

DUBLIN II

Regulation & Asylum

In Germany

Guide for asylum seekers - 2012

You are now in Germany. The capital is Berlin, and the official language is German.

Germany has 81.4 million inhabitants, and is a member of the European Union.



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This guide provides practical information
about the Dublin II procedure, asylum seekers' rights,
asylum proceedings and protection statuses.

It is written directly for asylum seekers under a Dublin process.
It will also be useful for people working in the asylum sector.

The Dublin regulation – European Union

You cannot choose the country in which you wish to apply for asylum.

According to the Dublin regulation, **you can only apply for refugee status in one member state. Usually, this is the first member state which you reach. In practice this normally means that any subsequent country where you apply will return you to the appropriate state.**

This might happen when:

- your fingerprints were taken in another country (and stored on a common European database called EURODAC)
- you admit that you have been to, or travelled through, another country, even if you didn't give your fingerprints
- it can be shown by some other source of evidence that you have been to, or travelled through another country
- it can be shown that you were previously issued a visa for an EU country
- you tell the authorities that you wish to join your spouse, who is an asylum seeker or a refugee in another country

Alternatively, if your husband, wife or child is an asylum seeker or a recognised refugee in another member state, that country should be responsible for your asylum application only if you so desire. If you are an unaccompanied minor, the member state where your parent or parents reside is responsible for your asylum application.

Article 3.4 Dublin regulation

The asylum seeker shall be informed in writing in a language that he or she may reasonably be expected to understand regarding the application of this Regulation, its time limits and its effects.

The Dublin Regulation applies in the following countries Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Norway, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and United Kingdom.

