

# Information on procedural elements and rights of applicants subject to a Dublin transfer to Estonia

**The information was provided on:** 03 May 2023

**The information was provided by:**  
The Police and Border Guard Board of Estonia

## **About this document**

*The ‘Roadmap for improving the implementation of transfers under the Dublin III Regulation’ was endorsed in the meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) of the Council of the European Union on 29 November 2022. The roadmap identified a clear need for objective and neutral information on reception and detention conditions and the asylum procedure in all the Member States, which can serve as reference in transfer decisions and that can be used in national courts when the person concerned has exercised his or her right to an effective remedy.*

*This data collection is based on Article 5 of the regulation on the European Union Agency for Asylum <sup>(1)</sup> (EUAA). Member States were requested to provide information that reflects both the relevant legal provisions and the practical implementation of these provisions. The scope of the fact sheet is limited to rules and conditions applicable to applicants for international protection as well as other persons that are subject to a transfer under the Dublin III regulation <sup>(2)</sup>.*

*The European Commission and the EUAA jointly developed the template which served as the basis for this fact sheet. The EUAA gathers and stores the fact sheets and requests Member States to update the information at least one time per year. The relevant national authorities of the Member States provide all the information contained within the fact sheet and are responsible for ensuring that it is accurate and up-to-date.*

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(1) [Regulation \(EU\) 2021/2303](#) of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021).

(2) [Regulation \(EU\) No 604/2013](#) of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (OJ L 180, 29.6.2013).

## 1. Access to material reception conditions

**1.1** What steps should an applicant complete following a Dublin transfer in order to gain access to accommodation and other material reception conditions in your Member State?

As soon as the applicant arrives, they receive access to the accommodation and other reception in Estonia.

How long do these steps normally take?

As soon as possible. The steps usually takes not more than 12 hours.

When and how is the applicant provided with information on how to gain access to accommodation and other material reception conditions?

One of the obligatory steps that must be done when registering an application for international protection by the official of the Estonian authority, is to provide information to the applicant. After the application has been lodged, the counsel (a member of Police and Border Guard Board) will provide more thorough counselling to the applicant. In Estonia, the registration and lodging of the application is done at the same time.

**1.2** What material reception conditions (as per Article 2(g) Directive 2013/33/EU laying down standards for the reception of applicants for international protection (recast) (RCD) are available to applicants for international protection entitled to these in your Member State?

Accommodation, food, essential goods, access to first aid.

**1.3.** How does your Member State ensure that applicants for international protection in your Member State are provided with full access to the material reception conditions as defined in Article 2(g) of RCD in line with Article 17 and 18 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

The information about all material reception conditions must be provided to the applicant when they submit their application for international protection. The information is also provided in written format. First aid medical help and food are available in each stage of the proceedings. In the reception center, the applicant receives money to buy food from shops. Applicants in reception centres are provided clothes and care products. Access to medical care and services that are needed in case of special need are also provided. Access to school or kindergarten for the children is provided. There is a possibility to participate in language courses.

**1.4.** Does your Member State apply a policy in line with Article 20.1(c) of reducing or in duly justified exceptional cases withdrawing the access to reception conditions for applicants in cases the applicant lodged a subsequent application?

Yes

If yes, what material support is provided to persons whose material reception conditions have been reduced or withdrawn in accordance with Article 20(1)(c) in your Member State to ensure a dignified standard of living and access to health care?

Yes, the person is ensured a dignified standard of living and access to health care.

**1.5** What health care is an applicant for international protection entitled to in your Member State in line with Article 19 RCD?

The same health care as to all other residents in Estonia.

**1.6** What steps are taken to ensure that applicants for international protection in your Member State have full/effective access to health care, in line with Article 19 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

The information about the possibility to access health care, is provided to the applicant.

**1.7** Please describe what are the support measures available/provided to persons with special reception needs in your Member State in line with Article 21 RCD (e.g. minors, unaccompanied minors)?

All services that are necessary to the applicant. Besides, the unaccompanied minors (UAMs) are provided with a special accommodation place and in co-operation with the Social Insurance Board, the UAMs are provided with appropriate services. In addition, the Social Insurance Board pays specific attention to the interests and needs of (accompanied) minors. Persons with reduced mobility are identified and entitled to a facility that accommodates their specific needs.

Persons with special reception needs living with a disability will be assigned to a special facility for intensive guidance and support (e.g. cognitive impairments, persons with mental health concerns or psychological and/or psychosocial issues).

**1.8** How does your Member State ensure that applicants for international protection with special reception needs in your Member State are provided with full access to the reception conditions, which cater for their special reception needs, in line with Article 21(1) of RCD, and, where relevant, more favourable provisions set out in your national legislation?

The information about the possibility to access the health care, is provided to the applicant. In order to identify special needs, persons are entitled to a medical intake, performed at their arrival by the professional health care agency. This takes place within the first days after arrival.

Persons with reduced mobility are identified and entitled to a facility that accommodates their specific needs.

Persons with special reception needs living with a disability will be assigned to a special facility for intensive guidance and support (e.g. cognitive impairments, persons with mental health concerns or psychological and/or psychosocial issues)

**1.9** How can an applicant for international protection avail themselves of a legal remedy in line with Article 26 RCD, in case they consider that their rights to material reception conditions are not being met in your Member State?

It is possible to go to court with the case.

## 2. Access to the asylum procedure

**2.1** What are the procedural steps that an applicant for international protection transferred to your Member State needs to undertake in order to gain access to the asylum procedure following a Dublin transfer to your Member State?

The person has to submit an application for international protection. The application is registered and lodged in the first site of Police and Border Guard Board.

How long do these steps normally take?

The international protection application will be submitted as soon as the person arrives. Submitting the application takes about 2 hours in Estonia.

