Dublin II information sheet

Country: GERMANY

Notice: This information sheet is meant to give information only about what an asylum seeker can expect if they will be transferred to Germany under the Dublin Regulation.

It is not meant to provide information about the Dublin Regulation in general and the way it is implemented in Germany. It is also not meant to provide information on how to challenge a Dublin transfer to Germany. In order to avoid a transfer to Germany, it may be recommended that the asylum seeker or his/her lawyer contact the ‘Dublin Department’ in Germany, whose coordinates are provided in this sheet. In doing so the asylum seeker can forward information that may persuade the department to refuse the ‘take back’ request received from the member state that wants to initiate the transfer.

1. Data on the State Department responsible for Dublin requests (ingoing and outgoing)

Name of department: Bundesamt für Migration und Flüchtlinge - Dublin Referat (Federal Agency for Migration and Refugees, Dublin Desk)
Postal address: Bundesamt für Migration und Flüchtlinge - Referat 430 - Frankenstr. 210 - D-90461 Nürnberg
Phone: +49-911-943-0
Fax: +49-911-943-1000
E-mail: info@bamf.de
Website: www.bamf.de

Person in charge: Axel CHRISTOF
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Phone: +49-911-943-0
E-mail: axel.christof@bamf.bund.de
2. Will the asylum seeker be handed over to any kind of public authority (police, immigration officer, etc.)?

- In general, when the asylum seeker is transferred by land, by sea or by air, he should be handed over to the Federal Police at the border.

- But if there is nobody waiting for the asylum seeker, he can present himself to any public authority (police, border police, immigration office) to file or renew his asylum application. He will then be directed to the responsible branch of the asylum authority (“Bundesamt für Migration und Flüchtlinge”, BAMF; see “Contacts and addresses”, 1.2) and to a reception centre. However, he might wish to contact a lawyer or NGO (see “Contacts and addresses”, 2) to prepare for his procedure.

3. Must the transferred asylum seeker be in possession of any kind of document given by the sending Member State? And must he/she register anywhere?

- An asylum seeker transferred to Germany and handed over to the Federal Police will not need any special document. Federal Police should have the necessary information in its IT system.

- The person concerned will not have to register. Since he has already lodged an asylum application, the registration will have taken place earlier, and he will continue his procedure.

- Or he has not. In this case, the Federal Police will transfer him to a reception centre where he can lodge the application or provide him with the necessary information. In the latter case, it is important to proceed to the reception centre immediately (please see also no. 8 below).

In the reception centre, the asylum seeker will be provided with a document confirming his status as asylum seeker (“Aufenthaltsgestattung”), if it is his first application (for repeat applications, please see no. 4 below).

- In Germany, there is no central department responsible for reception.

To identify the responsible authority it is necessary to establish which place in Germany the person in question shall be sent to after return to Germany. Then it is the relevant local authority who is dealing with questions of reception. Each of the 16 federal states has its own authority. However, all of these are subject to the Ministry of Interior of the federal state in this respect. But it would be of no use to turn to the ministry itself - even the local police station would be more effective.

4. Must the asylum seeker apply anew for asylum? If so, how and where?

It depends:
If the old application hasn't been decided yet, the procedure should simply continue; however, it might be useful to indicate on arrival that there has been an application.

If the old application has been rejected, then, yes, to avoid immediate deportation to country of origin, after being returned to Germany, an asylum seeker should lodge a new application for political asylum, a « Repeat Application » (in German: Folgeantrag).

However, since this second or repeat application doesn't bar the aliens' department neither from preparing for the person's deportation nor from having the Regional Court ordering detention, before any repeat application it should be carefully considered if there are really new reasons to base the asylum claim upon.

According to Sections 71 and 71a of the Asylum Procedure Act (Asylverfahrensgesetz) a case is only re-opened if the applicant can present new documents or other bodies of evidence showing that s/he is in real danger of being politically persecuted if returned to the country of origin. « New » means not older than three months counted back from the date of the presentation of the documents or other bodies of evidence.

However, in some cases, the evidence may be older than three months, but the person must not have come across it more than three months ago.

If the asylum seeker cannot meet these requirements, his repeat application will be turned down. If the asylum seeker can present bodies of evidence showing him in danger of being subjected to human rights violations other than political persecution if returned to the country of origin, he should also lodge a repeat application for subsidiary protection (“Abschiebungsschutz”). This application can be lodged even if the bodies of evidence are older than three months. Preferably, the application should be sent in written form to the headquarters of the Federal Agency for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, 90343 Nürnberg, Fax: 0911/943-1000) or to one of the branch offices of the Agency (“Außenstellen”) present in each of the 16 federal states (for addresses, please check www.bamf.de). The file number of the previous procedure should be given.

