Please cite as: EUAA, '4.2.2. Policy changes for a more efficient implementation of the Dublin procedure' in *Asylum Report 2023*, May 2023.

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Members States continued to face several challenges in the implementation of Dublin transfers in 2022. In addition to the EU-level initiative of a roadmap,323 some countries undertook actions at the national level to improve the implementation of Dublin transfers. In March 2023, seven countries – Austria, Belgium, Denmark, France, Germany, the Netherlands and Switzerland – called for strengthened cooperation on the Dublin procedure and reaffirmed their commitment to reform the Dublin system through the Asylum and Migration Management Regulation and the Asylum Procedure Regulation.324 Policy changes on the Dublin procedure were triggered by the increase in applications for international protection and the arrival of Ukrainians in need of protection.

Belgium, for example, applied comprehensive measures to shorten the time of the Dublin procedure and increase transfer rates. The accelerated procedure for specific, predefined potential Dublin cases was revised. A new reception facility opened in August 2022 to accommodate a group of applicants in the Dublin procedure, in parallel to the regular reception system. Case officers from Dublin units are on site at the reception centre to carry out Dublin interviews and follow-up on cases after a transfer decision has been issued. The centre is operated by the Immigration Office, in collaboration with Fedasil, with a capacity of 220 places, but not all places could be used in 2022 due to staff shortages.

In the Netherlands, the Minister for Migration announced that the Track 1 procedure, which was established for applicants in the Dublin procedure, would be standardised and made more efficient as part of general mitigation measures to alleviate pressure on the asylum system. In addition, the government planned changes so that applicants in the Dublin procedure would be offered more moderate material reception conditions, in line with shorter processing times which are foreseen, thus limiting the time and purpose of a stay in reception.325

The Dutch asylum chain partners conducted a successful one-time joint action. While usually one detention order per day is handed down, the cooperation between the different stakeholders made it possible to implement detention orders for nine applicants at the same

time. The applicants had registered again in the application centre, after having been in the Dublin procedure in the Netherlands and absconding before the implementation of the transfer.[326] While authorities have focused on improving the implementation of transfers, the Regional Court of The Hague underlined that a transfer cannot be initiated and scheduled while the case is pending an appeal or a review.

Some countries issued or revised various types of guidance and instructions related to the Dublin procedure. In Bulgaria, in June 2022 the government adopted amendments to the ordinance regulating coordination between the asylum and police (border and immigration) administrations when implementing the Dublin III Regulation.[327] The amendments updated and clarified the division of responsibilities among these authorities.

In Italy, the Ministry of the interior published a new circular in January 2022 which clarified the connection between an application for a special protection permit (a national form of protection established in 2020) [328] and the Dublin procedure. Based on the opinion of the Dublin unit, the commission underlined that the application for special protection should be considered inadmissible if the person has also applied for international protection and has been waiting for the Dublin unit's decision on the Member State which is responsible or the court's decision in an appeal against a transfer decision.[329] On 20 October 2022, the Civil Court of Venice ruled that the practice, based on a note distributed by the Dublin unit, to prevent applicants for international protection in the Dublin procedure from applying for the special protection permit (a national form of protection, *see Section 4.14*) contradicts the law.

The Norwegian Immigration Regulations were amended to define which categories of applicants can be given 'collective protection' (which is similar to temporary protection in the EU legal framework). The Ministry of Justice and Public Security followed up with guidelines to clarify that the Dublin III Regulation did not apply to people under collective protection.

Slovakia adopted a provision in its national legislation on the suspension of a transfer decision when a third-country national under the Dublin procedure absconds.[330]

In France, the Council of State analysed the right to material reception conditions for applicants who refused to appear for their Dublin transfer to the Member State responsible. It ruled that this act can be considered as a serious breach of house rules, entailing the withdrawal of the reception place and the applicant's expulsion from the facility *(see Section 4.7)*.

In contrast, the Belgian Council for Alien Law Litigation (CALL) ruled that a similar failure to appear for an interview for a voluntary transfer does not necessarily imply that the applicant tried to evade the authorities. The case concerned an applicant who could not be contacted by police on two consecutive days at his place of residence. CALL cited its case law that accepting a voluntary transfer would mean that the applicant no longer wants to appeal the transfer decision, so his behaviour does not necessarily mean that he deliberately tried to evade the authorities. As a result, the council concluded that this cannot be considered as absconding and cancelled the extension of the transfer time limit.[331]

The CJEU ruled that a Dublin transfer cannot be implemented during the reflection period provided to victims of human trafficking by Directive 2004/81/EC. However, a transfer decision

may be adopted and preparatory measures can be undertaken during this period, provided that these do not render the reflection period ineffective *(see Section 2.6)*.

Courts examined the legality of measures used by national authorities to use detention to ensure the implementation of a Dublin transfer when there is a risk of absconding *(see Section 4.8)*. For example, the Slovenian Supreme Court found that there was a genuine and immediate risk of absconding by an applicant who was supposed to be transferred back to Romania but expressed several times that his intended final destination was Austria.

In another case, the same court confirmed that the authorities may first order the detention of an applicant and then start the administrative procedure to request a response from the Member State responsible for the applicant's readmission. The Swiss Federal Court concluded that the requirements and timelines laid down in the Dublin III Regulation, Article 28, as interpreted by the CJEU, take precedence over national legislation when it is not compatible with the regulation. Thus, the applicant could be detained for only 6 weeks, and the extension of the detention for 3 months was illegal.

For the purposes of extending the transfer time limit under the Dublin III Regulation, Article 29(2), the CJEU confirmed that the non-voluntary committal of an applicant to a hospital psychiatric department is not considered to be imprisonment *(see Sections 2.6 and 4.8)*.

Regarding the responsibility of a state for a family member, the Supreme Administrative Court in Austria clarified in December 2022 that a Member State is responsible for examining an application for international protection when applying Article 9 of the Dublin III Regulation if the request for reunification is expressed in writing. The article refers to family members of an applicant – regardless of whether the family already existed in the country of origin – who is a beneficiary of international protection and has the right to reside in a Member State. This regulation not only allows the persons (the applicant and the beneficiary of international protection) to have a say but gives them the power to decide whether they want to be reunited, ruling out the possibility that people are brought together against their will. Within the framework of the right to information, the applicant must be informed of the requirement of this declaration (Dublin III Regulation, Article 4(1b-c)), and in the event of such a request by the applicant, it must be verified that the beneficiary of international protection agrees to a reunification. (VwGH Decision, 15.12.2022, Ra 2022/18/0182).

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