

Changes Caused by the Dublin IV Regulation

This is a summary of many of the law changes caused by the Dublin IV regulation. It is based on the English and German versions of the proposal COM(2016) 270 by the European Commission, better known as Dublin IV proposal, released on 4 May 2016¹.

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¹ English version:
ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc55497c0bb01549ad8a50a06c6.do [as of 19 Nov 2016]
German version:
ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc55633bd7b015635f1b0fa0192.do [as of 19 Nov 2016]
Language versions: ipex.eu/IPEXL-WEB/dossier/document/COM20160270.do [as of 19 Nov 2016]

Article 2g Extension of the Term ‘Family’

Siblings of refugees count as family now. Family connections that aroused after the migration, e.g. marriages, are now considered.

Article 3 Paragraph 3 Inadmissibility Process

Before examining the responsibility of an EU Member State, an inadmissibility process takes place. This means an examination regarding the deportation of a refugee to a “safe country of origin” or to a “safe third country” or to the first EU Member State they arrived at. The latter are usually the Member States responsible.

This examination used to be optional but from now on will be obligatory for each state.

Protective regulations, such as the regulation of family reunification, shall not be priority before deportation anymore. Thus, the human right of protection of families is not given any longer.

Article 4 Paragraph 2 / Article 5 Paragraph 4 Deadline for Document Submission

Documents necessary for an asylum application can only be submitted during a certain period, which is over after the first hearing in the Member State responsible. Documents submitted later are not considered.

Article 5 Paragraph 3 Restriction of Social Services

Onward migration within the EU will be sanctioned. A refugee residing a Member State not responsible will lose the right to social services and medical care, with the exception of emergency care.

Standards, such as schooling of minors, access to the job market, material benefits and housing, (per **Articles 14-19**) are omitted then.

Article 6 Paragraph 1 Obligatory Information for Refugees

The responsible authorities must inform refugees about the following:

- 1a)** To choose the Member State responsible is not part of international protection for refugees.
- 1b)** The Member State responsible is the only state where applicants are entitled to the reception conditions, with the exception of emergency care.
- 1d)** Applicants must substantiate their statements about family and relatives that are in the EU. It is not enough anymore to just submit information about them.
- 1e)** Refugees can ask for legal remedy within seven days after a transfer decision (see **Article 28 Paragraph 2**). This is limited to the examination for violations of **Article 3 Paragraph 2** (responsibility) or the ones stated in **Article 28 Paragraph 4**.

[Article 8 Paragraph 3b No Examination of Unaccompanied Minor's Backgrounds

The special consideration of an unaccompanied minor's background is not given any longer.]²

Article 8 Paragraph 4 Deportation of Unaccompanied Minors

The applicable law was: Unaccompanied minors can stay in the Member State they are residing. That will be changed: Unaccompanied minors must reside the state in which the first asylum application was made, which means that they can be deported to a third state or to the Member State responsible. This is not applicable to those who have family in another Member State.

Article 9 Paragraph 1 One-off Examination of Criteria

The necessary criteria for determining the Member State responsible are only examined one-off anymore. The number of examinations was not defined in Dublin III.

Article 10 Paragraph 5 Ceasing Protection of Minors in Member States not Responsible

Unaccompanied Minors can only enjoy the asylum procedure in the Member State responsible.

Removal of Transfer of Responsibility/Article 19 of Dublin III

Responsibility cannot be transferred from the first entered Member State to another anymore.

Article 19 Restriction of Sovereignty

The optional right for a Member State to not deport refugees but execute the examination procedure is omitted and can only be performed in regard of certain family cases.

Thus, regulations specific for single states, such as church asylum, are not valid anymore.

Article 20 Paragraph 1e Expansion of Return Possibilities

An already accepted refugee who resides another Member State than the one responsible can be deported to the state responsible. A beneficiary of protection who migrated from the assigned Member State to another Member State, will be deported back to the assigned state.

