

Guidelines: The Dublin Procedure

When a person applies for asylum in Germany, the first step is to assess whether Germany is responsible for the substantive review of the application. This is based on a European regulation that defines which member state within the so-called Dublin area is responsible for an application for international protection: The Dublin III Regulation.

I. General Principles

The Dublin III Regulation applies to all EU member states. Additionally, Norway, Switzerland, Liechtenstein, and Iceland have signed the regulation. Thus, there are a total of 31 countries where the Dublin III Regulation is applied, collectively referred to as “Dublin states.”

The primary goal of the Dublin III Regulation is to ensure that each asylum application is examined in one of the Dublin states, thereby preventing applicants from being repeatedly transferred between states (“no refugees in orbit”). An individual’s asylum application should only be reviewed on its merits once, even if multiple applications are submitted in various Dublin states (“one chance only”).

The Dublin III Regulation applies once an asylum application has been filed in any Dublin state. This does not have to be a formal application; even an informal request for asylum activates the Dublin III Regulation. A case is also considered a Dublin case if an asylum application has been rejected or withdrawn in one country, and the individual subsequently submits another asylum application in a different Dublin state.

Note: The Dublin III Regulation does not apply to individuals who have already been granted international protection (i.e., refugee status or subsidiary protection) in another state and subsequently moved to another Dublin state to file a new asylum application. Distinguishing these two scenarios can be challenging, as the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF) generally rejects the application as “inadmissible” in both cases. It is essential to carefully review the decision to determine whether it is a “Dublin case.”

II. The Dublin Procedure in Germany

How is it determined which state is responsible for an asylum seeker?

When a person applies for asylum in Germany, the German Federal Office for Migration and Refugees (BAMF) first examines, through the Dublin procedure, whether Germany is responsible for processing the application. Responsibility is determined based on specific criteria outlined in the Dublin Regulation. The process for determining responsibility is quite complex, and therefore, only the basic principles will be outlined below.

Articles 8 to 15 of the Dublin III Regulation define the criteria for responsibility. These criteria must be assessed in a specific order, starting with Article 8; if Article 8 is not applicable, Article 9 is then examined, and so on.

Family-related responsibility criteria (Articles 8 to 11 Dublin III Regulation):

- **Article 8:** Unaccompanied minors may be reunited with family members or relatives if they wish.
- **Article 9:** Asylum seekers may be reunited with family members who have already been granted international protection, if they wish.
- **Article 10:** Asylum seekers may be reunited with family members who have also applied for international protection, if they wish.
- **Article 11:** The asylum applications of multiple family members may be processed in one state if separation of the family would otherwise occur.

If family reunification is desired, this should ideally be communicated as early as possible, i.e. preferably when the application is filed. If available, documentation proving the family relationship should also be submitted to the authorities.

Entry-related responsibility criteria (Articles 12 to 15 Dublin III Regulation):

- **Article 12:** The state that issued a residence permit or visa is responsible.
- **Article 13:** The state whose border the asylum seeker crossed irregularly is responsible.
- **Article 14:** If a person enters a member state without needing a visa, that state is responsible.
- **Article 15:** If a person applies for international protection in the international transit area of a member state's airport, that state is responsible for examining the application.

The route taken to enter Germany is therefore only relevant if no family-related responsibility criteria apply. Consequently, the Dublin state whose territory was first entered is not always the responsible state.

In deviation from the hierarchical responsibility criteria, there are two ways to assign responsibility differently:

- Under **Article 16**, family reunification beyond the nuclear family may be arranged if there is a special need for assistance (e.g., pregnancy, illness, or disability).
- Under **Article 17** of the Dublin III Regulation, each state has the discretionary right to assume responsibility for an asylum application, regardless of the responsibility criteria (the so-called “right of discretionary admission”).

What deadlines apply in the Dublin procedure?

If responsibility for an application has been assigned to another state, that state will be asked if it will (re-)admit the asylum seeker. If the person has already applied for asylum in the other member state, this is a readmission request; if not, it is an admission request. The request must be made within a specific time frame, which varies depending on whether a Eurodac match exists (indicating that the applicant’s fingerprints have been stored in the European fingerprint database). If the BAMF does not submit the request within the relevant time frame, responsibility transfers to Germany.

The state requested to (re-)admit the individual also has a specified time period to respond. If the requested state does not respond within this period, consent to (re-)admission is assumed (fictitious consent).

If another Dublin state grants (fictitious) consent, the asylum application in Germany is rejected as “inadmissible” due to Germany’s lack of responsibility. In this case, a “Dublin decision” is issued, often worded similarly to the following:

1. The asylum application is rejected as inadmissible.
2. No deportation bans under Section 60(5) and (7) of the Residence Act apply.
3. Deportation to [= responsible state] is ordered.

Occasionally, if immediate deportation is not possible, a deportation order is not issued but instead a deportation warning is given. A Dublin decision can reliably be identified based on the reasoning provided. If another European country (not the applicant’s country of origin) is named in the deportation order (or warning), this is often indicative of a Dublin decision, unless the applicant has already received protection in another European country.

Once the other member state has given (fictitious) consent, Germany generally has six months to transfer the person to that state. If the individual has “absconded”, the BAMF usually extends the deadline to 18 months, if the individual is in custody, the deadline is extended to twelve months. Individuals in church

asylum are not considered as having “absconded” as long as their location has been communicated to the authorities (open church asylum).

