

Handbook Germany Artikel: Dublin Procedure

Which country is responsible for my asylum application?

The Dublin III Regulation determines the European country in which your asylum procedure must be processed. Before the Federal Office for Migration & Refugees (BAMF) invites you to the hearing to ask you about your story and your reasons for flight, they first check whether your asylum application should be processed in Germany. If, for instance, your fingerprints have been first filed in another European country or in case you have applied for asylum in another European country before Germany, that European country is responsible for your asylum procedure, which means Germany can send you back there.

The Dublin III Regulation has been ratified in all the EU countries, as well as Norway, Iceland, Liechtenstein and Switzerland. In principle, the state responsible for your asylum application is the European country you have first entered when you arrived in the EU or the one which has issued you an entry visa.

Attention: Great Britain is no longer a member of the EU since January 1st, 2021. The Dublin III regulation no longer applies to Great Britain. Separate agreements between Great Britain and the individual EU countries can be expected. Currently, however, there are no regulations.

Does the Dublin regulation apply to me?

The Dublin regulation applies to you when:

- your fingerprints have been filed in another "Dublin country" before Germany
- you have applied for asylum in another "Dublin country" and your asylum procedure is still ongoing.
- you have applied for asylum in another "Dublin country" but have later withdrawn the application.
- you have applied for asylum in another "Dublin country" and your application has been rejected.
- you have obtained a visa or residence permit (for example, due to a national ban on deportation) from another "Dublin country".

In all these cases, your asylum application in Germany will be rejected as "inadmissible" ("unzulässig"). The BAMF will not question about the reasons for your flight; instead, they will ask you to leave Germany and order your deportation ("transfer") to the responsible European country.

How does the Dublin procedure work?

As soon as you have filed your application for asylum, the BAMF will check whether Germany is responsible for your asylum procedure or not. The examination takes place with the help of the Eurodac database. This

Europe-wide database stores the fingerprints of asylum seekers and other foreign citizens who enter Europe. The BAMF may also ask you for your travel ticket(s) to examine it as evidence. If the Dublin regulation applies to you, the BAMF will reject your asylum application as "inadmissible" ("Unzulässig"). Then you will be asked to leave Germany or face deportation to the Dublin state responsible for you. In the context of the Dublin procedure, however, this process is called "transfer" ("Überstellung") which is to be distinguished from "deportation".

To carry out the transfer process, the BAMF is legally bound to follow some rules:

1. Germany must make a so-called "takeover request" ("Übernahmeersuchen") to the responsible European state, and they have to do so quickly. There are two deadlines Germany has to observe: the takeover request must be sent no later than two months after the German authorities found your fingerprints in the Eurodac system, or at the latest, three months after your application for asylum has been received by the BAMF. If the authorities do not submit the takeover request on time, Germany will be responsible for your asylum procedure.

2. The other Dublin member state may refuse this takeover request if it is not able to accept your asylum case.

- If you have not applied for asylum in the other European country, in principle, they have two months to respond to the BAMF's request for the transfer. If the other European country does not react within two months, their lack of reaction will be understood as approval and Germany may deport you to the other country.
- If you have already applied for asylum in the other European country, they will have two weeks to one month to respond to the BAMF's request. If they do not react within the deadline, their lack of reaction will be understood as approval and Germany may deport you to the other country.

3. When the deadline expires without any response from the other country or in case the other state approves the takeover request, Germany has six months to send you back there. If you are not deported within six months, Germany will be responsible for your asylum procedure from then on. Attention: If you are imprisoned, Germany will have 12 months to transfer you to the country responsible for your case. The deadline is extended to 18 months if you avoid deportation to the other country by, for instance, going into hiding. If you, for example, do not stay in your accommodation centre for over a week and the BAMF learns about it, they may assume that you have gone into hiding.

Please note: When Germany rejects your asylum request as "inadmissible" ("unzulässig"), that does not automatically mean that the other country will also reject your application. In Dublin cases, such a rejection only means that Germany is not responsible for your case- so, your application for asylum will be thoroughly examined in the other European country.

In which cases is it not permitted to transfer me to another Dublin state?

You must not be transferred to another Dublin member state in the following cases:

- Your spouse or underage children are recognised as a refugee or as an individual entitled to asylum or subsidiary protection in Germany.
- Your spouse or minor children have applied for asylum in Germany, and Germany is responsible for their asylum application.
- You have fled your country as an underage child and without your parents, but the odds are not in your favour if you apply for family reunification (to reunite with your parents, siblings or other relatives) in the Dublin country responsible for you. Same applies to you if you are a minor and do not have any family members in Europe.
- You are seriously ill, and your condition can severely worsen by deportation/transfer to the country responsible for you. In such cases, you need to present various medical certificates to prove your illness.
- Germany decides to invoke the sovereignty clause, specified in the Dublin regulation. By doing so, Germany voluntarily assumes responsibility for your asylum application. However, this clause is used rarely and only in exceptional cases of hardship, e.g. for sick or traumatised individuals, etc.

What rights and obligations do I have during the Dublin procedure?

