

Asylum Information Database | European Council on Refugees and Exiles

Country Report: **Dublin** Last updated: 20/05/22

General

Dublin statistics: 2021

Outgoing procedure		Incoming procedure			
Requests	Transfers	Requests	Transfers		
Total	3,318	53	Total	19,936	1,462

Source: Ministry of Interior.

In 2021 19,936 requests were submitted in the incoming procedure, including take charge and take back requests; the figure was quite similar in 2020, when requests were 18,941. With regards to the outgoing procedure, there were 3,318 total requests, almost double than in 2020, when 1,841 requests were sent. 18 family reunifications transfers to other States under Dublin III Regulation took place, out of which 15 involving minors and 3 regarding adults. In 2020 they were only 7.

The transfers from other States under the Dublin family reunification procedures were 145, out of which 140 regarding minors and 5 adults.

Such data, especially those of incoming requests and transfers, still probably reflect the suspension of transfers and obstacles faced in carrying them out due to the COVID-19 pandemic. Incoming requests were around the half than in 2019, when they were 35,255. Similarly to 2020, incoming transfers were just about a quarter than in 2019 (1,462 compared to 5,979).

Transfers in the outgoing procedure decreased significantly: they were only 53, compared to 431 in 2020, and to 579 in 2019.

Application of the Dublin criteria

The Dublin Unit tends to use circumstantial evidence for the purpose of establishing family unity such as photos, reports issued by the caseworkers, UNHCR's opinion on application of the Dublin Implementing Regulation, and any relevant information and declarations provided by the concerned persons and family members.

In 2021, the Dublin Unit dealt with 355 cases of unaccompanied foreign minors eligible for the Dublin family reunification procedure, based on Articles 8 and 17 (2) of the Regulation. Out of these, 30 were outgoing requests and 325 incoming requests.^[1]

The COVID-19 pandemic had a huge impact on family reunification procedures for minors under the Dublin Regulation. Most affected were the aspects related to the assessment of the suitability of family members or adults in taking care of minors (evaluation which also takes place through interviews in presence) and the transfers of minors. In many cases of family reunifications involving minors (7 out of 30 in outgoing and 106 out of 325 in incoming), the procedures found

their legal basis

in Article 17, (2), of the Dublin Regulation: these were, in many cases, cases initiated by the pursuant to art. 8 for which, following acceptance by Italy or the other Member State, the deadline for the transfer to the country of destination had expired (the six months from the date of acceptance by the receiving State) due to travel restrictions imposed by the emergency situation. In these cases, it was decided to open new procedures, based on discretionary clause contained in Article 17 (2), in order to allow the transfer. [2]

From 2019, UNHCR Italy together with the social cooperative Cidas, run the EFRIS European Family Reunion Innovative Strategies project with the aim of improving the effectiveness of family reunification procedures for unaccompanied foreign minor asylum seekers under the Dublin III Regulation. [3]

The project staff has drawn up and disseminated the Guidelines for operators, [4] containing operating procedures standards and best practices for family reunification of minors under the Dublin III Regulation and Multilingual information leaflets (in Pashto, Tigrinya, Italian, Urdu, Somali, Farsi, English, French, Arabic) aimed at providing unaccompanied minors with information on the right to family unity and on family reunification under the Dublin procedure. [5]

Outgoing procedure

Of the 30 outgoing practices examined by the Dublin Unit in 2021, 16 were started in previous years (12 in 2020, 3 in 2019 and 1 in 2018). The outcome of the procedures saw:

- a single minor voluntarily leaving the accommodation facility before the conclusion of the procedure;
 - 16 minors accepted by the Member State in which the family member is resident (15 were already transferred by the end of 2021)
- 4 minors definitively rejected (and therefore their asylum application will be examined in Italy);
- 4 minors renounced the reunification before sending the Take charge request to the other Member State,
- 5 minors were still waiting for the outcome of the procedure

14 boys and 16 girls – predominantly between the age of 14 and 17 – were involved in the outgoing procedure. Five turned eighteen during the procedure and 2 were under the age of 14.

The breakdown of outgoing requests of unaccompanied children in 2021 was as follows:

Outgoing procedure of children under the Dublin family reunification, 2021

Country	Number of requests
Germany	10
United Kingdom	6
Sweden	5
Finland	3

Netherland	2
France	2
Belgium	1
Switzerland	1
Total	30

Source: Ministry of Labour.