If the transfer to the responsible state is not completed within the applicable deadline, responsibility for the asylum procedure shifts to Germany. Consequently, the asylum application is then examined on its merits in Germany.

A general and simplified overview of the deadlines in the Dublin procedure can be found via the following link, page six [available in German only]:

- Informationsverbund Asyl & Migration, Mai 2021: [Basisinformationen Dublin-Verfahren. Die Zulässigkeitsprüfung im Asylverfahren bei „Dublin-Fällen“ und „Anerkannten“](#)

What rights do individuals in the Dublin procedure have?

The Dublin Regulation grants asylum seekers specific procedural rights and guarantees.

Article 4 of the Dublin III Regulation outlines the right to be informed about the Dublin procedure and one’s rights (right to information). This information must be provided in writing at the time of the asylum application, in the applicant's native language or another language that they can reasonably be expected to understand. Generally, an informational leaflet is used for this purpose. If necessary, information must also be provided verbally, for example, in a personal interview as stipulated in Article 5 of the Dublin III Regulation.

Article 5 of the Dublin III Regulation enshrines the right to a personal interview in a language the individual can adequately understand. This interview is intended to facilitate the identification of the responsible state and to ensure the applicant's comprehension of the contents of the leaflet described in Article 4. The interview should take place as early as possible in the procedure, but in any case before a decision on the transfer of the asylum seeker is made. The applicant should also use the personal interview to present any reasons against their transfer to another state. In certain cases, a personal interview may be waived, for example, if all relevant information needed to determine the responsible state has already been provided. In Germany, according to [internal directives](#) the BAMF does as follows: During the initial identification procedure (e.g., collection of personal data, fingerprinting, and photographs), a preliminary admissibility interview (also known informally as a "travel route interview") is conducted. Afterward, an interview on the admissibility of the asylum application takes place. Frequently, a subsequent interview regarding the grounds for asylum (known as the “merit hearing”) is also conducted as a precaution.

The welfare of minors is given special consideration in the Dublin procedure. For minors, Article 6 of the Dublin-III Regulation sets forth special guarantees. Thus, member states must provide unaccompanied minors with qualified legal representation.

How is a person transferred to the responsible state?

German law generally mandates that transfers under the Dublin procedure be carried out through deportation (Section 34a Asylum Act). However, a ruling from the Federal Administrative Court on September 17, 2015 ([1 C 27.14](#)) requires that, at the initiative of the asylum seeker, the authorities responsible for enforcing Dublin transfers examine on proportional grounds whether, as an exception, the individual may be allowed to arrange for their own transfer instead of being deported. Such self-organized transfers are approved only in the most exceptional cases. Individuals who wish to pursue this option must engage in close communication with the BAMF and the Karlsruhe Regional Council (*Regierungspräsidium Karlsruhe*).

Further information [only available in German]:

- Diakonie Deutschland, Dezember 2022: [Familienzusammenführungen nach Deutschland im Rahmen der Dublin-III-Verordnung](#)

III. Legal remedies against a Dublin decision

A Dublin decision typically includes instructions on legal remedies. This specifies the court to which an appeal can be submitted and the timeframe for doing so.

In most cases, a deportation order under Section 34a (1) (1) of the Asylum Act is issued in a Dublin decision. An appeal must be filed within one week of receiving the decision. However, submitting an appeal on time does not prevent German authorities from deporting the applicant, as the appeal does not have suspensive effect.

A (provisional) suspension of deportation can only be obtained by filing an additional request to grant suspensive effect to the appeal (called an “urgent motion”). This urgent motion is also subject to a one-week deadline (Section 34a (2) (1) Asylum Act).

Important: The decision whether or not to file an urgent motion should be made in consultation with a lawyer. Filing an urgent motion always resets the transfer deadline.

If the urgent motion is successful, meaning the administrative court grants the suspensive effect of the appeal, the affected person is protected from deportation at least until a final decision on the appeal is made. In practice, a successful urgent motion often leads the BAMF to revoke the Dublin decision, allowing the person to proceed with a substantive asylum procedure. If the Dublin decision is not revoked and the appeal fails in the main proceedings, the Dublin decision remains in effect, and the transfer deadline restarts from the date of the final court decision.

If the urgent motion is denied, the six-month transfer deadline restarts from the date of the court's denial.

In very rare cases, the Dublin decision includes a deportation warning. In that case, the deadline for filing an appeal is two weeks, and the appeal has suspensive effect, which temporarily prevents deportation.

IV. Further resources [only available in German]

- Informationsverbund Asyl & Migration, Mai 2021: [Basisinformationen Dublin-Verfahren. Die Zulässigkeitsprüfung im Asylverfahren bei „Dublin-Fällen“ und „Anerkannten“](#)

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Hinweis: Diese Arbeitshilfe wurde im Juni 2024 entsprechend der zu diesem Zeitpunkt geltenden Rechtslage erarbeitet. In der Zwischenzeit können sich Änderungen ergeben haben. Die Arbeitshilfe spiegelt die Rechtsauffassung des Herausgebers wider. Zu bestimmten Punkten existieren andere Rechtsauffassungen. Diese Arbeitshilfe ist dafür gedacht, einen allgemeinen Überblick über das Thema zu geben und kann eine individuelle Beratung nicht ersetzen. Wenden Sie sich deshalb im Einzelfall immer auch an Beratungsstellen oder nehmen Sie anwaltlichen Rat in Anspruch. Die Übersetzung ins Englische erfolgte im November 2024.