

DUBLIN II REGULATION

State of play

The recast Regulation is formally adopted on 26 June 2013 and published in the Official Journal of the European Union. The Regulation has entered into force on 19 July 2013 (date of publication +20 days) and will be applicable starting from 1 January 2014.

The United Kingdom and Ireland take part in the application of the Regulation; Denmark is not bound, nor subject to its application.

What's new?

- The Regulation applies to all persons who lodge an application for international protection, without distinction between applicants for asylum or subsidiary protection.
- The new rules introduce a **mechanism for early warning, preparedness and crisis management**. This mechanism is aimed at evaluating the practical functioning of national asylum systems, assisting Member States in need and preventing asylum crises. The mechanism concentrates on adopting measures to prevent asylum crises from developing rather than addressing the consequences of such crises once they had occurred.
- As a complement to the mechanism for early warning, preparedness and crisis management in the amended Dublin regulation, in March 2012 the Council adopted conclusions on a common framework for genuine and practical solidarity towards member states facing particular pressures on their asylum systems, including through mixed migration flows ([7485/12](#)). These conclusions are intended to constitute a toolbox for EU- wide solidarity towards those member states most affected by such pressures and/or encountering problems in their asylum systems.
- A series of provisions on **protection of applicants**, such as a compulsory personal interview, guarantees for minors (including a detailed description of the factors that should lay at the basis of assessing a child's best interests) and extended possibilities of reunifying them with relatives.
- An obligation to guarantee right to **appeal** against transfer decisions.
- The possibility of appeals to **suspend the execution of the transfer** for the period when the appeal is judged, together with the guarantee of the right for a person to **remain on the territory**, pending the decision of a court on the suspension of the transfer pending the appeal.
- An obligation to ensure **legal assistance** free of charge, upon request.
- A single ground for **detention** (in case of risk of absconding); strict limitation of the duration of detention.
- The possibility for asylum seekers, who in some cases could be considered **irregular migrants** and would fall under the Return Directive, to be treated under the Dublin procedure instead.
- More legal clarity of procedures **between Member States**.

Background information

Dublin Regulation of 18 February 2003

- **Official name:** [Council Regulation](#) 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.
- **Objective of the regulation:** To set out criteria for deciding which State is responsible for an asylum claim, with the broader aim to avoid asylum seekers being transferred from one EU State to another, with none accepting responsibility, as well as multiple or simultaneous applications by the same person in different EU States. A summary can be found [here](#).
- **Remark:** All EU States, as well as Norway, Iceland, Switzerland and Liechtenstein, are bound by the regulation.
- **Evaluation:** [Evaluation report](#) from 6 June 2007 of the European Commission on the Dublin system.
 - The report identified a number of deficiencies related mainly to the efficiency of the system put in place and the level of protection afforded to applicants for international protection which are subject to the Dublin procedure.

Improving regulation 343/2003: Ongoing negotiations on a recast proposal of the regulation

- **3 December 2008 - Commission proposal on recast**
 - [Proposal](#) for a regulation of the EP and the Council 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).
 - The proposal aims to enhance the system's efficiency and to ensure that the needs of applicants for international protection are comprehensively addressed. Moreover, the proposal is aimed at addressing situations of particular pressure on Member States' reception capacities and asylum systems, as well as situations where there is an inadequate level of protection for applicants for international protection (suspension mechanism). [More information](#) by the EC and [summary](#) of the EP.
- **Progress of negotiations:**
 - *JHA Council 8 November 2010: state of play:*
 - On a number of occasions, **ministers voiced serious concerns** regarding **proposed suspension mechanisms for Dublin transfers** in case of particular pressure on the asylum system of a Member State.
 - Some Member States emphasized the need for the principle of **solidarity** to be adequately reflected in the development of the next phase of the CEAS, including in the context of discussions on the revision of the Dublin II mechanism (the current text of the Dublin II regulation states that the member states through which an asylum seeker first entered the territory of the EU are responsible for dealing with that person's request for asylum).
 - *JHA Council 22 September 2011:*
 - Particular attention was given to possible ways to move forward in negotiations on the Dublin regulation based on the concept of an early warning and preparedness process.
 - *JHA Council 26 April 2012:* negotiations between the Council and the EP are expected to start soon. The Council has introduced a mechanism for early warning, preparedness and crisis management. This mechanism is aimed at evaluating the practical functioning of national asylum systems, assisting

Member States in need and preventing asylum crises. It will concentrate on enabling the adoption of measures to prevent asylum crises from developing rather than addressing the consequences of such crises once they had occurred.

- *LIBE Committee of the European Parliament, 19 September 2012*, approved the text negotiated with the Council. [More information](#).
 - The Cyprus Presidency is negotiating within the Council the remaining pending issues. Member States will have to endorse the agreed text, which would then go back to Parliament. The final text is expected to be voted in plenary by the end of 2012.
 - *JHA Council 25 October 2012*: Negotiations between the Council and the European Parliament on the substance of the Dublin regulation have been finalized. The only outstanding issue is related to the comitology procedure, i.e. whether to use delegated or implementing acts. A first technical meeting on this issue has been held with the European Parliament and the presidency intends to reach final agreement by the end of 2012.
 - *JHA Council, 6 and 7 December 2012*: Negotiations between the Council and the European Parliament on the Dublin regulation have been finalized and the Council adopted without discussion this political agreement (as an A-item).
 - *Council position, 7 June 2013*: The Council adopted its [position](#) at first reading on the proposal for a recast, based on a compromise reached between EP and the Council.
 - *LIBE Committee, 10 June 2013*: The LIBE Committee adopted the recommendation for second reading in the report by C. Wikström on the Council position, recommending the EP to approve unamended, the Council position at first reading.
- **12 June 2013 – EP adopts resolution**
 - The EP approves the Council position at first reading and adopts the text in a [resolution](#).
 - **26 June 2013 – Final act signed**
 - **29 June 2013 – Final act published in Official Journal**, L 180, p. 31-59.

The recast Regulation

- **Full name:** 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).
- Original Dublin Regulation 343/2003 will be repealed on the date of entry into force of the new Regulation.
- **Content:** The Dublin II-Regulation lays down 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.

First, some general principles and safeguards (access to the procedure, provisions regarding the personal interview and guarantees for minors) are given. Further, the criteria for determining the responsible Member State are established in several general and specific cases (minors, presence of family members or relatives, case of several applications by different family members, ...); followed by provisions on the (cessation of) obligations of the Member States that are considered responsible. Next, a detailed set of rules on the procedures for submitting and replying to requests to take charge or take back, including procedural safeguards, conditions of detention and execution of transfers, is cleared out; ending with rules on administrative co-operation, the reconciliation procedure and final provisions.

- **Remark:** Following the tragedy in Lampedusa during October 2013, some Member States raised their voice to review the Dublin II-Regulation. This proposal was put to silence by other – Northern – Member States. [Source](#).

More information:

- Position papers from other stakeholders on the matter: [UNHCR](#), [ECRE](#), ...
- [Procedure file](#) of the Legislative Observatory of the European Parliament and [procedure file](#) on Pre-lex (European Commission).
- General information on the content of the Regulation on the site of the European Commission. [Link](#).