You are entitled to be personally asked by the BAMF about your flight route, your state of health and the whereabouts of your family members. In the same interview, you have to explain why you cannot return to the other Dublin country. Legitimate reasons, for instance, include: homelessness, lack of access to medical care, maltreatment, imprisonment, your family's residence in Germany, etc.

The BAMF is legally obliged to inform you (in your language) about the Dublin procedure and the current status of the transfer request sent to the other Dublin country. You are entitled to ask for the current state of your Dublin case regularly and must have access to your file. You can enquire regularly - at least every four weeks - about new developments with your caseworker.

If you opt for a voluntary return to the other Dublin country, you must be allowed to do so.

You are legally obliged to give the BAMF your current address if you move within Germany. Otherwise, the BAMF will send your letters to your old address, and you may miss important deadlines and appointments. Furthermore, the BAMF may assume that you went into hiding. If you go into hiding, BAMF's deadline for your deportation/transfer will be extended (from six months) to 18 months.

Please note: Asylum seekers who have already been recognised as a refugee or an individual entitled to asylum or subsidiary protection by another Dublin state will no longer receive social benefits in Germany. These individuals only receive a so-called „Überbrückungsleistungen“ for 14 days. There will be no other benefits at the end of these 14 days.

What can I do when Germany wants to send me back to another Dublin country?

You have the right to appeal the rejection of your asylum application as "inadmissible" ("Unzulässig"). You must file the appeal at the responsible administrative court, the name and address of which is specified at the end of

your rejection notice under the headline "legal remedies" ("Rechtsmittelbelehrung"). You have two weeks to file the appeal, starting from the date indicated on your rejection notice's envelope. If you intend to file an "urgent appeal" ("Eilantrag"), you are required to do so within a week. A successful urgent appeal prevents deportation during the court proceedings. Without an urgent application, it is possible to be deported during the proceedings. An urgent appeal usually restarts the six-month transfer period mentioned above. Advice from a lawyer can be advantageous.

The chances of success are usually not significant in Dublin cases. Appealing the decision is especially worthwhile if "systemic deficiencies" ("Systematische Mängel") have been identified in the Dublin country which is responsible for your asylum application; i.e. when the responsible state cannot guarantee sufficient support or a fair asylum procedure.

In recent years, various courts have repeatedly identified systemic deficiencies in multiple European countries (including Greece, Italy, Bulgaria and Hungary) and banned the transfer of refugees to these countries as a result.

If the lawsuit is not successful, you can submit a petition to the state parliament ("Landtag") or the German parliament ("Bundestag") or seek refuge in a church to prevent your transfer to the other European country. If you want to opt for the petition, however, keep in mind that the relevant process is often lengthy, and the submission of a petition does not suspend your deportation/transfer, i.e. you may still be deported during the process.

Church asylum ("Kirchenasyl") can be your last option in the face of imminent deportation, as it usually means that you spend your six-month-long transfer period in the church asylum and then Germany will be responsible for your asylum application. However, the original six-month deadline may be extended to 18 months as a result of church asylum. This is the case, namely, when the authorities assume that you have taken refuge in a church to "hide" yourself from them. For more information, you can seek help from a counselling centre or a lawyer.

You can find lawyers and counselling centres nearby on our [local information page](#). You can enter the name of your city and search for asylum, residence or legal counselling service. To learn more about church asylum, visit <http://www.kirchenasyl.de>.

What happens if another Dublin state has already granted me protection?

If you have successfully applied for asylum in another Dublin member state and have been recognised as entitled to asylum, refugee status or subsidiary protection, your application for asylum in Germany will be rejected due to "entry from a safe third country" ("wegen der Einreise aus einem sicheren Drittstaat"). Such a ruling has to do with the so-called "third country regulation" ("Drittstaatenregelung").

As a recognised refugee or asylum seeker who comes from another Dublin state, you may travel to Germany and spend 90 days in the country, but you are not allowed to live or work here permanently. If you do not leave

after 90 days, you may be deported back to the other EU country. Nonetheless, you can file a complaint at the administrative court when your asylum application has been rejected in Germany. After receiving a rejection notice, you have one week to file a complaint and an urgent appeal ("Eilantrag"). Submitting an urgent appeal prevents you from being deported before the court's decision. If you do not have a chance of accessing shelter, food, job, etc. in the country in question, you may win the complaint against the rejection of your asylum application. Seeking the advice of a lawyer can be beneficial. You can find lawyers and counselling centres nearby on our [local information page](#). You can enter the name of your city and search for asylum, residence or legal counselling service.

What other agreements exist besides the Dublin regulation?

The European Union is currently trying to reform the Dublin Regulation, but since such a reform takes a long time to accomplish, some countries have been concluding bilateral agreements regarding asylum issues. France and Italy, for instance, have such an arrangement. Germany has also reached a deal with Spain in August 2018. According to this agreement, Germany is allowed to send refugees who have applied for asylum in Spain (and then entered Germany via Austria) back to Spain within 48 hours. Germany is currently preparing to make similar agreements with Greece and Italy.

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