The legal status of the asylum seeker during the repeat application procedure will be a toleration (“Duldung”).

5. Is there any risk that the transferred asylum seeker will be detained?

During their first procedure, asylum seekers are generally not detained.

However, detention may occur on three occasions:

a. The application has been rejected, and all appeals have been exhausted.

b. The application has been rejected as “evidently unreasoned” (“offensichtlich unbegründet”), the applicant has filed a claim against this and additionally applied in an urgent action procedure to get permission to stay in the country until the court decides on his claim, but the court rejects the application in the urgent action procedure.
c. The applicant has already been detained before applying for asylum. (This happens sometimes if the applicant is arrested by the Federal Police after crossing the border without a visa, and either the applicant does not tell the police that he wants to apply for asylum, or the police fails to forward the application to the Federal Agency for Migration and Refugees before applying to detain the person.)

In cases a) and b), the authorities will try to remove the asylum seeker to the country of origin. In case c), they will either try to transfer him to another Member State under the Dublin II regulation or to remove him to the country of origin in case the application is rejected while he is still in detention.

- **If so, at what stage and in which circumstances can an asylum seeker be detained in Germany?**

It might either happen immediately after return to Germany, if the asylum application has been rejected during an earlier stay (then the person will be treated like any other detainee prior to deportation, see above) or after the application has been processed unsuccessfully (see also above).

- **For which reasons?**

The German authorities most probably will argue that by having left Germany and gone to another country without prior authorization the asylum seeker has shown a tendency to disrespect law and regulations and will most likely abscond if faced with deportation to the country of origin.

- **How can a detention order be challenged?**

A detention order can be challenged at the Regional Court (Amtsgericht) who has issued the order. If the appeal is rejected a complaint can be lodged with the Higher Court (Landgericht). A decision by the Higher Court may be further challenged by a complaint to the Federal Court (Bundesgerichtshof), but a specialised lawyer registered with the High Court is needed to do so.

In theory, **free legal aid** is available to the detainee in this procedure (the German term is “Verfahrenskostenhilfe”). However, this is only granted if the applicant’s case promises to be successful, and this in turn is subject to the assessment of the court. In practice, this may lead quite often to a denial. “Verfahrenskostenhilfe” can be applied for at the court together with the appeal or complaint.

Several organisations run **legal aid funds** that also cover for costs of detention procedures. However, these funds all have very specific conditions. Some are restrained to specific fields of law or operate only in certain federal states (e. g., the legal aid funds administered by Jesuit Refugee Service Germany is only accessible for detention cases and only in Berlin, Brandenburg and Bavaria; for further details contact: info@jesuiten-fluechtlingsdienst.de), others cover only part of the costs of a procedure, or will take cases only on recommendation of
affiliated lawyers or counseling institutions. For an overview, please contact the NGO “Pro Asyl” (see “Contacts and addresses”, 2.).

6. Does a transferred asylum seeker have the right to receive accommodation? If so, how can he enforce this right? How can he get access to reception facilities?

As described above, after returned to the German border, Federal Police will usually pass the person either to the closest initial reception centre or to the reception centre where the person had been obliged to stay before he left Germany. Accommodation in the centres is free of charge.

In case the reception centre cannot be reached within the same day, the authorities should generally direct the person to a shelter where he can spend the night. However, this does not always happen in practice, and sometimes people need to rely on local charities.

7. Are there any specific reception conditions foreseen for vulnerable asylum seekers?

That very much depends on the circumstances in the individual case. The person should contact a welfare agency or a refugee organisation (see “Contacts and addresses”, 2.).

- As for minors, the local authorities (who, together with the federal states, are responsible for the reception conditions) slowly develop capacities for finding out whether somebody is actually a minor. Minors, then, will be transferred either to the youth welfare services or to institutions designed specifically for the needs of minor refugees. However, the latter only exist in few places (mostly big cities where larger numbers of unaccompanied minors arrive).

