



# The Dublin Regulation

Asylum in Europe  
Now, it's up to you.



## Regulation 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

The purpose of this Regulation, adopted in 2003, is to determine which State is responsible for examining an asylum application – normally the State where the asylum seeker first entered the EU – and to make sure that each claim gets a fair examination in one Member State.

The “Dublin” system operates on the assumption that, as the asylum laws and practices of the EU States are based on the same common standards, they allow asylum seekers to enjoy similar levels of protection in all EU Member States. In reality, however, asylum legislation and practice still vary widely from country to country, causing asylum-seekers to receive different treatment across Europe.

In its 2008 evaluation, the European Parliament noted that, in the absence of harmonisation, “the Dublin system will continue to be unfair both to asylum seekers and to certain Member States”. The Dublin system increases pressures on the external border regions of the EU and harshly disrupts the lives of those fleeing to Europe for protection. In December 2008, the European Commission proposed amendments to the Dublin Regulation, which were largely welcomed by the European Parliament, ECRE and UNHCR.

During determination procedures under the Regulation, asylum seekers wait in limbo, often separated from their families and in detention, pending transfer to the state deemed responsible for their claim. In some cases, their claims are never heard. Demonstrated failures to respect the rights of persons transferred under the Regulation have been so severe, that both UNHCR and ECRE have appealed governments to stop asylum applicants from being returned to certain countries.

### What matters

- Asylum seekers should have the right to a suspensive appeal**  
 The determination of the country responsible for a claim should not result in transfers to Member States that do not guarantee a full and fair hearing of asylum claims. Asylum seekers should have a right to remain in the country where they have requested asylum while appealing against their transfer to the Member State through which they entered the EU (the so-called suspensive effect of appeal).
- People should be detained as a last resort only**  
 Members of European Parliament have observed that some Member States automatically detain persons pending or subsequent to transfer under the Dublin Regulation. The European Commission’s proposed safeguards to reduce the risk of arbitrary detention are therefore welcome. However, there are serious concerns that Member States will continue to detain asylum seekers in the Dublin system, based on the view that they are likely to abscond. Detention should only be used as a last resort where non-custodial measures have been demonstrated not to work.
- The best interest of children should be respected**  
 Moving unaccompanied children from one country to another has a negative impact on their wellbeing. Transfer or threat of transfer may lead to their disappearance. The country responsible for examining the asylum requests of children should therefore be the one where the most recent application has been made, in order to avoid unnecessary movement, except when the transfer aims to reunite families. Children should not be separated from family members, including brothers or sisters who are already in the EU. Member States should have the obligation to trace family members residing in the EU.
- Suspending transfers to EU States under particular pressure should be possible**  
 The Commission’s proposal for a mechanism to suspend transfers of asylum seekers to EU countries under strain, if they are failing to guarantee the examination of asylum claims and proper reception standards, is a positive development. However, this must remain an exceptional tool. The State concerned should be required and assisted to remedy the shortcomings in its asylum system.
- Asylum applicants should always have the right to a personal interview**  
 An interview is essential to allow applicants to explain why they need protection and to receive information of the relevant procedures. The Commission’s proposal that Member States systematically conduct personal interviews with all asylum applicants under the Dublin system is welcome as it will enable the asylum seeker to give all the information necessary to decide which Member State should be responsible for his/her asylum claim.