The Regulation in Operation

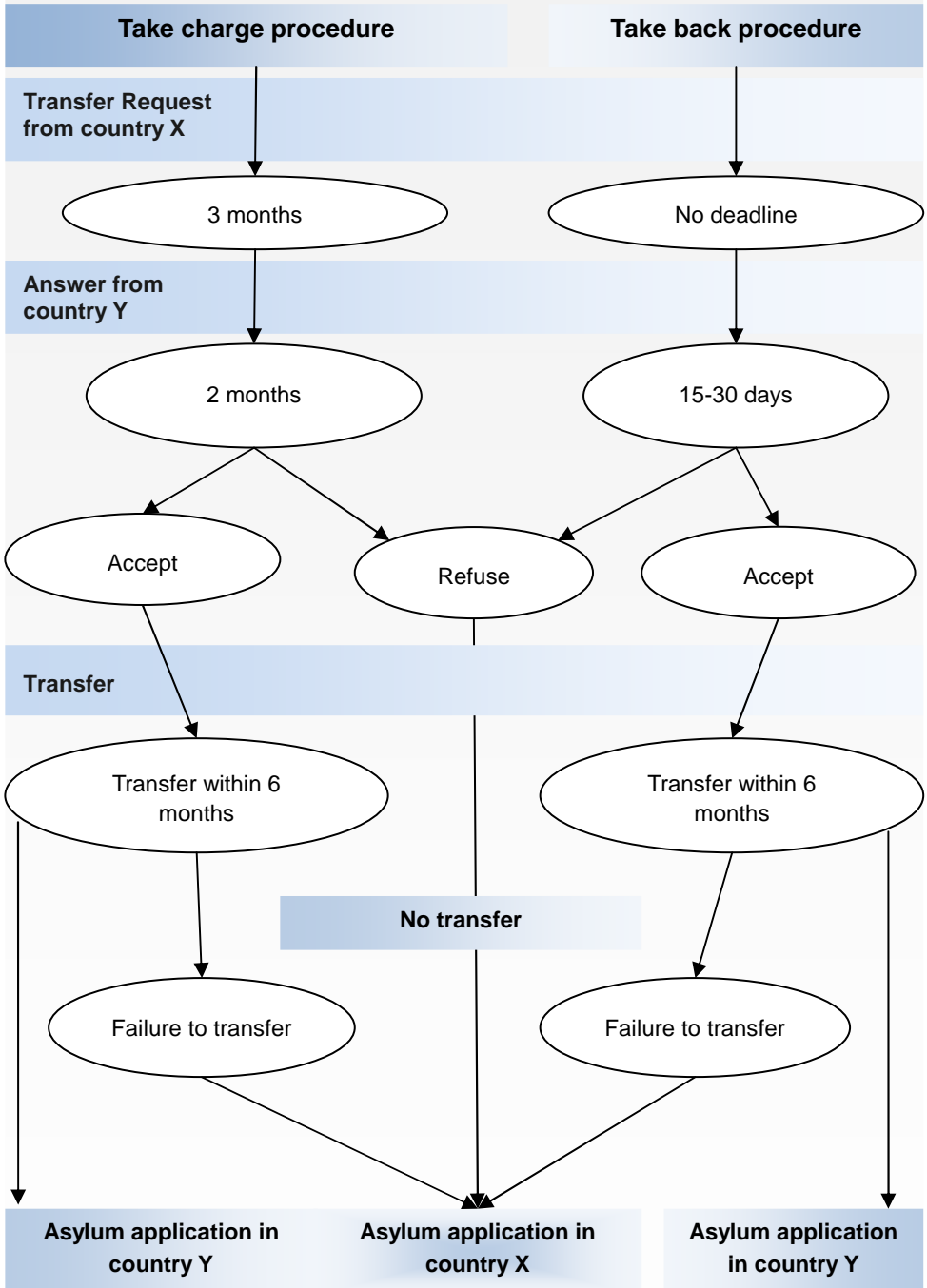
The Take Charge Procedure

Where another member state is designated responsible under the criteria in the Regulation, that state is approached to take charge of you and to examine your application.

The Take Back Procedure

Where a member state has already examined or begun to examine your application, it may be requested to take you back, if you have left that member state.

You are in country X



Implementation of the Dublin II Regulation in Germany

How Dublin II is applied in Germany for outward transferees

I am asking for asylum in Germany. Who is the competent authority?

The Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge (BAMF)*) is responsible for both the asylum procedure as well as the Dublin procedure. The branches of the BAMF in the different Federal States of Germany are responsible for administering the asylum procedure (see *point 2.1*). The Dublin procedure is carried out either by the Dublin Department (*Dublinreferat*) 431 in Dortmund or the Dublin Department 430 (*Dublinreferat*) in Nuremberg.

Deportations are carried out either by the Aliens' Authorities (*Ausländerbehörden*) in cooperation with the local police or by the federal border police.

Why am I in the Dublin II procedure?

You are placed under the Dublin II procedure because German authorities assume that another state is responsible for the examination of your asylum claim (see *first page on general overview of the Dublin II Regulation*).

Case 1: The Dublin procedure may be initiated against your will, for example, if you traveled through another state, applied for asylum in another state or if you have a valid residence document or visa for another state. In these cases, you might be deported to a state in which you do not want to live. In some cases, you can appeal against your deportation before the court.

Case 2: In certain cases, the Dublin procedure may help you go to a state in which you would like to live, for example, if you have family such as a husband or wife in another Dublin state and you were traveling to rejoin them but you were caught by the police and put into a refugee camp. In these instances, the Dublin procedure may help you rejoin your husband, wife or other family. So, it is important to tell the authorities that you have family in another Dublin state.

■ Case 1:

How does the Dublin procedure work?

If the German authorities assume that Germany is not responsible for examining your asylum claim, Germany can request another Dublin II member state to take you back or to take charge of your asylum application.

If this state refuses, Germany will examine your asylum application (see *page 12*)

If the requested state accepts or does not answer within the deadline established in the Dublin II Regulation, the other state will become responsible for your asylum application and the German authorities will try to transfer you to this state.

In some cases, the Federal Office for Migration and Refugees may decide to carry out your asylum procedure in Germany despite the fact that another state is responsible for examining your asylum claim. In other words, German authorities could deport you to another country but decide that you can stay in Germany (*Selbsteintrittsrecht*). Sometimes the Federal Office for Migration and Refugees takes over the responsibility because they believe that they will reject your asylum application and deport you back to your country of origin. In other cases, they may take over the responsibility because, for instance, you are very sick and the medical care in the country to which you are supposed to be deported is bad or because the situation in the other country is catastrophic for asylum seekers. At present (October 2011), Germany is not deporting asylum seekers to Greece, even if Greece is responsible for considering the asylum application. As a result, currently no one is deported from Germany to Greece.

In contrast to other Dublin states, asylum seekers are not informed about the initiation of a Dublin procedure. Many refugees learn that their asylum application is not carried out in Germany ON THE DAY OF THEIR DEPORTATION which is regulated by German law. If you want to know whether a Dublin procedure is carried out and how you could fight against a deportation, you should go to a counselor or a lawyer **as soon as possible**. A counselor or lawyer is able to receive information about whether there is a deportation risk and they can advise you about what you could do against it and what kind of legal remedies exist.

