

# Dublin regulations

Not everyone has the right for their asylum claim to be heard in the UK.

If you are an adult and you claim asylum in the UK, and the Home Office proves that you have travelled through a safe country on your journey to the UK, they may try to “transfer” your case and say that you have to return to that safe country to have your asylum claim considered.

If the transfer request is accepted by that country, the UK will remove you to that country without looking at your asylum claim at all.

This page looks at: how the Home Office found out if you travelled through another country; detention in Dublin cases; “transfers” (removals under the Dublin Regulations) and the deadlines that the UK and the receiving state must keep to; unaccompanied minors and Dublin; and challenging Dublin removals.

In practice, this is usually only enforced for people who have travelled through countries that are European Economic Area (EEA) member states plus Switzerland, as removal back to those member states is allowed under a European agreement called the Dublin Regulations.

It is often at your screening interview that the UK Home Office will attempt to identify if your asylum claim is their responsibility or not. The Home Office will check your fingerprints against the Eurodac European-wide database of fingerprints. If your fingerprints show up as being registered in another EEA country where you could have claimed asylum or did claim asylum, the Home Office may attempt to remove you to that country.

The Eurodac database is the most common way of identifying that someone's asylum claim falls under the Dublin Regulations, but the Home Office may also use other means such as visas/permits and other official documents issued by another EEA state.

You are legally obliged to allow the Home Office to fingerprint you. If your fingerprints aren't clear (including if you have deliberately damaged them), the Home Office have a policy of scheduling routine appointments to check your fingers until the fingerprints are clear enough for use.

## Detention in Dublin cases

The Dublin Regulations state that people should not be detained solely because they are being put through the Dublin Regulations transfer process, and they should only be detained if there is a “significant risk of absconding”. The UK Home Office says that most people are at risk of absconding, so detains many people whose case falls under

the Dublin Regulations. It's important to note that if they do this to you, they then have to process your transfer more quickly (see below).

Detention should be for the shortest possible time and for no longer than is reasonably necessary to carry out the administrative procedures. That means that someone who is detained for longer than the time limits for detention cases listed below may be able to challenge their continued detention.

If you are detained at the time when a transfer request is accepted by the other country, you should not be detained for longer than six weeks. If you have not been "transferred" to the other country within this time, you should be released from detention. In other circumstances, you should not be detained for a period "vastly in excess" of six weeks (three months, for example).

## Transfers (removals) under the Dublin Regulations

### Lapse of responsibility

If you have claimed asylum in the UK, and the UK Home Office says responsibility for your case lies with another EEA country, there are circumstances in which responsibility has in fact been "reset" and the UK may now be responsible for your asylum case after all.

If you, or the country to which the UK Home Office is trying to transfer you, can prove that since being in that other country, you have been **outside of the EEA for at least three months** before coming to the UK, responsibility no longer lies with that other country.

For example, as an Iranian who has fled your country, you may have spent some time in Germany then returned to Iran for three and a half months where you faced further persecution. If you then came to the UK straight from Iran, and prove this, you may be able to prevent a removal to Germany under the Dublin Regulations.

If you claimed asylum in another EEA country apart from the UK, your claim was refused or you withdrew your claim, and then you **left the EEA under "a return decision or removal order"**, that EEA country's responsibility for your asylum claim ends.

### Transfer request deadlines

- A request by the UK for another EEA country to take back or take charge of your asylum claim must be made as quickly as possible, and within **three months** from when you claim asylum in the UK or **two months in a Eurodac case** (when the Home Office's transfer request is based on a "hit" of your fingerprints in another EEA country).
- If you are **detained** during the Dublin procedure, the UK has only **one month** in which to make the transfer request.

## Receiving country's response deadlines

- In a **take back request** (when the Home Office have identified that you have *claimed asylum* in another EEA state), the country that the UK Home Office is attempting to send you back to has **one month** to respond to the transfer request, or **two weeks if the transfer request is based on a Eurodac hit**. If the country does not respond within these deadlines, that country has to take responsibility for your case.
- In a **take charge request** (when you haven't claimed asylum in another EEA state but the UK Home Office has identified another EEA state may be responsible for your case, for example because you first entered Europe in that country or for positive reasons such as family unity), the country has **two months** to respond to the UK's transfer request. If the country does not respond within two months, it has taken responsibility for your case.
- The Home Office can request an urgent response to take charge requests, in situations of refusal of entry, arrest or a removal order. In these cases, the other country has just one month to respond.
- If you are **detained** during the Dublin procedure, the other country has just **two weeks** to respond to the request.

## Transfer/removal deadlines

- If the other country accepts responsibility (or fails to reject responsibility) for your case, the UK has **six months** in which to remove you to that country. The six-month countdown starts from when the other country accepts responsibility for your case; or if you challenge the decision, for example through a judicial review, six months from when the court rules you can be sent to that country. This time limit may be extended up to a maximum of one year if the transfer could not be carried out because you are imprisoned (following a criminal conviction as opposed to detained under immigration powers) or up to a maximum of 18 months if the Home Office deems that you have 'absconded' (have not complied with reporting requirements or bail conditions etc).
- If you are **detained**, the UK has just **six weeks** to remove you. The six-week countdown starts from when the other country accepts responsibility for your case; or if you challenge the decision, for example through a judicial review, six weeks from when the court rules you can be sent to that country.

There may be other circumstances where your removal should not come under the Dublin Regulations. You should discuss these with a lawyer and make sure that the Home Office have correctly informed the third country/Dublin office (in the country to which they are trying to remove you) of these circumstances.

## Unaccompanied minors

If you can prove you are under 18 and in the UK without your family, the Home Office cannot remove you under the Dublin Regulations even if you have already claimed asylum in another EEA country, if you can show that staying in the UK would be in your best interests.

## Challenges to Dublin removals to certain countries

**At the time of writing, the UK are not removing people to Greece or Hungary under the Dublin Regulations, because conditions there for people seeking asylum have been found to breach human rights law.**

Lawyers have established that conditions for some particularly vulnerable asylum seekers in Italy would breach would breach their human rights. There are also challenges to removals to countries such as Bulgaria, Cyprus and Malta.

If the Home Office are attempting to remove you to an EEA country where you think your human rights would be breached, you can try to challenge the removal on this basis.

## Challenging a Dublin removal

If you think your human rights would be breached by removal under the Dublin Regulations, you need to try and speak to a lawyer about proving this.

This may be because of the conditions in the country to which the UK is trying to transfer you - see above - or because of human rights considerations such as family or private life in the UK. The Dublin Regulations (article 17) allow a country to use their discretion and “to take charge of an applicant in order to bring together any family relations, on humanitarian grounds based in particular on family or cultural considerations”.

Although the Dublin III regulations allows for an appeal right to decisions to transfer your asylum claim, in practice the UK Home Office certifies these claims (and human rights representations against a transfer) and the legal option for challenging a Dublin removal is likely to be a judicial review.