8. Brief outline of asylum procedure in the receiving country, and possibility for appeals.

If an asylum-seeker reports to the border authority, the latter passes him/her on to the closest initial reception centre, the establishment and maintenance of which is a matter for the respective Federal State. There the asylum seeker files his/her application at one of the branch offices of the Federal Agency, all of which are very close to an initial reception centre. An asylum file is established for asylum-seekers in the asylum procedure secretariat of the competent branch office. On acceptance of the asylum application, the personal data of the person – including the fingerprints - are put into an IT system. It is examined here whether it is a first application or a repeat application. Following is an extract from an information leaflet issued by the Informationsverbund Asyl:
Submitting an application for asylum

You can submit an application for asylum at any branch of the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge = BAMF). If you try to apply for asylum at any other governmental agency (the police, local migration authorities or aliens offices etc.), you will be sent to the branch of the Federal Office which is responsible for handling your application. It is important that you go at once to this branch of the Federal Office. If you do not, the outcome of your asylum procedure could be seriously affected. At the Federal Office you will be asked to provide your personal details; you will be photographed and your fingerprints will be taken. Then you will be registered. It is possible that you will be asked about 25 questions about yourself, about your last place of residence in your country of origin, about your parents and grandparents, and about how you got to Germany. Your answers will be recorded and will be used later at the interview. However it is possible that you will be first asked these questions during the interview itself.

You will be given a preliminary residence permit (Aufenthaltsgestattung) which also serves as identification. You must carry this with you at all times. On the Aufenthaltsgestattung is stated the area in which you are allowed to stay.

If you are given another place of residence, you must inform the Federal Office of your new address. You are legally obliged to make this notification. If you have a lawyer or an advice centre helping you, you should also notify them of your new address at once. It is important that your lawyer is able to contact you at all times.

Who is granted protection?

In the asylum procedure the Federal Office examines whether you were persecuted in your country of origin and whether you would be persecuted if you were to return. Persecution involves above all violations against life and limb and against your freedom. Persecution can also involve serious cases of discrimination. Persecution can be carried out by governmental agencies. It can also be carried out by nongovernmental actors; for example, by a political party, a rebel group, a religious organization, a local community or family members. If you suffered from this type of persecution, the Office examines whether you could have been protected by the state in your country. The Office also examines whether you would face other serious risks in case you had to return to your country of origin. Such risks could be related to ill health or to other dangers affecting life and limb or freedom. Of importance is also the question whether you could have found protection in another area of your country. In such a case the recognition as refugee could be excluded. The conditions that need to be satisfied for asylum in Germany are very complicated. The German authorities have set up high requirements concerning the content and the presentation of an application before they grant refugee status. That is why you should contact a refugee advice centre or a lawyer.

The interview at the Federal Office

An employee of the Office, a so-called decision-maker, will conduct the interview in person. Your application for asylum will be considered on the basis of this interview. The interview usually takes place a few days after you submit your application. In exceptional cases it can take longer. You will be summoned in writing to the interview (Anhörung gemäß § 25 Asylverfahrensgesetz) by the Federal Office. If you are not sure when your appointment for the interview is, ask an employee at an advice centre. If you cannot come to the interview due to sickness, please inform the Federal Office at once and
provide a medical certificate. The interview is your best opportunity to say why you are seeking asylum. This is why you should attend the interview and be well-prepared for it. Try to remember important facts and details before the interview. You should write down the most important reasons in advance. This will help you to organize your memory and to recognize any inaccuracies in your account. Do not give any such personal notes to the Federal Office and do not take them to the interview. This could create the impression that you are telling a prefabricated story. Please be prepared that you will have to talk about events that are painful or embarrassing for you.

If as a woman you are not able to talk to a man about abuse that you have gone through, inform the Federal Office as early as possible. There are female employees at the Office who are specially trained to interview women. There are also employees at the Federal Office who are specially trained to interview children or people who suffer from mental stress (trauma) due to a bad experience.

It is possible that someone you trust in is allowed to accompany you and to be present at the interview. If you plan to take someone with you, inform the Federal Office as soon as possible. It is useful if the person you take with you speaks German as well as your language. However this person cannot present your reasons for seeking asylum on your behalf. Inform the Federal Office as soon as possible which language you would like to speak in the interview. It should be the language that you can speak best. If you have documentary evidence of your persecution in your country of origin (e.g. documents, newspaper articles, prison release papers), present this at the very latest at the interview. The Federal Office files any such evidence. Make sure that the Federal Office provides you with a copy of any such evidence. If you think that friends or relatives could send you important documents from your country of origin, inform the Office. Documents can be very useful as evidence. However, what you say at the interview is decisive for the outcome of your asylum procedure. Do not submit any forged documents. Forged documents are almost always recognized and affect your application.