Family reunification was carried out with a parent in 8 cases, siblings in 9 cases, uncles or aunts in 11 cases, cousins in 2 cases.^[6]

Incoming procedure

Regarding the incoming procedure, the Dublin Unit dealt with 325 cases, out of which 203 new cases and 122 ongoing cases from the previous years. Of these, in 162 cases Italy accepted the transfers, and 140 transfers were actually carried out; Italy refused the transfer in 82 cases. Another 78 were ongoing by the end of 2021; 3 minors absconded before the end of the procedure.

Family reunification was asked with an uncle or aunt in 186 cases, with a brother or sister in 109 cases, with a parent in 14 cases and with a cousin in 16 cases.

Minors involved in the incoming procedure were all males except for one female.

171 turned eighteen during the procedures (started between 2017 and 2020), 151 were between 14 and 17 years of age, while 3 were under 14.

Minors were predominantly from Pakistan (151) and Bangladesh (129).

As reported by the Ministry of Labour, they mainly reached Italy through the Balkan route, most of them entering from the EU eastern border, mainly from Greece.

The discretionary clauses

The Dublin Unit has not provided data on the application of the discretionary clauses under Article 17 of the Dublin Regulation. However, as mentioned above (2.1.1) in many cases Article 17, (2), of the Dublin Regulation was used in 2021 to proceed with family reunifications for minors when the transfer had not been carried out within the time limits set by the Dublin regulation (6 months from the acceptance)

As of February 2019, the Dublin Unit applied the sovereignty clause, before the time to appeal against the transfer decision to Croatia had expired and after a review request, in favour of an Iraqi family whose daughter had been hit by gunshots fired by the Croatian police.

In some cases in 2018, courts held that the “sovereignty clause” may only be applied as long as a decision on the asylum application has not been issued by any Member State concerning the individual applicant,^[7] as in “take back” cases the court is not required to assess risks of *refoulement* upon potential return to the country of origin.^[8] The Civil Court of Rome ordered the application of Article 17(1) and annulled the transfer to Norway where the applicant had already received a negative decision on his asylum application. The Court took into account the risk

situation for personal safety and respect for fundamental rights in the applicant's country of origin, Afghanistan, in addition to the applicant's young age and the absence of a support network in the country of origin.^[9]

In 2019, the Civil Court of Rome confirmed its orientation on the application of the sovereignty clause for Afghan citizens who risked indirect refoulement: by a decision issued on 10 May 2019, the Court annulled the transfer to Germany of an Afghan asylum seeker^[10] where the applicant risked to be repatriated to his country of origin because of the negative decision on his asylum application.

In early 2021, the Court overturned the transfer of a Palestinian citizen to Sweden, on the grounds that the return to Palestine, already decided by Sweden, would have represented a risk for the applicant.^[11]

The Civil Court of Milan, annulled the transfer to Germany of an Afghan citizen because of the violation of Article 3 (2) of the Dublin Regulation, considering the refoulement risk due to the fact that Germany had already rejected the asylum request of the applicant. The Court, however, excluded the application of Article 17 (1) which would fall within the sole discretion of the State and not of the Court.^[12]

The Civil Court of Trieste, which has become competent for a huge number of Dublin appeals (see later procedure) as of March 2019 annulled the transfer of an Afghan asylum seeker to Belgium and applied Article 17(1) because of the risks the applicant would have faced in case of return to Afghanistan.^[13]

Later, the same Court changed its orientation rejecting the appeals submitted, in 2020, by Dubliners also in cases involving Afghans or Iraqis who proved the actual risk of indirect refoulement.

On 5 May 2020, the Court of Rome applied Article 17 (1) and annulled the transfer to Romania of an Afghan applicant because of the violation of information obligations pursuant to Articles 4 and 5 of the Dublin Regulation.^[14]

In 2021 and early 2022, many Civil Courts – including that of Rome – suspended decisions related to the principle of no refoulement pending the CJEU preliminary rulings on questions raised by some courts regarding Article 17 (1) of the Dublin Regulation.

The Civil Courts of Rome and Florence asked the CJEU to clarify if Courts are entitled to order the application of the sovereignty clause in cases where the non-refoulement principle could be violated because the applicant could be repatriated to his or her country of origin, considered unsafe.

In both cases, the applicants are Afghan citizens who appealed against the transfer to, respectively, Germany and Sweden, where their asylum application was already rejected. They claim that the execution of their transfer, would expose them to an irreparable damage because of the consequent repatriation to Afghanistan.^[15]

Procedure

The staff of the Italian Dublin Unit had significantly increased in 2018 and benefitted from the support of EASO personnel, mainly in relation to outgoing requests, family reunification and children. In 2019, EASO interim staff supported the Italian Dublin Unit.^[16] In 2020, only 3 EASO experts remained in the Unit while, for 2021, other EASO experts supported the Dublin Unit.