Are there any different steps to take for persons whose applications would be considered as subsequent applications? (Location to register, fees, admissibility procedure etc.)

No, in Estonia it is always possible for the applicant to lodge a subsequent application without paying fees. It can however occur that an applicant is detained when a previous application was rejected. If an applicant is detained, he or she can always lodge a subsequent application.

When the applicant is not detained the applicant will have to fill out a form stating the reasons for the subsequent application (new elements and findings)

How long do these steps normally take?

After the application is lodged it may take some time before the different steps in the procedure are taken for instance before the applicant is interviewed or receives a decision.

Where can the applicant find this information, or be provided with this information?

One of the obligatory steps that must be done by the official of the Estonian authority when registering an application for international protection is to provide information to the applicant. After the application has been submitted, the counsel (member of Police and Border Guard Board) will provide more thorough counselling to the applicant. The information is also shared in written format with the applicant.

**2.2** What are the procedural consequences in your Member State of an application for international protection being considered a subsequent application?

The application will still be examined. See the answer to question 2.1. A subsequent application can be processed in an accelerated procedure, but this is not always the case. This is mainly because a new interview with the applicant is not always necessary.

**2.3** Does your Member State avail itself of the possibility under Article 33(2) Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast) (APD) to consider an application for international protection lodged by an applicant

transferred to your country through the Dublin procedure as inadmissible? If so, under which of the grounds listed in this Article?

Yes. It is possible to consider an application for international protection lodged after a transfer as inadmissible when:

- It is a subsequent application where no new elements or findings have arisen or have been presented by the applicant (33(2)d).
- When it is a first application or an application was still pending, the application might be inadmissible on the grounds 33(2) b and c.
- Article 33(2)a is not applicable since the Dublin regulation is not applicable when international protection was granted. Articles 33(2)e is not applied in Estonia.

### 3. Detention and limitations to the freedom of movement of applicants

**3.1** Are there any circumstances under which your Member State an applicant for international protection could be detained on public health grounds (e.g. quarantine), under applicable provisions of national law unrelated to Article 9 RCD?

No

If yes, please describe these different types of circumstances, the legal basis for the detention, duration, conditions (incl. type of facilities), and the legal remedies available to challenge such a decision.

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**3.2** How can an applicant challenge a decision to place them in detention according to Articles 8 and 9 RCD?

A person who has been detained will be provided information on how to challenge the detention decision. The person will be provided with necessary contact details. It is important to note that detention is possible only with the decision of the court. The court also explains how to appeal the decision and which steps must be taken.

**3.3** What are the limits set out in national law to the duration that an applicant may be placed in detention according to Article 9 RCD?

2 months

At what intervals does the judicial authority needs to review a detention decision according to Article 9(5) RCD?

After 2 months, the detention can be prolonged, or the person must be released.

**3.4** What types of less coercive (alternative) measure to detention are used in your Member State?

Supervisory measures – obligation to live in the determined address, to show up in the authority after determined timeframe.

Please elaborate under which conditions these are generally used and how does your Member State ensure that these less coercive alternative measure to detention are used when they can be applied effectively as per Article 8.2 RCD?

Using alternative measures is rather an exception.

**3.5** What conditions, set out in Article 10 RCD, are provided to applicants whilst in detention (specialised detention facilities, access to open-air space, possibility to communicate with UNHCR or an organisation working on behalf of UNHCR, possibility to communicate and receive visits from family members, legal advisers or counsellors and persons representing NGOs, information on the rules of the facility)?

Access to open-air space, possibility to communicate with UNHCR and other NGOs, possibility to communicate and receive visits from family members, legal advisers or counsellors, information on the rules of the facility, possibility to participate in hobby-groups, access to the services of psychologist.



## **4. Available legal remedies and access to legal aid**

**4.1** At which stages of the asylum procedure does an applicant have the right to legal aid after having been transferred to your Member State?

The person has the right to free of charge legal aid in the stage of court proceedings (after the Police and Border Guard Board have made a decision).

**4.2** Is the legal aid provided free of charge to applicants for international protection or does your Member State apply any form of means testing? If so how is this applied in practice?

The counsels help to apply for the legal aid. The Counsel is a member of the Police and Border Guard Board. In case of need for legal aid, the Counsel explains how to fill out the application for legal aid.

**4.3** What are the deadlines within which your Member State requires that an applicant lodge an appeal with regards to decisions not to grant international protection or not to further examine the application on grounds of inadmissibility?

In 10 days after PBGB has issued the negative decision.

**4.4** What are the formal requirements when lodging an appeal as referred to in question 4.3?

The appeal has to be filed in writing and the appeal deadline has to be met.

General requirements have to be met; such as the appellant's name and address, the date, signature, a description of the decision the appeal is lodged against and the grounds for appeal.

**4.5** Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State pending the examination of the application in case of a request for extradition of the applicant to a third country? If yes, how do the competent authorities of your Member State ensure that a decision to extradite an applicant to a third country pursuant to Article 9(2) APD is taken in accordance with Article 9(3) APD, i.e. it does not result in direct or indirect refoulement, in violation of international and Union requirements?

Yes, the exception can be applied. It is obligatory to follow the decision made by the court for applying the exception. As soon as the exception has been decided by the Court, it is put in the information System. Before starting deportation, it is compulsory to check the court's information system.

**4.6** Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State where a person makes subsequent applications as referred to in Article 41 APD?

Yes

If yes, how do the competent authorities of your Member State ensure that a decision to return the applicant to a third country does not result in direct or indirect refoulement, in violation of international and Union requirements as per Article 41(1) APD?

It is obligatory to follow the decision made by the court for applying the exception. As soon as the decision has been made by the Court, it is put in the information System. Before starting deportation, it is compulsory to check the court's information system,