Is there a personal interview?

In the regular asylum procedure, you are always guaranteed to have an interview (see p.13). In Germany, as the Dublin procedure and the asylum procedure could coincide because they are temporarily not separated, this means that they could occur at about the same time. Effectively, this could mean that the “asylum interview”, asking about your reasons for fleeing, could also become a “Dublin interview” during which you are asked about your flight journey, through which European countries you traveled, whether you have relatives in another Dublin state and why you do not want to be transferred to another Dublin state.

In other cases, you may not have an interview at all. This varies across Germany. Therefore, it is crucial that you go to a counseling agency or to a lawyer if you want to transmit any information related to the Dublin procedure to the Federal Office for Migration and Refugees.

What can I do if there is a risk that I will be deported to another Dublin state?

If you do not want to be deported, you can try to convince the Federal Office for Migration and Refugees that they should make use of the sovereignty clause and carry out the asylum procedure in Germany. However, this is very difficult.

In the majority of cases, you have to go to an administrative court and request a deportation suspension, obliging the Federal Office for Migration and Refugees to carry out the asylum procedure in Germany.

Considering that usually you receive the notification of a transfer to another Dublin state during the transfer, you have to lodge an appeal against your transfer with the local administration beforehand. The problem is that this appeal does not have suspensive effect which means that you can still be deported even though the court has not decided about your appeal yet. Therefore, you should also lodge an urgent appeal for the suspensive effect (*Eilantrag für aufschiebende Wirkung*) which means that you ask the court to order a suspensive effect for the appeal. In German law, however, it is not regulated that you can lodge an urgent appeal during the Dublin procedure. As a result, the court only allows urgent appeals in exceptional cases. So, your urgent appeal should be well-reasoned. You should contact a lawyer as soon as possible and explain to them in detail why you do not want to be deported, for instance, describing what has happened to you in another Dublin state.

If you are sick, disabled or traumatized, you should get a medical certificate from a doctor to prove this. If there are other asylum seekers who are not doing well and who may not be able to ask for help themselves, please help them get to a counseling agency, doctor or lawyer.

If the urgent appeal is rejected, you could lodge a complaint at the Constitutional Court of Germany and if the complaint is rejected by the Constitutional Court, you could lodge a complaint at the European Court of Human Rights.

Germany does not allow a voluntary departure within the Dublin procedure. Nonetheless, it may be possible to go to the airport by yourself and not be picked up by the police. This needs to be discussed with the Aliens Authority beforehand.

Is there a time limit until Germany is permitted to implement the transfer?

There is a time limit of 6 months within which Germany is able to deport you to the responsible state, beginning from the day when the other Dublin state has agreed to take responsibility for examining your asylum claim. If you are still in Germany after the time limit has passed (for instance, because you are sick and non-transportable), then Germany becomes responsible for your asylum claim. Nonetheless, if you abscond, the Federal Office for Migration and Refugees may prolong the time limit for up to 18 months.

I am a minor (under 18 years old) and I came to Germany without my parents or guardian. Will I still be deported?

Unaccompanied minors may also be deported to another Dublin state only if they already applied for asylum in this particular state. The difference between the procedure of minors and adults is that adults may be deported to another Dublin state in which they stayed previously. This is why in the Dublin procedure, it is extremely important to know whether or not you are a minor. If German authorities declare you to be of full adult age even though you are not, you should go to a counseling agency where they can help you further.

If the authorities think that you are a minor, you will receive a guardian (sometimes this may take a few months but during this period, someone from the Youth Welfare Office (*Jugendamt*) has to take responsibility for you). Depending on where you are in Germany, you may even obtain a lawyer who is paid for by the state. If you are to be deported from Germany, one week before the deportation is supposed to happen; your guardian and lawyer will be informed in writing. Unfortunately, this rule is not always followed. Therefore, the guardian and lawyer should regularly contact the Federal Office for Migration and Refugees if there is a deportation risk.

If you have family in Germany who could become your guardians, Germany could also become responsible for assessing your asylum claim.

■ CASE 2

How does the Dublin II procedure work regarding family unity?

If you have a personal interview at the Federal Office for Migration and Refugees, you might have the opportunity to notify them about the existence of a family member or other family members in another Dublin state. The problem, however, is if your first interview happens after you have been in Germany for a few months, it is too late to initiate a Dublin procedure which would reunite you with your family member(s).

