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4.2.4.3. Decisions on take back and take charge requests

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icon for decisions take back take charge requests

The Dublin III Regulation distinguishes between two categories of requests: take back and take charge. A Member State may send a take back request (Articles 18(1b-d) and 20(5)) asking another Member State to take responsibility for an applicant who applied for international protection within the reporting country but had already applied in the first Member State or because the other Member State previously accepted responsibility through a take charge request.

Conversely, a Member State may send a take charge request (Articles 8-16 and 17(2)) asking another Member State to take responsibility for an applicant who has not applied for international protection in the requesting Member State but Dublin criteria indicate that the other Member State should be responsible. The criteria include family reunion (in particular for unaccompanied minors), documentation (visas, residence permits), entry or stay reasons (using information from Eurodac) and humanitarian reasons.

Of the cases with a reported legal basis,[xviii] over three-quarters of all decisions issued in EU+ countries in 2021 were on take back requests. This represents an increase from the previous 2 years, when decisions on take back requests accounted for just over two-thirds of the total. However, marked differences were noted at the country level. In particular, 97% and 64% of all decisions received by Greece and Malta, respectively, were in response to take charge requests. [xix]

The acceptance rate for take back requests in 2021 was 49% (5 percentage points lower than in 2020), whereas for take charge requests, the acceptance rate in 2021 was 60% (up by 9 percentage points). The increase in the acceptance rate for take charge requests was driven by more positive decisions issued by Italy and Spain and fewer negative decisions by Croatia, Greece, Spain and the United Kingdom.

The Swedish Migration Agency published a new legal position on take charge and take back procedures under the Dublin III Regulation, incorporating the CJEU jurisprudence from Joined Cases C-582/17 and C-583/17.440

Footnotes

[xviii] EUAA data do not contain information on the specific article of the Dublin III Regulation used as a basis for sending a request but distinguish between responses to take charge and take back requests. Data for France are not disaggregated by the type of request.

[xix] A large share of the decisions on take charge requests for Malta were issued in the context of ad hoc relocation schemes.

- 440Swedish Migration Agency | Migrationsverket. (2021, March 29). Rättsligt ställningstagande. Dublinförordningens övertagande och återtagandeförfarande - RS/043/2021 [Legal position. Take charge and take back procedure under the Dublin Regulation - RS/043/2021]. https://lifos.migrationsverket.se/dokument?documentSummaryId=45384

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