Decree Law 113/2018 envisaged the creation of up to three new territorial peripheral units of the Dublin Unit, to be established by Decree of the Ministry of Interior in identified Prefectures.^[17] However, no peripheral units have been implemented in 2020 nor in 2021.

All asylum seekers are photographed and fingerprinted (*fotosegnalamento*) by Questure who systematically store their fingerprints in Eurodac. When there is a Eurodac hit, the police contact the Italian Dublin Unit within the Ministry of Interior. In the general procedure, after the lodging of the asylum application, on the basis of the information gathered and if it is considered that the Dublin Regulation should be applied, the Questura transmits the pertinent documents to the Dublin Unit which examines the criteria set out in the Dublin Regulation to identify the Member State responsible.

Since December 2017, a specific procedure has been implemented in Questure of **Friuli-Venezia Giulia** region, on the basis that most of asylum seekers arriving in this region from Nordic countries or the Balkan route fall under the Dublin Regulation. ASGI has witnessed cases where the Questure fingerprinted persons seeking asylum in the region as persons in “irregular stay” (“Category 3”) in the Eurodac database,^[18] instead of “applicants for international protection” (“Category 1”).^[19] The Dublin Unit therefore justified, even in the Court procedure, the implementation of the Dublin transfer prior to the lodging of the application on the basis that no asylum application has been made; it should also be noted that “Category 3” fingerprints are not stored in the Eurodac database.^[20]

In 2020, the procedure recorded in 2019 in Friuli Venezia Giulia was overcome by the Covid19 emergency and, at least partially, replaced by the massive implementation of informal readmissions of migrants in Slovenia even in cases of people seeking asylum, as affirmed by the Civil Court of Rome,^[21] when the Dublin Regulation should have been applied (see access to the territory).

Asylum seekers are not properly informed about the procedure or given the possibility to highlight any family links or vulnerabilities. While the Civil Court of Rome, as mentioned, confirmed in 2020 its orientation on the cancellation of the transfer measures adopted without prior due information,^[22] other Civil Courts have not expressed the same orientation. The Civil Court of Trieste constantly affirmed in 2020 that the omission of information does not affect the validity of the provision and the Civil Court of Milan has shown the same orientation in some decisions.^[23]

The Court of Cassation then expressed, in 2020, two opposing orientations with respect to the consequences of non-compliance with the information obligation pursuant to Articles 4 and 5 of the Regulation: firstly, with a decision of 27 August 2020, the Court specified that the guarantees of participation and information are of fundamental importance and must be expressed both with the interview with the interested party (Article 5) and with the information (Article 4). According to the Court it is not relevant whether the interested party obtained such information from other subjects or if the interested party has demonstrated how the lack of information has affected his rights of action and defence in Court.^[24] Later, with a decision of 27 October 2020, the Court stated that the judge cannot annul the contested transfer by noting formal violations of the Dublin Regulation occurred during the procedure;^[25]

To this regard, the Court of Cassation, requested, pursuant to Article 267 of the TFEU, the European Court of Justice to give a preliminary ruling to clarify whether Article 4 of the Dublin Regulation must be interpreted as meaning that the violation of the information obligation can be asserted only on condition that the applicant indicates what information he could have indicated in his favour, decisive for a positive decision in his interest.^[26]

Individualised guarantees

The Dublin Unit systematically issues outgoing requests to all countries when potential responsibility criteria are triggered. There are no reports of cases where the Dublin Unit has

requested individual guarantees before proceeding with a transfer, even in the case of vulnerable persons.

In some cases, the Dublin Unit was not informed about the vulnerability by Questura. This may be related to the fact that personal interviews provided by Article 5 of the Dublin regulation are not properly conducted or they are not conducted at all.

Transfers

In case another Member State is considered responsible under the Dublin Regulation, the asylum procedure is terminated.^[27] The Dublin Unit issues a decision that is transmitted to the applicant through the Questura, mentioning the country where the asylum seeker will be returned and the modalities for appealing against the Dublin decision.^[28] Afterwards, the Questura arranges the transfer.

The applicants must then present themselves at the place and date indicated by the Questura.

Where an appeal is lodged against the transfer decision, the six-month time limit for a transfer starts running from the rejection of the request for suspensive effect, otherwise from the court's decision on the appeal itself if the suspension had been requested and was accepted.^[29] Since the practical organisation of the transfer is up to the Questura, it is difficult to indicate the average time before a transfer is carried out. The length of the Dublin procedure depends on many factors, including the availability of means of transport, the personal condition of the person, whether or not the police needs to accompany the person concerned etc. However, as the majority of applicants abscond and do not present themselves for the transfer, the Italian authorities often ask the responsible Member State for an extension of the deadline up to 18 months, as envisaged under Article 29(2) of the Dublin Regulation.

