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Issues around the implementation of Dublin transfers persisted throughout 2021. Member States found that complying with COVID-19 testing requirements was particularly difficult. For example, the Dutch State Secretary for Justice and Security underlined that the requirement for a COVID-19 test prior to a transfer created a significant challenge in implementing Dublin transfers and returns *(see Section 4.15).* Between 1 January and 16 October 2021, overall 1,050 flights were cancelled due to a refusal to take the COVID-19 test.458

Indeed, as a result of the emergency measures implemented by EU+ countries, Dublin transfers have dropped to very low levels for 2 consecutive years: overall, about 13,500 transfers were implemented in 2021, which was similar to 2020, yet around one-half of the number in 2019.[xx]

In 2020 monthly variations in transfers were highly impacted by the pandemic, but in 2021 these fluctuations were more moderate *(see Figure 4.12).* Dips occurred in January, August and December 2021, in line with previous years and most likely due to the holiday season. The low number of transfers in 2021, combined with a slight increase in accepted requests, resulted in a lower ratio of implemented transfers to accepted requests: 1:5, representing a decrease from 1:4 in 2020 and 1:3 in 2019.[xxi]

Switzerland459 and Denmark460 adopted new legislation obliging applicants to undergo COVID-19 testing, if necessary, for a Dublin transfer or a return to the country of origin. The Dutch government announced its plans to create the legal basis for enforced COVID-19 testing in the beginning of 2022.461

The Netherlands and Belgium concluded an agreement to replace PCR tests by a quarantine before departure, subject to the possibility of re-assessment as the pandemic situation evolves. The Belgian State Secretary for Asylum and Migration extended the transfer period from 6 to 18 months for applicants in the Dublin procedure who refused to undergo PCR testing.462

The French National Assembly’s investigative committee underlined in its report that the low number of implemented transfers shows in itself the need to move towards a new system of solidarity.463 ECRE’s assessment of the implementation of the Dublin III Regulation in 2020,

which was published in the autumn 2021,464 and the Christian Group's analysis of the proposed Asylum and Migration Management Regulation come to similar conclusions.465

The number of implemented transfers were well below pre-pandemic levels throughout the year

Figure 4.12. Number of Dublin transfers implemented in EU+ countries by month, January 2018-December 2021

Figure 4.12. Number of Dublin transfers implemented in EU+ countries by month, January 2018-D

Source: EUAA EPS data.

Another frequent barrier was the lack of available flights which would depart and arrive within working hours. In Greece, this challenge was multiplied by not having an active contract with a travel agency for a certain period of time.466

The Benelux countries have concluded administrative arrangements on the practical implementation of the Dublin III Regulation. Among other things, the time limits for submitting and replying to requests to take charge and take back will be shorter than the (maximum) deadlines laid down in the regulation.467

France, Greece and Germany implemented almost two-thirds of all transfers in 2021. Among the countries implementing the most transfers, the Netherlands executed one-third less than in 2020 and the number declined in Germany as well. A slight increase in transfers was recorded in Greece *(see Figure 13, left side)*, mostly due to the transfer of Turks and Bangladeshis. More transfers were also implemented by Switzerland (mostly of Algerians and Afghans), Austria, Czechia and Slovakia (mainly Afghans), and by Portugal (largely Gambians and Guineans).

As noted in the EASO Asylum Report 2021, some Member States – such as Belgium and the Netherlands – restricted material reception conditions for applicants in the Dublin procedure.468 Related to these developments, the CJEU ruled in cases C-92/21 and C-134/21 that the Dublin III Regulation, Article 27 on remedies does not preclude a Member State – in this case, Belgium – to assign a specific reception facility for applicants who will be transferred to another Member State, where applicants receive support to prepare for the transfer *(see Section 4.7)*.

In Estonia, the Supreme Court deliberated in two cases on the grounds for detention prior to a Dublin transfer *(see here and here and Section 4.8)*.

The preparations to implement a transfer were an element in a case that was sent for a preliminary ruling by the Dutch Court of the Hague. It sought clarification on provisions of the directive on the issuance of residence permits for victims of trafficking in human beings in

conjunction with the Dublin III Regulation.469 The directive grants victims a reflection period, allowing them to recover and escape the influence of perpetrators in order to take an informed decision on cooperating with competent authorities. The Dutch court questioned whether it was allowed to take a Dublin transfer decision during this reflection period, and whether any preparations for a transfer or the transfer itself could be implemented during this time *(see Sections 2.4 and 5).*

The largest declines in receiving transfers were seen in Germany and France in absolute terms *(see Figure 4.13 right side).* They were offset by increases in Romania, Italy, Spain, Austria and Sweden (in descending order), mainly driven by transfers of Algerians, Afghans and Syrians.[xxii] Romania received the most transfers in several years.