If you want to reunite with family members, you should make a request to the Federal Office for Migration and Refugees to start the Dublin procedure and submit the documents certifying your relation with the member of your family you want to join, i.e. birth certificate, marriage certificate (You must bear in mind that this relationship should have already existed in your country of origin). Also take into account that authorities define family members as only the following: your spouse (husband or wife), minor children (if they are not married and are depend on you economically), and your parents or guardians (if you are an unaccompanied minor). If you are an unaccompanied minor and you have family in Germany who could become your guardians, Germany could become responsible for assessing your asylum claim.

If the other Dublin state refuses to accept you, you do not have a right to appeal. However, if you present new documents (e.g. medical certifications), the Federal Office for Migration and Refugees may reapply to the state where your family member lives so the other state will reconsider your case.

There are exceptions to the rule of who counts as family members because another member of your family could also be considered and you could be transferred to their country of residence in cases when you need their help if you are pregnant, seriously ill, handicapped or for reasons of age. This is the “humanitarian clause”. Remember that in this situation, the other Dublin state has no obligation to take you, meaning that the country where you want to go to may not agree to take you. As a result, you would have to stay in Germany.

■ For CASE 1 and CASE 2:

Will I be detained?

If you were detained shortly after you crossed the border into Germany, it is possible that you were immediately put into detention pending your deportation. In these situations, the Dublin procedure is carried out in a different way. It is highly recommended that you contact a lawyer because you also have a right to legal protection while in detention. There are organizations offering legal advice free of charge in detention centers.

If you are not detained during the duration of your Dublin procedure, you could still be detained in order to ensure that you do not abscond your deportation to another Dublin state. As mentioned above, in these situations it is highly recommended that you contact a lawyer.

If the police are looking for you in order to deport you but they cannot find you, they may arrest you the next time they see you. This may also occur in the event that you were not aware that the police are looking for you.

If you are recognized as a refugee in another Dublin state, the authorities will try to deport you back to that state. You will be informed about it when the police come to deport you. Such deportations are not carried out according to the Dublin procedure but according to another agreement. It is much harder to fight against deportations in this procedure. Hence, if you are already recognized as a refugee in another Dublin state, you should immediately ask for advice at a counseling agency or from a lawyer (even before applying for asylum).

What to do when transferred to Germany under Dublin II

Why am I transferred to Germany?

You are transferred to Germany generally in the following situations:

- You applied for asylum in Germany and then left the state to travel to another Dublin state
As a general rule, once you have applied for asylum in Germany, it is recommended to stay on German territory until the end of the proceedings. If you want to join a family member, you should apply for it as explained above. If you go to another Dublin state by yourself, there is a great possibility that you will be brought back to Germany.
- You applied for asylum in another Dublin member state but you have a valid residence permit for Germany or a valid German visa.
- You have not applied for asylum in another Dublin member state but you are in possession of a German visa or another valid residence permit for Germany (such as a settlement permit (*Niederlassungserlaubnis*)).

Nonetheless, if the visa is more than 6 months past expiration or the residence permit is more than 2 years past expiration, Germany is no longer responsible.

Why I am transferred to Germany?

You are transferred to Germany because Germany is considered responsible for examining your application for asylum.

What happens when I arrive?

In case of a voluntary return to Germany, it is advisable that you make sure you receive documents attesting that you did not enter Germany illegally, but on the basis of Dublin II. Usually, upon arrival, the police take care of you and transfer you to the first available reception centre. In cases where an asylum procedure has already been started, you will be returned to the reception centre where you were previously accommodated. In general, the authorities take care of the transfer.

If you are an unaccompanied minor transferred to Germany, it is advisable that you talk to a counseling agency or lawyer before your transfer so that they can ensure that you are safely transferred. Your previous guardian should demand that a guardian will be given to you in Germany and that your accommodation in a youth welfare facility is secured.

Take back procedure: If you have applied for asylum in Germany before

If you have previously applied for asylum in Germany before but no final decision was made (decision on the merit of the case, asylum application is still pending), you will be able to reopen the asylum application procedure.

