as provided in the set form. This includes information about previous applications for international protection and issues relevant to the current application.

The information gathered during the Dublin interview at the time of lodging the application are recorded in the form so called *Colloquio* and in another form relevant for the type of Dublin evidence (Annex I or Annex III).

The interview is not recorded by any other means.

Persons present during interview:

As the Dublin interview is carried out during the lodging of the application for international protection, the same provisions (Legislative Decree 25/2008) of the lodging phase apply and at this stage the applicant may be assisted by a lawyer or legal representative and by an interpreter and cultural mediator.

In case of unaccompanied minors, also the guardian must be present during the Dublin interview.

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Notification of the transfer decision

The competent Police Headquarters notifies the applicant of the decision, using the last declared or known address. While the applicant should be informed as soon as possible, notification practices may vary across police offices.

The decision is provided in Italian and English, and in certain cases, French. At the time of notification, a cultural mediator translates the decision for the applicant.

If the time limit for arranging the transfer expires without the transfer being completed, the Dublin Unit issues a decision which assigns Italy the responsibility for processing the asylum application. The case is then automatically referred to the competent Territorial Commission for an examination. If the application was discontinued before a final decision and the applicant is returned to Italy, the examination can be reopened upon the applicant's request.

Remedies

Competent authority/court	Civil Court (*Tribunale Ordinario*)
Deadline for a review/appeal	30 days to appeal, in writing. The court notifies the Dublin Unit about the appeal, together with the preliminary decision on the suspension request (therefore the appeal is notified to the Dublin Unit only after the judge has taken a decision on the suspension). The Dublin Unit has 5 days from the notification of the decision on the suspension to submit a cover note with grounds of defence against the application of a suspensive effect (*nota difensiva*) and 15 days from the notification of the appeal (which usually happens the same day) to file the documentation on which the transfer decision is based and submit the *nota difensiva* on the merit of the appeal. The applicant then has 10 additional days to submit a reply.

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Deadline for decision on the review/appeal	Within 60 days from the submission of the appeal.
Suspensive effect of the review/appeal	The lodging of the appeal suspends the transfer until the court decision on a suspension that must be notified to the Dublin Unit, which has 5 days to appeal the court's decision on a suspension. During the entire period of reviewing the case by the judge, the applicant is entitled to accommodation or other social benefits. The 6-month deadline for a transfer starts running as of the rejection of the request for a suspensive effect or from the decision on the appeal itself.

Transfer arrangements

If Italy is deemed responsible for processing the asylum application, a formal decision is made and the application for international protection proceeds accordingly. However, if another country is determined to be responsible under the Dublin III Regulation, the Dublin Unit issues a transfer decision, which is communicated to the applicant by the police. This decision specifies the deadline for the transfer and, as with any administrative decision, provides information on how to appeal or challenge it.

Applicants accommodated in reception centres are required to appear at the time and place indicated by the police to facilitate the transfer. They are then escorted by the police to the airport, where they are transferred to the responsible country. In certain cases and based on agreements with the receiving country, the transfer may take place at a border-crossing point, such as those between Italy and Slovenia, Austria, Switzerland or France.

The Dublin procedure uses the same steps/mechanisms for the identification of applicants with special needs as in other parts of the asylum procedure (e.g. the first screening is made by the police when receiving the application). There is a checklist in the C3 form for interviews, which includes a vulnerability annex developed by EUAA in addition to questions already included in the Mod. c/3.

For outgoing cases, the Dublin Unit does not request individual guarantees prior to the transfer.

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Following the Tarakhel v Switzerland ruling, in practice families and vulnerable applicants are safeguarded by general guarantees. If an applicant has health issues, usually a doctor is asked to approve the ability to travel.

It takes on average 4-5 months (in case of adults) and 3 months (for unaccompanied minors) before an applicant is transferred to the Member State which received the take charge request under the Dublin III Regulation.

Guarantees for minors

Assessment of the best interests of the child: In the Dublin procedure, the assessment of the best interests of the child (BIC) is a collaborative effort involving multiple authorities which are responsible for the child's care. This assessment is based on data collected through the C3 template, the Dublin interview template and documentation provided by the child's representative, social services and the reception centre. While the views of various stakeholders are considered, priority is given to the child's opinion, taking into account their age and maturity. Additionally, the views of the staff at the reception centre are given due weight in accordance with the child's level of maturity. The primary focus of the BIC assessment is on family unity and the possibility of reunification with relatives.

Legal representation for unaccompanied minors: The guardian appointed to an unaccompanied minor during the Dublin procedure is the same person who represents them in the broader international protection process. This representative participates in the Dublin personal interview and plays a key role in the BIC assessment, ensuring the child's rights and best interests are upheld throughout the procedure.

Family tracing: According to Law No 47/2017, the Ministry of the Interior is responsible for managing family tracing agreements, a role previously held by the Ministry of Labour and Social Policy.

Given the large number of minor asylum seekers, Italy initiated the Pruma project in 2012, co-funded by the IOM. This project focuses on reuniting minors under the Dublin III Regulation with their parents living in other countries. In 2014, the project expanded with support from the European Commission, becoming a transnational initiative involving Italy, France, the United Kingdom, Germany, Malta and Greece. In 2016, a specialised division within the Dublin Unit was

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created to facilitate family reunifications under the Dublin system.

Family tracing is further supported by the Praesidium project, where minors are encouraged to create a genealogical tree to assist with family reunification. The Italian Red Cross has also contributed to family tracing through its Restoring Family Links Programme, helping those who lost contact with family during their journey. International organisations and NGOs can assist in locating family members if the child is unable to provide contact details. Such cases were also referred to the Italian Red Cross by EUAA experts deployed in Italy under the Operating Plan to Italy. Dublin liaison officers from other Member States in Italy also offer support.

Application of responsibility criteria for minors: Under the Dublin III Regulation, specific rules apply to minors due to their vulnerability. An unaccompanied minor who applies for international protection in a Member State can only be transferred to another Member State for family reunification purposes, as stated in Article 8.4 of the Dublin III Regulation. Other criteria, such as Eurodac hits or visa/residence permits, do not result in the transfer of a minor to another country.

Unaccompanied minors becoming adults during the Dublin procedure: If an unaccompanied minor applies for international protection and requests reunification with a family member in another Member State, their status as a minor remains unchanged even if they turn 18 during the Dublin procedure. The provisions of the Dublin III Regulation continue to apply to the individual as a minor, ensuring that their right to family unity is not jeopardised by delays in the bureaucratic process.

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