While waiting for the result of their Dublin procedure, asylum seekers are not detained.

The applicant usually waits for months without knowing if the Dublin procedure has started, to which country a request has been addressed and the criteria on which it has been laid down. In the majority of cases, it is only thanks to the help of NGOs providing adequate information that asylum seekers are able to go through the whole Dublin procedure. When necessary, the NGOs contact the authorities to get the required information.

According to the data published by the Ministry of Labour in 2017, the time period between a “take charge” request for unaccompanied children and its acceptance by the destination country was 35 days on average, while it was on average 46 days between the acceptance of the request and the actual transfer of unaccompanied children.^[30] According to ASGI's experience, the duration of the procedure is much longer in practice, and the procedure may last over one year. As previously mentioned, in 2021, more than half of the practices required more than a year for definition in the outgoing procedure

In general, in 2020 and 2021 the COVID-19 pandemic situation further affected the length of the procedures.

Personal interview

With the exception of the lodging of the asylum application by the competent Questura, personal interviews of asylum seekers are rarely envisaged during the Dublin procedure.

On 8 January 2020, the Civil Court of Rome cancelled a transfer decision to Germany adopted by the Dublin Unit against an Afghan citizen because the written summary of the interview did not allow to verify the compliance with the participation guarantees provided for in Articles 4 and 5 of

the Dublin Regulation as it did not indicate the language in which the interview had taken place and it was signed by an unidentified “cultural mediator” whose spoken language was not clarified. [31]

In 2021 and early 2022, many Courts suspended the Dublin transfers pending the CJEU’s preliminary rulings raised by some Courts also on the information obligations. The Court of Cassation, [32] the Civil Court of Trieste [33] and the Civil Court of Milan [34] asked the CJEU to clarify if a violation of the information obligations ruled by Articles 4 and 5 of the Dublin Regulation could cause in any case the cancellation of the transfer or such cancellation could be ordered only in case the applicant proves how the fulfilment of the information obligations and consequently his or her participation in the procedure could have changed the procedure. [35] The hearing is scheduled for 8 June 2022.

Appeal

Asylum seekers are informed of the determination of the Dublin Unit concerning their “take charge” / “take back” by another Member State at the end of the procedure when they are notified through the Questura of the transfer decision. Asylum seekers may be informed on the possibility to lodge an appeal against this decision generally by specialised NGOs.

An applicant may appeal the transfer decision before the Civil Court of Rome within 30 days of the notification of the transfer. [36] In case applicants are accommodated in asylum seekers’ reception centres when notified about the transfer decision, territorial jurisdiction is determined on the basis of where the centres are located. Therefore, the competence falls within the specialised sections of the territorially competent Civil Courts and not the location of the Dublin Unit. The assistance of a lawyer is necessary for the lodging of an appeal, but the applicant can apply for legal aid.

Competent court

Until the end of 2015, the transfer decisions issued by the Dublin Unit were challenged before the administrative courts. In 2016, however, administrative courts expressed the position that the Dublin procedure should be understood as a phase of the asylum procedure and, consequently, “Dubliner” asylum seekers as holders of an individual right and not a mere legitimate interest. The administrative courts have therefore stated that the judgment should be entrusted to the jurisdiction of ordinary courts, meaning the “natural judge” of individual rights. In this context, the first significant decision was taken on 18 December 2015 by the Council of State, [37] and subsequently by the Administrative Court of Lazio. [38] Reiterating this interpretation, Decree Law 13/2017, implemented by L 46/2017, has designated the specialised section of the Civil Courts as competent to decide on appeals against transfer decisions. [39]

During 2018, the Civil Court of Rome started declaring lack of jurisdiction to decide on appeals lodged by persons accommodated in reception centres throughout the country. According to the Court, in case applicants were accommodated when notified about the transfer decision, territorial jurisdiction should be exclusively determined on the basis of the place of the centres are located, and therefore fall within the specialised sections of the territorially competent Civil Courts and not the location of the Dublin Unit, i.e. Rome. [40] This is echoed by the prospective establishment of local branches of the Dublin Units in specific Prefectures following the 2018 reform.

In 2019, the matter was brought before the Court of Cassation which, initially, interpreted the current legislation establishing the jurisdiction of the Civil Court of Rome. [41] Afterwards however, it expressed an opposite orientation recognizing that the territorial jurisdiction depends on the position of the reception centre at the moment of the notification of the transfer decision to the applicants. [42]

In case of appeals brought by people not accommodated at the time they were notified with the transfer decision the jurisdiction is indisputably that of the Civil Court of Rome.