An asylum application procedure is terminated, as soon as a decision on the merits of the asylum application has been made. It is not possible to re-open the asylum procedure, if the procedure was rejected or if it was closed because of '*Nicht-Betreiben*' which signifies that you discontinued the procedure or that you did not comply with co-operation duties (*Mitwirkungspflichten*), for example, because you were absent. In these cases, usually a subsequent application is possible. It is recommended to talk to a counseling agency or lawyer before the transfer takes place or when you are transferred to Germany. It should also be clarified whether or not a subsequent procedure is not taking place by mistake.

However, you have to bear in mind that when you are returned to Germany, there is a risk that you will be detained. The same applies if the asylum application has been closed in *absentia* while you were away or because you withdrew the asylum application. In this situation, according to prevailing case law, detention cannot be avoided by lodging a subsequent asylum application.

Take charge procedure: If you have never been in an asylum procedure in Germany before

If you have not applied for asylum in Germany before, you can claim asylum either by reporting to the police station, the Aliens' Authorities or the initial reception centre. The proper asylum application should be filed at the branch office of the Federal Office for Migration and Refugees. You should apply for asylum as soon as possible.

If you applied for asylum in the sending country, there is a general risk of detention after your transfer to Germany, especially if the asylum application was rejected in the sending country.

Where will I stay when I return to Germany and what are my rights?

Shelter is provided for you upon return to Germany. When you report to the police, they will transfer you to the responsible reception centre or provide you with the address to which you should proceed without delay. In general, shelter is always guaranteed and financed by the state.

If you are in the asylum procedure, you are treated in the same way as other asylum seekers (for further information on rights, accommodation etc., see p.14-15). If you are recognized as a refugee or received asylum status, you are treated in the same way as other recognized ones, see p.16). If your asylum application is rejected, you are treated in the same way as other rejected ones, see p.18).

Where should I seek help?

For social advice or advice regarding reception conditions, you can ask independent counselors who are present in nearly all the initial receptions centers or are close to them. Unfortunately, there is no official list of independent counselors available on the Internet but the different Refugee Councils of the Federal States can refer you to local counseling agencies (see contact details at the end of the brochure, see 20-23).

The Asylum procedure in Germany

Procedure for claiming asylum

Where can I seek asylum?

It is in your interest to apply for asylum as soon as possible after your arrival. For your first asylum application, you do not have to hand in something in writing because you will be asked about your reasons for fleeing in a personal interview (with an interpreter, if necessary).

You can say that you want to apply for asylum at the following authorities (orally or in writing):

- Directly at an office branch of the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*) or the initial reception centre for asylum seekers (*Erstaufnahmeeinrichtung für Asylbewerber*)
- Or at the offices of the Aliens Authority (*Ausländerbehörde*), police or border guards who will direct you to the responsible branch of the BAMF or the initial reception centre that you should go to without delay.
The branch of the Federal Office for Migration and Refugees that you will be directed to depends on a number of factors, such as on whether you have already filed an asylum application beforehand or where you are from.
- **If you are detained**, you can also apply for asylum in the detention centre. However, it means that your personal interview will take place in the detention centre. It is advisable to contact a lawyer.

Which is the competent authority to submit an asylum application?

In Germany, the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*) (short: BAMF) is the responsible government office for examining and making decisions on asylum applications. However, there is no central office responsible for all the asylum claims because in the different Federal States (*Länder*), there are a number of branches of the Federal Office. Depending on where you apply for asylum, you will be directed to the responsible branch.

Apart from the Federal Office, there are also local Aliens' Authorities (*Ausländerbehörden*) who are responsible for all other issues concerning foreigners.

What happens after my application for asylum?

After applying for asylum, you will be accommodated in the initial reception centre close to the branch of the Federal Office for Migration and Refugees and for the duration of the examination of your asylum application, you are given permission to reside on German territory (*Aufenthaltsgestattung*) this will be your identification document.

During the asylum procedure you are not allowed to leave the district in which the initial reception centre or Aliens Authority is located (*Residenzpflicht*). This means that you are not only obliged to live at this centre but also you are not allowed to travel to places outside of this district. If you disregard this constraint, it can be punished as an administrative offense or as a criminal offense if it happens repeatedly. Exceptions can be made if you need to go to appointments at courts or other authorities where your presence is required.

Keep all the documents that you receive during the asylum procedure and photocopy all papers submitted. At the Federal Office for Migration and Refugees, you should be notified about your rights and obligations. Make sure that you keep appointments and that you are punctual.

Usually, in the beginning (formal assessment), your personal data, photo and fingerprints are taken. If, on the basis of the fingerprints or other information, no Dublin procedure is initiated, the normal asylum procedure begins.