In 2021, most transferees were Afghans, accounting for over one-fifth (21%) of the total. They were followed at some distance by Algerians (8%), Syrians (7%), Nigerians, Iraqis and Guineans (5% each). The transfer of Afghan nationals increased by one-quarter from 2020, even exceeding the pre-pandemic levels of 2019. Greece transferred roughly the same number of Afghan citizens as in 2020, which was almost double the number in 2019.

Fewer transfers were implemented by the Netherlands and Germany

Figure 4.13. Number of Dublin transfers implemented by sending (left) and receiving country (right) for selected countries, 2021 compared to 2020

Figure 4.13. Number of Dublin transfers implemented by sending (left) and receiving country (righ

Source: EUAA EPS data.

Over 1,000 Algerians were transferred in 2021, which was in line with pre-pandemic values in 2019. The transfer of Syrians, Moroccans and Guineans (in descending order) also increased, but remained below 2019 levels. In contrast, after dropping in 2020, the transfer of Iraqis and Nigerians declined further in 2021.

Most asylum applicants who were transferred through a Dublin procedure in 2021 were adult males
(see Figure 4.14), but children under 18 years represented at least 21% of all transferees.[xxiii] Both the absolute number and the share of minors who were transferred were similar to 2020 levels. However, the age breakdown of the transferred minors shifted from the previous year: in 2020 younger minors (under 14 years of age) greatly exceeded the older age group (14 to 17 years), but the situation was reversed in 2021. In fact, a significantly larger number of 14- to 17-year-olds (mainly Afghans and Syrians) were transferred in 2021, generally from Greece. A considerable number of the transfer of minors from Greece was in the context of the relocation scheme for unaccompanied minors (under Article 17(2)).[xxiv] In total, Greece executed almost

three-quarters of all transfers involving minors.

The transfer of female minors dropped by approximately 28% in 2021, with minor girls representing only one-quarter of all minors and about one-tenth of the minors in the 14-17 age bracket.

Most transferees were adult males

Figure 4.14. Transferees in the Dublin procedure by age group and sex, 2021

Figure 4.13. Number of Dublin transfers implemented by sending (left) and receiving country (righ
Source: EUAA EPS data.

As in 2020, most minors who were transferred in 2021 were Afghans, followed at a distance by Syrians, Bangladeshis, Pakistanis, Iraqis, Somalis and Turks. All main nationalities which were transferred under the Dublin procedure had an increase in the number of minors being transferred, except for Iraqis for whom the transfer of minors almost halved. The main receiving countries for children were Germany, France and the United Kingdom.

Footnotes

[xx] Data were missing for Denmark and partially missing for Romania (January and September 2021).
[xxi] The ratio of transfers following accepted requests should be used with caution to assess a Member State's capability to successfully implement transfers due to the lack of cohort data and given that there might be a substantial time lapse between an accepted transfer request and a physical transfer. This time lapse distorts the calculation of the rates if the number of acceptances is not stable over time.
[xxii] Only countries where the surplus of transfers in 2021 compared to 2020 exceeded 100 are considered.
[xxiii] The share includes transferees for whom EU+ countries had not reported the age, which accounted for 24% of the cases.
[xxiv] According to information provided by Greek contact points, 615 unaccompanied minors were transferred in the context of ad hoc relocation schemes, while an additional 1,035 unaccompanied minors were transferred under family unity (Article 8) and humanitarian provisions (Articles 17(2)).

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- 459Loi fédérale sur les étrangers et l'intégration (LEI) (Test COVID-19 en cas de renvoi ou d'expulsion), RO 2021 587 [Federal Act on Foreigners and Integration (LEI) (COVID-19 test in case of return or expulsion]. https://www.fedlex.admin.ch/eli/oc/2021/587/fr

- 460Lov nr 131 af 30/01/2021, Lov om ændring af udlændingeloven (Mulighed for at pålægge en udlænding, der skal udrejse af landet, at lade sig undersøge for en sygdom omfattet af lov om foranstaltninger mod smitsomme og andre overførbare sygdomme) [Act No 131 of 30/01/2021, Act amending the Aliens Act (Possibility of requiring a foreigner leaving the country to be examined for a disease covered by the Act on Measures Against Infectious and other Communicable Diseases)], January 30, 2021. https://www.retsinformation.dk/eli/lta/2021/131
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- 463National Assembly | Assemblée nationale. (2021, November 10). Rapport fait au nom de la commission d'enquête sur les migrations, les déplacements de populations et les conditions de vie et d'accès au droit des migrants, réfugiés et apatrides en regard des engagements nationaux, européens et internationaux de la France [Report drafted on behalf of the investigation committee on migration, population displacement and living conditions and access to migrants', refugees' and stateless people's rights in relation to national, European and international commitments of France]. https://www.assemblee-nationale.fr/dyn/15/rapports/cemigrants/l15b4665_rapport-enquete.pdf
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