Suspensive effect

Article 3 of the Procedure Decree does not unequivocally provide that the transfer is suspended until the time limit for lodging an appeal expires. It states that the lodging of the appeal automatically suspends the transfer if an application for suspension is in the appeal.^[43] According to ASGI, this should be interpreted as meaning that transfers may be carried out only once the time limit for an appeal has elapsed without an appeal being filed or with an appeal not indicating a request for suspension.

To the knowledge of ASGI, in 2021, as in the previous two years, the Questure waited for the 30-day deadline for lodging the appeal to expire before proceeding with the organisation of the transfer.

According to the law, the Court should decide on the application for suspensive effect within 5 days and notify a decision to the parties, who have 5 days to present submissions and 5 days to reply thereto. In this case, the Court must issue a new, final decision, confirming, modifying or revoking its previous decision.^[44] In ASGI's experience, the Civil Courts never complied with these timeframes both in 2020 and 2021.

The appeal procedure is mainly written. Within 10 days of the notification of the appeal, the Dublin Unit must file the documentation on which the transfer decision is based and, within the same time limit, may file its own submissions. In the following 10 days, the applicant can in turn make submissions.^[45] The court will set a hearing only if it considers it useful for the purposes of the decision.^[46]

The decision must be taken within 60 days from the submission of the appeal and can only be appealed before the Court of Cassation within 30 days. The Court of Cassation should decide on the appeal within 2 months from the lodging of the onward appeal.

Legal assistance

The same law and practices described under the section on [Regular Procedure](#) apply to the Dublin procedure with regard to legal assistance, including the merits and means tests.

Suspension of transfers

With a Circular Letter of 25 February 2020, the Italian Dublin Unit informed the Dublin Units that due to the health emergency all Dublin flights were suspended, both incoming and outgoing. After the first six months, transfers have started again, but in many cases, there were complications concerning COVID-19 related health measures and the unavailability of tests before departure.

As in the previous years, most of the asylum seekers concerned have submitted appeals, leading to transfers being suspended by the courts, while others have become untraceable.

Greece: according to ASGI's experience, no Dublin transfers to Greece were carried out in 2020 and 2021. However, readmissions from Adriatic ports were carried out (see [Access to the territory](#)).

Hungary: In late September 2016, the Council of State annulled a transfer to Hungary, defining it as an unsafe country for Dublin returns. The Council of State expressed concerns on the situation in Hungary, considering measures such as the planned construction of an "anti-immigrant wall"

expressing the cultural and political climate of aversion to immigration and to the protection of refugees; the option of discontinuing an asylum application if the applicants leave their residence designated for more than 48 hours without permission and the extension of the detention period of asylum seekers.^[47]

Bulgaria: In September 2016 the Council of State suspended several transfers to Bulgaria on the basis that the country is unsafe.^[48] The Council of State expressed concerns about the asylum system in Bulgaria due to the critical condition of shelters, some of which appear as detention centres, and more generally of the cultural climate of intolerance and discrimination that reigns in public opinion and among the leaders in the government towards refugees.^[49] In a ruling of November 2017, the Council of State reaffirmed its position and suspended the transfer of an Afghan asylum seeker to Bulgaria.^[50]

The Court of Turin, in September 2020, cancelled the Dublin transfer of an asylum seeker to Bulgaria, having found, through specific COI, that in Bulgaria there are serious systemic deficiencies in asylum procedures such as: the use of force by the police to prevent the entry of applicants into the national territory; restrictions on the freedom of movement of asylum seekers; shortcomings in reception and support services; as well as extremely low rates of recognition of international protection.^[51]

With a Decision of 14 July 2021, the Civil Court of Turin confirmed its orientation cancelling the transfer of an Afghan asylum seeker to Bulgaria, considering the serious shortcomings of the country's asylum system. The decision, also referring to the [AIDA reports on Bulgaria](#) of 2018, 2019 and 2020, underlines, among other reasons, the low rates of recognition of international protection for certain nationalities in that country.^[52]

The situation of Dublin returnees

Italy received 1,462 incoming transfers in 2021.

