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Section 4.2. The Dublin procedure

icon for dublin procedure

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The Dublin III Regulation is the cornerstone of CEAS which aims to define a clear and workable method to determine which Member State is responsible for the examination of an application for international protection. Its objective is to guarantee that each person has effective access to the asylum procedure and that each application will be examined by one Member State only.

To achieve these objectives, the Dublin III Regulation establishes a set of hierarchical criteria under Chapter III to determine the Member State which is responsible for the examination of an asylum application. These include:

- Criteria to protect family unity and unaccompanied minors (Articles 8-11 and 16);
- Criteria on the responsibility of the Member State which played the greatest part in the applicant’s entry into or residence in the country (Articles 12-15); and
- If the first two do not apply, the responsible Member State is the one where an application for international protection was first lodged.

Member States may also assume responsibility based on the discretionary clauses of the regulation.

The Dublin III Regulation is applied by all EU Member States and four associated countries (Iceland, Lichtenstein, Norway and Switzerland). Throughout this section, the term Member States covers the associated countries as well.

COVID-19 measures continued to have a direct impact on the various steps of the Dublin procedure. Although the number of applicants under the Dublin procedure increased during 2021, national authorities continued to face challenges in implementing transfers. As a result, the number of non-implemented transfers remained much lower than prior to the pandemic.

COVID-19 testing requirements and the lack of available flights were cited among the most significant barriers. Legislative changes in Denmark and Switzerland obliged applicants to

undergo COVID-19 testing prior to a Dublin transfer, if necessary. Civil society organisations and UNHCR commented on these amendments. Indeed during the pandemic, authorities and national courts were faced with increasingly complex Dublin cases which required more guidance and clarification.424

The CJEU received a high number of requests for preliminary rulings on several aspects of the Dublin III Regulation: the application of the criteria for determining the Member State responsible, remedies, time limits for transfers and the link with other EU legislations which are outside of the CEAS legal instruments. The European Commission's proposal for a Regulation on Asylum and Migration Management, in particular its objective to reform the current Dublin system, continued to be reviewed and commented on in 2021, for example, by Forum réfugiés-Cosi 425 and METAdrasi.426

The humanitarian clause (Article 17(2) of the Dublin III Regulation) is used for an applicant's voluntary relocation within EU+ countries. As part of the Action Plan for immediate measures to support Greece, launched in March 2021, the European Commission confirmed that 4,307 persons, including 984 minors, were relocated up to September 2021 *(see Section 2)*,427 reaching the total number of 4,638 relocations at the end of 2021.428

According to reports from Member States and jurisprudence, there was an increase in the number of recognised beneficiaries of international protection moving onwards and applying for asylum in another EU+ country. This phenomenon does not fall under the scope of the Dublin III Regulation, even though the trend points to an ongoing challenge with the functioning of CEAS *(see Section 4.3)*. To address this issue, the European Commission has underlined that the proposed Asylum and Migration Management Regulation would reduce incentives for unauthorised movements, for example by including beneficiaries for international protection in the scope of the take back procedure.429

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4.2.10. Reception of applicants in the Dublin procedure

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