The decision of the Federal Office
You will receive the decision of the Federal Office in writing. This is why you have to check every day after the interview to see if you have a letter from the Office at your reception centre (Aufnahmeeinrichtung).

If you already have a lawyer, the Office will send their decision to him or her. Make sure that your lawyer can reach you at all times. If your application for asylum is rejected (Ablehnung), you have the right to appeal against this decision at a court. In such a case, however, you have very little time to act. If your application was rejected as being "manifestly unfounded" ("offensichtlich unbegründet"), you have to submit a written application at a court within a week. In another case of a rejection of your asylum claim you only have two weeks to act. This is why you should contact your lawyer or an advice centre for refugees immediately, even on the same day if possible.”

Website(s) where additional info on asylum procedure may be found:
www.proasyl.de
www.asyl.net
www.amnesty.de
www.bamf.de (website of the Federal Agency)
Contacts and addresses

1. State Departments

1.1 In charge of the Dublin Request (ingoing and outgoing)

**Bundesamt für Migration und Flüchtlinge - Dublin Referat** (Federal Agency for Migration and Refugees, Dublin Desk)
Bundesamt für Migration und Flüchtlinge - Referat 430 - Frankenstr. 210 - D-90461 Nürnberg
Phone: +49-911-943-0
Fax: +49-911-943-1000
info@bamf.de
[www.bamf.de](http://www.bamf.de)

Person in charge: **Axel CHRISTOF**
Languages: German, English
Phone: +49-911-943-0
axel.christof@bamf.bund.de

1.2 In charge of the asylum claim

Responsible for asylum claims are the branches (“Äußerenstellen”) of the Federal Agency in Germany’s 16 federal states. For addresses, please check: [http://www.bamf.de/DE/DasBAMF/Aufbau/Aussenstellen/aussenstellen-node.html](http://www.bamf.de/DE/DasBAMF/Aufbau/Aussenstellen/aussenstellen-node.html)

1.3 In charge of the reception of asylum seekers

Responsible for initial reception are the federal states (“Bundesländer”). Each federal state runs (at least) one reception centre (“Erstaufnahmeeinrichtung”), which is usually located near the branch of the Federal Agency in that state, so please check the addresses of the branches (see above).

However, the asylum seeker will normally be given the address of the reception centre to go to by the authority he applies for asylum with (federal police, police, immigration office).

After a certain period that should not exceed three months (but sometimes does), the asylum seeker will be transferred to one of the local reception centres run by local authorities. These exist in every county or bigger city; however, they are often located on the outskirts of town or away from any settlement (e. g. in former army barracks), and living conditions can be poor. Addresses will be provided by the authorities during the procedure.

For minors, some federal states run specialised reception centres. Addresses will also be provided by the authorities, where applicable.
2. NGO’s able to give reliable information on reception conditions for asylum seekers and asylum procedure

1. PRO ASYL (can also give contact data of regional and local refugee and welfare organisations)
   Postal address:
   Postfach 160 624
   D-60069 Frankfurt / Main
   Phone: +49-60-230688
   Fax: +49-60-230650
   E-mail: proasyl@proasyl.de
   Website: www.proasyl.de
   Person in charge: Karl Kopp, Head of Europe Desk, German/English

2. Amnesty International, German Section
   Postal address:
   Postfach 580 164
   D-10411 Berlin
   Phone: +49-30-420248-0
   Fax: +49-30-420248-444
   E-mail: julia.duchrow@amnesty.de
   Website: www.amnesty.de
   Person(s) in charge: Dr. Julia Duchrow, Asylum Desk, German/English

3. Deutscher Caritasverband e.V. (Caritas Germany)
   Referat Migration und Integration (Migration and Integration Desk)
   Postal address:
   Karlstraße 40
   D-79104 Freiburg
   Phone: +49-761-200-0
   Fax: +49-761-200-572
   E-mail: migration.integration@caritas.de
   Website: www.caritas.de

4. Diakonisches Werk der EKD
   Fachbereich Flüchtlings- und Asylpolitik
   Postal address:
   Reichensteiner Weg 24
   14195 Berlin
   Phone: +49-30-83001-0
   Fax: +49-30-83001-222
   E-mail: flucht@diakonie.de
   Website: http://www.diakonie.de
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