Reception guarantees and practice

Replying on 3 March 2022 to the ASGI's information request, the Ministry of Interior informed that "Dublin returnees access the accommodation system at the same conditions than the other asylum seekers".^[53]

The Ministry of Interior Circular of 14 January 2019 specified that Dublin returnees who had already applied for asylum prior to leaving Italy should be transferred by the competent Prefecture from the airport of arrival to the province where their application was lodged. If no prior asylum application had been lodged, they should be accommodated in the province of the airport of arrival. Family unity should always be maintained.^[54]

The circular does not clarify how the prefectures should facilitate the transfer of the asylum seeker. This circumstance may externally expose the Dublin returnee to face, on its own, the obstacles placed in front of some Questure for the access to the asylum procedure, especially in the absence of a domicile. (see registration).

Following the *Tarakhel v. Switzerland* ruling,^[55] in practice the guarantees requested were ensured mainly to families and vulnerable cases through a list of dedicated places in the Sprar/Siproimi system (see [Types of Accommodation](#)), communicated since June 2015 to other countries' Dublin Units.^[56] Following the 2020 reform of the reception system, Dublin returnees as asylum seekers could have again access to second-line reception SPRAR, now renamed SAI.

However, in an answer (March 2021) to the public access request sent by ASGI, the Dublin Unit replied that “in the reception system there are no places reserved for Dubliners returning from other Member States, who are included in the reception system, regulated by legislative decree no. 142/2015”.^[57]

In practice, Dublin returnees face the same problems as other asylum seekers in Italy in accessing the asylum procedure and housing in SAI.

In December 2021, an Afghan citizen, evacuated from Afghanistan by the Italian authorities at the end of August, who was a Dublin returnee from France where he had applied for asylum, was reached by an expulsion decree and held in the CPR of Gradisca d’Isonzo for over a month without having access to asylum. Transferred by flight to Venice he was asked, at the airport, to fill the *foglio notizie* and, without any examination of his individual situation, was sent to the CPR. After having had access to the asylum procedure, his detention was not validated by the Civil Court of Trieste on 8 January 2022.^[58]

As regards the implementation of incoming transfers, only when Italy expressly recognises its responsibility under the Dublin Regulation, national authorities indicate the most convenient airport where Dublin returnees should be returned in order to easily reach the competent Questura, meaning the Questura of the area where the asylum procedure had been started or assigned. In other cases, where Italy becomes responsible by tacit acceptance of incoming requests, persons transferred to Italy from another Member State usually arrive at the main Italian airports such as **Rome Fiumicino Airport** and **Milan Malpensa Airport**. At the airport, the Border Police provides the person returned under the Dublin Regulation with an invitation letter (*verbale di invito*) indicating the competent Questura where he or she has to go.

Currently the measures set up for the prevention of COVID-19 impose a period of quarantine for all people arriving. This is carried out in a structure identified by the Prefecture of Varese, which then, in the absence of other destinations already identified, can become the reception facility. The information desk for asylum seekers in Milan Malpensa since 2021 is no longer operated by the Waldensian Diakonia but by the cooperative Ballafon.

At the Fiumicino airport of Rome, the Prefecture of Rome has entrusted in 2020 the Albatros1973 cooperative for informing and managing foreign people arriving at the air border who want to seek asylum or who are Dublin returnees. Over a third of the people came with flights from Germany. From the information received by ASGI lawyers, since 2021, the service is responsibility of the Cooperativa ITC.

At Venice airport, Marco Polo, the cooperative Giuseppe Olivotti, was responsible, up to January 2022 under the agreement with the Prefecture of Venice, for arrivals of asylum seekers and Dublin returnees. It did not have a stable presence at the airport, but ensured presence on call.

At the airport of Bologna, the cooperative Laimomo is responsible of informing Dublin returnees.

It should be noted that if returnees used to live in asylum seekers’ reception centres before leaving Italy, they could encounter problems on their return in submitting a new accommodation request. In fact, due to their first departure and according to the rules provided for the [Withdrawal of Reception Conditions](#), the Prefecture could deny them access to the reception system.^[59]

In January 2020, the Swiss Refugee Council published an update about their monitoring of the situation on reception conditions in Italy, also in relation to Dublin returnees, that generally confirms the findings of their previous monitoring.^[60] They further reported that in Italy until now there is no standardized, defined procedure in place for taking them (back) into the system.

Re-accessing the asylum procedure

Access to the asylum procedure is equally problematic. Asylum seekers returned under the Dublin Regulation have to approach the Questura to obtain an appointment to lodge their claim. However, the delay for such an appointment reaches several months in most cases.^[61] The competent Questura is often located very far from the airport and asylum seekers have only few days to appear there; reported cases refer to persons arriving in Milan, **Lombardy** and invited to appear before the Questura of Catania, **Sicily**. In addition, people are neither accompanied to the competent Questura nor informed of the most suitable means of transport thereto, adding further obstacles to reach the competent Questura within the required time. In some cases, however, people are provided with tickets from the Prefecture desk at **Milan Malpensa Airport**.

