

## Summary of ad hoc query on national legislation and practices regarding the extension of the Dublin transfer period

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**Requested by:** EMN Belgium

**Responses:** 23 EMN Member Countries provided a public answer to this query: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden. The answer of Malta is not for wider dissemination and is therefore not included in this summary.

### Background:

Under Article 29 of the [Dublin Regulation \(Regulation \(EU\) No 604/2013\)](#), transfers must generally take place within six months, with responsibility shifting to the requesting Member State if the deadline is missed. The period may be extended to one year in case of imprisonment, or up to 18 months if the applicant absconds.

Belgian legislation currently provides for a formal motivated administrative decision extending the transfer deadline, separate from the transfer decision. This decision can be appealed.

In the context of amendments to implement [Regulation \(EU\) 2024/1351 \(AMMR\)](#) into Belgian law, Belgium is exploring whether to move toward a more automated approach. For instance, by removing the decision to extend the transfer deadline. Belgium is therefore seeking information on the legal frameworks and practices in other Member States regarding this matter.

This ad hoc query explores whether national legislation provides for a formal decision extending the Dublin transfer deadline that is distinct from the transfer decision, and whether such a decision may be appealed. It also maps existing legal provisions on absconding in connection with the extension of transfer deadlines and gathers information on national practices when an applicant absconds and subsequently reappears.

## Findings:

A preliminary analysis of the results of the ad hoc query shows that:

- **Most responding countries<sup>1</sup> do not issue a formal decision** extending the Dublin transfer deadline that is separate from the transfer decision itself.
- In these countries, the extension is considered an **automatic legal consequence** of the factual situation (absconding or imprisonment) as provided by the Dublin Regulation.
- For example, in **France** no provision in national legislation provides for a formal decision to extend the transfer deadline that is separate from the transfer decision. In this regard, the French Council of State, in its ruling of 21 October 2015, established the principle that the decision to extend the transfer deadline results in maintaining the decision on surrender to the State authorities and does not give rise to a new decision on surrender. This principle was confirmed by the Council of State in its opinion of 28 May 2021. The Council of State also specified, in its opinion of 27 October 2022, that the extension of the transfer deadline is deducted (logical consequence) from the refusal decision to examine the asylum application under the normal procedure.
- In **Hungary**, if the circumstances justifying the extension of the transfer deadline already exist at the time the transfer decision is adopted, the **extended deadline is automatically indicated in that decision**. Where such circumstances arise only after the transfer decision has been issued, no separate formal decision extending the deadline is required, as the applicable legislation provides solely for the obligation to notify the Member State of the extension.
- **Only in two responding countries (Belgium and the Netherlands) a formal decision is issued**. For instance, Dutch legislation provides for a formal decision to extend the transfer deadline that is separate from the transfer decision. In a ruling of 14 December 2022 (ECLI:NL:RVS:2022:3630) the Dutch Council of state ruled that extending the transfer deadline is a decision within the meaning of Section 1:3 of the Dutch General Administrative Law Act (Algemene wet bestuursrecht, Awb). This establishes its formal legal character as a distinct administrative act.
- **Most countries do not allow a separate appeal**, as no formal decision to extend the deadline exists. Some of these countries (Finland, France, Italy and Sweden) indicated that while the extension itself cannot be appealed, related issues (e.g.

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<sup>1</sup> AT, BG, HR, CY, CZ, EE, EL, FI, FR, DE, IE, IT, LV, LT, LU, PL, SK, SI, ES, SE.

absconding or lack of legal grounds, refusal decision to examine the asylum application under the normal procedure) may be raised in an appeal against the transfer decision. **Belgium and the Netherlands provide for an appeal against the formal extension decision**, while in Hungary an extension can, in principle, be challenged, though no cases are known.

- Most countries do not have **specific provisions linking absconding to the extension of the transfer deadline**. Among these, some refer to (national or European) case law (like the CJEU Jawo case) or note that the risk of absconding is addressed in other contexts (e.g., in the context of detention in Luxembourg). Only Belgium and the Netherlands detailed legal provisions addressing absconding in this context.
- In most countries, when an applicant absconds, the responsible Member State is notified, and the transfer deadline is extended in line with Article 29(2) of the Dublin Regulation. Unlike Belgium, where the applicant is also notified at their last known address, several respondents indicated that they do **not inform the applicant about the extension of the transfer deadline** (e.g., Cyprus, France, Luxembourg).
- Practices regarding **reappearing applicants** depend on the circumstances and timing of reappearance. The manner of reappearance (voluntary presentation or interception) may affect the applicant's obligations, including reporting requirements or (alternatives to) detention. If the reappearance occurs while the transfer to the responsible Member State is still enforceable (i.e., within the extended transfer deadline), the existing transfer decision is generally maintained and no new decision is needed. If the extended transfer deadline has expired, responsibility generally shifts to the Member State where the applicant reappears.

For more information, please consult the **compilation of answers**.

**Disclaimer:** The responses regarding this ad hoc query have been provided primarily for the purpose of information exchange among the EMN national contact points (NCPs) in the framework of the EMN. The contributing EMN NCPs have provided information that is (to the best of their knowledge) up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN Member Country. The responses are interpreted by EMN Belgium, in order to write this summary.