Article 20 Paragraph 4 Heavily Restricted Examination after Secondary Movements

If a refugee migrates on, their new asylum application in the Member State responsible will be considered a subsequent application, where the reasons for migration are usually not completely examined again.

² This has never been stated in the English version of Dublin III and is not mentioned as a change in the English Dublin IV proposal. However, it was stated in the German version of Dublin III, and its omission is marked as a change in the German version of the Dublin IV proposal.

English version of Dublin III:

eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF [as of 20 Nov 2016]

German version of Dublin III:

eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:de:PDF [as of 20 Nov 2016]

Only an examination whether circumstances have changed will take place³. German authorities usually consider the circumstances unchanged⁴.

Article 20 Paragraph 5 No Legal Remedy for Taken Back Refugees

Taken back refugees cannot receive any legal remedy after the refusal of asylum.

Article 24 Paragraph 1 Deportation from Member States not Responsible

A Member State not responsible *must* deport a refugee to the state responsible within *one month*. Until now, a state not responsible *could* deport refugees within *three* months.

Article 26 Take Back Notifications

The take back request was converted to a take back notification, which means the obligation of deporting a refugee to the Member State responsible.

Article 27 Paragraph 4 Removal of the Right to Suspensive Effect

A refugee's right of proposing for suspensive effect after a state's transfer decision is abolished.

Article 28 Paragraph 2 Deadline for the Possibility to Receive Legal Remedy

Within seven days, refugees can propose for legal remedy after a state's transfer decision (see **Article 6 Paragraph 1e**).

Before, the deadline used to be defined as "a reasonable period of time."

Article 28 Paragraph 4 Restriction of Legal Remedy

Effective remedy is limited to the examination of violations of **Article 3 Paragraph 2**, **Articles 10-13**, and/or **Article 18**.

Thus, the examination of a possible violation e.g. of **Articles 24-26** (Take Back) is not possible.

Article 30 Paragraph 2 Handling of Unjustified Deportation

An "erroneously" deported refugee must be taken back by the state accountable for this. Thus, refugees can be deported back and forth to some extent.

Article 34 Paragraph 2 Corrective Allocation Mechanism: Reference Number

A state whose reference number has reached 150% (per **Article 35**) does not need to take any more refugees.

Article 35 Paragraph 2 Corrective Allocation Mechanism: Reference Key

The reference key of a state is based on its population size and total GDP (50% weighting each).

³ proasyl.de/wp-content/uploads/2015/12/Stellungnahme_Dublin-IV-PRO-ASYL.pdf [as of 20 Nov 2016]

⁴ nds-fluerat.org/leitfaden/4-der-bescheid-des-bundesamtes/42-kein-neues-asylverfahren-nach-dem-folgeantrag [as of 19 Nov 2016]

Article 36 Paragraph 1 Corrective Allocation Mechanism: Transfer of Responsibility

If a state's reference number of 150% is reached, refugees are assigned to a then responsible Member State.

Article 37 Paragraph 1 / 3 Corrective Allocation Mechanism: "Financial Solidarity"

At regular points, a Member State can (per **Article 37 Paragraph 1**) decide not to participate on the Corrective Allocation Mechanism (**Articles 24-43**). This state must "make a solidarity contribution of EUR 250,000 per each applicant" to the then responsible Member State.

Communication by the Commission Detention and Denial of Social Services

In a communication to the European Parliament and Council, released on 6 April 2016, the European Commission described the following sanctions as "proportionate": "In addition, an applicant who has absconded or is likely to abscond should be assigned to a designated area in the Member State, or detained if necessary, and, where possible, material reception conditions could be provided only in kind."⁵

⁵ ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc553edcee00153f06edd270373.do [as of 20 Nov 2016]
Language versions: ipex.eu/IPEXL-WEB/dossier/document/COM20160197.do [as of 20 Nov 2016]