Dublin returnees face different situations depending on whether they had applied for asylum in Italy before moving on to another European country, and on whether the decision on their application by the Territorial Commission had already been taken.^[62]

- In “take charge” cases where the person had not applied for asylum during his or her initial transit or stay in Italy before moving on to another country,^[63] he or she should be allowed to lodge an application under the regular procedure. However, the person could be considered an irregular migrant by the authorities and be notified an expulsion order.
- In “take back” cases where the person had already lodged an asylum application and had not appeared for the personal interview, the Territorial Commission may have suspended the procedure on the basis that the person is unreachable (*irreperibile*).^[64] He or she may request a new interview with the Territorial Commission if a final decision has not already been taken after the expiry of 12 months from the suspension of the procedure. If the procedure has been concluded, the new application will be considered a **Subsequent Application**.
- In “take back” cases where the person’s asylum application in Italy has already been rejected by the Territorial Commission,^[65] if the applicant has been notified of the decision and lodged no appeal, he or she may be issued an expulsion order and be placed in a CPR. According to the notification procedure (see **Regular Procedure**), the same could happen even in case the applicant had not been directly notified of the decision, since in case the applicant is deemed unreachable (*irreperibile*), the Territorial Commission notifies the decision by sending it to the competent Questura and notification is deemed to be complete within 20 days of the transmission of the decision to the Questura.^[66]

[1] Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at: <https://bit.ly/3EHAIVN>

[2] Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at: <https://bit.ly/3EHAIVN>

[3] Project webpage, available at: <https://bit.ly/3kxuY24>.

[4] Guidelines available at: <https://bit.ly/3vwqe34>.

[5] Multilingual materials accessible and downloadable at: <https://bit.ly/3OS7P8I>.

[6] Ministry of Labour, Monitoring report on unaccompanied foreign minors, 31 December 2021, available at: <https://bit.ly/3EHAIVN>.

- [7] See e.g. Civil Court of Bologna, Decision 1796/2018.
- [8] See e.g. Civil Court of Milan, Decision 29819/2018; Civil Court of Caltanissetta, Decision 482/2018; Civil Court of Caltanissetta, Decision 1398/2018.
- [9] Civil Court of Rome, Decision 7899/2018, 5 June 2018, EDAL, available at: <https://bit.ly/2DbUCEq>.
- [10] Civil Court of Rome, Decision 15246/2019, 10 May 2019.
- [11] Civil Court of Rome, Decision of 20 January 2021, number of the procedure 16422/2019.
- [12] Civil Court of Milan, Decision of 14 October 2020, procedure no. 27034/2020.
- [13] Civil Court of Trieste, decision 605/2019, 15 March 2019.
- [14] Civil Court of Rome, Decision 15643/2020, 5 May 2020.
- [15] Court of Justice of European Union, joined cases, Case C-254/21 and C-297/21, together with Cases C-228/21, C-328/21 and C-315/21 on information obligations (Articles 4 and 5 of the Dublin Regulation).
- [16] Information provided by EASO, 13 February 2019.
- [17] Article 3(3) Procedure Decree, as amended by Article 11 Decree Law 113/2018.
- [18] Article 17 Eurodac Regulation.
- [19] Article 9 Eurodac Regulation.
- [20] Article 17(3) Eurodac Regulation.
- [21] Civil Court of Rome, decision of 18 January 2021, available in English at: <https://bit.ly/3hgKr6b>.
- [22] See for example, Civil Court of Rome, Decision 15643/2020, 5 May 2020.
- [23] See for example Civil Court of Milan, Decision of 14 October 2020, procedure no. 27034/2020.
- [24] Court of Cassation, Decision 17963/2020 of 27 August 2020.
- [25] Court of Cassation, Decision 23587/20 of 27 October 2020.
- [26] Court of Cassation, decision no. 8668 of 23 February – 29 March 2021.
- [27] Article 30(1) Procedure Decree.
- [28] Presently, even though L 46/2017 has recognised the jurisdiction of the Civil Court of Rome and stated that the appeal has to be lodged within 30 days, many decisions still direct people to appeal before the Administrative Court of Lazio within 60 days.
- [29] Article 3(3-octies) Procedure Decree, as amended by L 46/2017.
- [30] Ministry of Labour, *I minori stranieri non accompagnati in Italia*, 31 December 2017, available in Italian at: <http://bit.ly/2FvU6Aj>, 14.
- [31] Civil Court of Rome, decision n. 1855/2020 of 8 January 2020.

[32] Case C-228/21.

