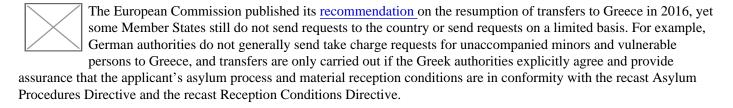


4.2.8 Assessing transfers to specific countries: The cases of Bulgaria, Greece and Italy

Bulgaria

		The Federal Administrative Court in Switzerland delivered a key judgment in February 2020 after examining the
		situation of applicants in Bulgaria after being returned under the Dublin III Regulation. It concluded that there
		were no systemic deficiencies in the asylum and reception systems that should lead to a general suspension of
		transfers. Each individual case should undergo a thorough examination to avoid any risk of inhuman and
degrading treatment, and national authorities can request individual guarantees from Bulgarian authorities. 374		

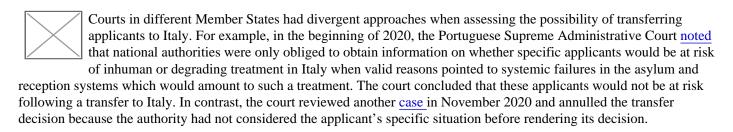
Greece



The Supreme Administrative Court in Finland <u>delivered</u> its first decision related to the resumption of transfers to Greece, stating that while the asylum and reception systems have shortcomings, the situation has significantly improved since 2011 and the deficiencies are not of a systemic nature. In addition, the Greek authorities provided guarantees that the applicant would be provided material reception conditions in line with the recast Reception Conditions Directive and there were no reasons for Finland to assume responsibility for examining the applicant's asylum application under the Dublin III Regulation, Article 17.

Nonetheless, the number of transfers to Greece in 2020 was low, with just 16 transfers reported to have been implemented by four countries. While it is possible that some countries which did not implement transfers had no Dublin cases with Greece as a partner, data presented in <u>Section 4.2.2</u> show that the low number is more likely to be linked to other reasons: i) some Member States decided not to send requests to Greece; and ii) those who did send requests reported that Greece usually rejected the requests (just 3% of the decisions issued by Greece accepted responsibility).

Italy



The Dutch Council of State <u>confirmed</u> that transfers to Italy were possible in the case of a single woman with a child and another case of a man with a serious illness. It assessed the situation prior to the COVID-19 pandemic and held that, even though material reception conditions were reduced in Italy, the reduction was not to the extent that the applicants could not be accommodated adequately. In a third related case, the court assessed the situation in Italy after the start of the COVID-19

pandemic and found that Italy remained responsible for examining the application, even though the transfer was temporarily impossible in practice.

Courts were also called to assess the implementation of transfers to Italy in light of the significant number of COVID-19 cases in the country. In March 2020, the Austrian Federal Administrative Court referred a <u>case</u> of a Nigerian mother and her two children back to the BFA. The transfer decision was made in this case in February 2020, before the authority could have any detailed, accurate and reliable information on the COVID-19 pandemic. The court found that the authority only undertook a general assessment of the situation in Italy and did not mention and assess the developments in the country during the COVID-19 pandemic.

In a similar <u>case</u> in August 2020, the Austrian Supreme Administrative Court ruled on a transfer decision to Czechia and noted that decisions need to be taken swiftly in admissibility cases, such as Dublin cases. Thus, the Federal Administrative Court may only refer back a case to the BFA when the court cannot investigate the case by the standards established in the BFA Procedures Act, Article 21(3). However, when the court can easily research the relevant information, the case should not be referred back. In contrast, in September 2020, the Administrative Tribunal in Luxembourg <u>found</u> that the health situation in Italy was not so serious that it would result in a risk of inhuman or degrading treatment and noted that the situation related to the pandemic had considerably improved in Italy, which was not the case for Luxembourg at the time.

[374] Federal Administrative Court | Bundesverwaltungsgericht | Tribunal administratif fédéral | Tribunale amministrativo federale. (2020, February 19). *Dublin transfers to Bulgaria: No systemic flaws but rather case-by-case analysis*. https://www.bvger.ch/bvger/en/home/media/media/medianmitteilungen-2020/dublin-ueberstellungennach_bulgarien.html







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