[33] Case C-328/21.

[34] Case C-315/21.

[35] See also A. Di Pascale, Garanzie informative e partecipative del richiedente protezione internazionale e limiti al sindacato giurisdizionale nella procedura di ripresa in carico di cui al reg. (UE) n. 604/2013. Nota a margine dei rinvii pregiudiziali alla Corte di giustizia, in *Diritto Immigrazione e Cittadinanza*, Fascicolo 3/2021 available in Italian at: <https://bit.ly/3y5O9IC>.

[36] Article 3(3-ter) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

[37] Council of State, Decision 5738/2015, 18 December 2015, available at: <http://bit.ly/2l1bkoyn>.

[38] Administrative Court of Lazio, Decision 9909/2016, 22 September 2016; Decision 11911/2016, 28 November 2016, available in Italian at: <http://bit.ly/2IOS7AX>.

[39] Article 3(3-bis) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

[40] According to the rule provided in Article 4(3) Decree Law 13/2017, as amended by L 46/2017, this also applies to asylum appeals as it generally refers to “accommodated applicants”.

[41] Court of Cassation, decisions 18755/2019; 18756/2019 and 18757/2019, issued on 12 July 2019.

[42] Court of Cassation, decision 31127/2019 of 14 November 2019.

[43] Article 3(3-quater) and (3-octies) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

[44] Article 3(3-quater) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

[45] Article 3(3-quinquies) and (3-sexies) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

[46] Article 3(3-septies) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.

[47] Council of State, Decision 4004/2016, 27 September 2016, available in Italian at: <http://bit.ly/2kWI01d>.

[48] Council of State, Decisions 3998/2016, 3999/2016, 4000/2016 and 4002/2016, 27 September 2016, available in Italian at: <http://bit.ly/2l1JzAR>.

[49] *Ibid.* The Council of State referred in particular to the fifth report on Bulgaria of the European Commission against Racism and Intolerance (ECRI), 16 September 2014.

[50] Council of State, Decision 5085/2017, 3 November 2017, available in Italian at: <http://bit.ly/2GKtcVA>.

[51] Civil Court of Turin, decree 29 September 2020, procedure no. 12340/2020, available in Italian at: <https://bit.ly/3uzpA1S>.

[52] Civil Court of Turin, Decision of 14 July 2021.

[53] Answer to the FOIA request, sent on 3 March 2022.

[54] Ministry of Interior Circular of 14 January 2019, available in Italian at: <https://bit.ly/2P7G5OZ>.

[55] In a ruling concerning an Afghan family with 6 children who were initially hosted in a CARA in Bari before travelling to Austria and then Switzerland, the ECtHR found that Switzerland would have breached Article 3 ECHR if it had returned the family to Italy without having obtained individual guarantees by the Italian authorities on the adequacy of the specific conditions in which they would receive the applicants. The Court stated that it is “incumbent on the Swiss authorities to obtain assurances from their Italian counterparts that on their arrival in Italy the applicants will be received in facilities and in conditions adapted to the age of the children, and that the family will be kept together.”: ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014, para 120.

[56] See e.g. Dublin Unit, Circular: Dublin Regulation Nr. 604/2013. Vulnerable cases. Family in SPRAR projects, 4 July 2018, available at: <https://bit.ly/2Owb1GT>.

[57] Official answer from the Dublin Unit in the availability of the writer.

[58] Altreconomia, “La storia di Abdul, evacuato da Kabul e finito nel Cpr di Gradisca d’Isonzo”, 19 January 2022, available at: <https://bit.ly/3w62Av6>.

[59] According to Articles 13 and 23(1) Reception Decree, the withdrawal of reception conditions can be decided when the asylum seeker leaves the centre without notifying the competent Prefecture. See also ASGI, *Il sistema Dublino e l’Italia, un rapporto in bilico*, March 2015.

[60] Swiss Refugee Council, Reception conditions in Italy: Updated report on the situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees, in Italy, January 2020, available at: <https://bit.ly/3cSzToZ>.

[61] Danish Refugee Council and Swiss Refugee Council, *Mutual Trust is still not enough*, December 2018.

[62] For more details, see ASGI, *Il sistema Dublino e l’Italia, un rapporto in bilico*, 2015, available in Italian at: <http://bit.ly/2kH0mvX>, 28.

[63] Article 13 Dublin III Regulation.

[64] Article 18(1)(c) Dublin III Regulation.

[65] Article 18(1)(d) Dublin III Regulation.

[66] Article 11(3-ter) and (3-quater) Procedure Decree, as amended by Article 6 Decree Law 13/2017 and L 46/2017.