After the formal assessment, your reasons for seeking asylum will be discussed in a personal interview. The officers at the Federal Office for Migration and Refugees will either inform you about the date at the formal assessment or will send you a notification. You have to make sure that the post reaches you. In any case, you should inform the BAMF about any change of address and contact details.

Is there a personal interview?

If you are not in the Dublin procedure and if it is your first asylum application in Germany, you are guaranteed to have a personal interview. The interview is the most important part of the asylum procedure. Usually, the asylum case officer of the Federal Office for Migration and Refugees conducts the personal interview. During the interview, you will be asked about your asylum application, your personal data, your itinerary and the reasons for claiming asylum. You should properly prepare yourself for this interview by reviewing your personal history and making a timeline of your persecution in order to be as precise and detailed as possible. It is possible to seek advice and support for this interview from a lawyer or social worker in the initial reception centre.

If the interview becomes too exhausting for you, you should tell the officer, also if you do not understand a question you should immediately tell the officer.

During the personal interview, a summary of what you said is written down. You have a right to review the summary. After receiving your copy of the summary (usually after a few days or weeks), you should go to a counseling agency and ask them to translate it because you will receive the summary written in German. You should ensure that all the information is correct and complete. **You can send any corrections or amendments per fax to the BAMF, mentioning your reference number.**

Can I bring someone to the personal interview?

You can bring other persons of confidence such as your lawyer to the interview.

Do I need to submit any documents to the BAMF?

If you have any documents attesting to your stories, you can bring them with you. Make sure that you make a copy of them.

Is an interpreter present at the interview?

Yes, an interpreter will be present at the interview. You can tell the officer in which language or dialect you want to be interviewed in. It is also possible to bring your own interpreter but you have to pay for this person's services yourself. At the end of the interview you can also ask for a reverse translation of the interview to check whether the interpreter translated the interview correctly.

As a woman, can I request to have a female interpreter and/or officer?

You are also entitled to have a female interpreter if you wish. You can also request to have a specialized officer, for instance, if you are traumatized or an unaccompanied minor.

How long does it take on average to process an asylum application?

In 2010, the Federal Office for Migration and Refugees took on average around 6 months for a final decision after the asylum application had been lodged. If, after 6 months, no decision has been declared, you can ask the Office to notify you in writing when you can expect to receive the decision.

Your rights as an asylum seeker:

Your legal rights:

- **Legal assistance:** During an asylum procedure, there is no free legal aid provided by the state. In an appeal procedure, free legal aid is provided only if the court considers the appeal likely to be successful, if not, you have to bear all the costs of the case. Nonetheless, you can get financial support from non-profit organizations (you can get contact details from local counseling institutions).
- **Interpreter:** You have the right to have an interpreter in the language or dialect in which you want to be interviewed in. You can also request to have a female interpreter.
- **Information:** You have the right to be informed in your mother tongue or other language that you understand well about decisions. You also have the right to look at your file or to request a copy of your file.

Your social rights:

- **Accommodation:** As an asylum seeker you are guaranteed access to shelter which is paid for by the state. Usually, you will be accommodated in collective housing facilities (*Gemeinschaftsunterkünfte*).
- **Means of subsistence:** In some reception and collective housing facilities, food, heating, hygienic articles and clothing are provided. Depending on where you are located, you may be paid about 200 € in cash or provided the sum in the form of shopping vouchers. In addition, as an adult asylum seeker you will receive 40.90 € of allowance (pocket money) per month (20.45 € for children under 14 years old).

- **Health care:** You are entitled to have access to urgent medical and dental care in the case of acute illnesses and circumstances of actual pain. However, the standard of the health care for asylum seekers is not as good as the care provided for German citizens. Treatment of chronic diseases or psychosocial counseling for traumatized persons may be provided depending on where you are located.
- **Access to the labour market:** As an asylum seeker you are not granted access to the labour market. You can only access the labour market after one year, then you have to get the permission of the Federal Employment Office who give preference to German employees and other equally ranked EU employees.

Procedural outcome and consequences :

Your situation, your rights and residence permits depend on the status of protection that you may receive. If you are granted asylum or refugee status, your situation is different from those who are granted subsidiary protection and those who are rejected.

Apart from decisions from the Dublin procedure, there are **three forms of positive decisions** and **two forms of negative decisions**.

Positive decisions of the Federal Office for Migration and Refugees:

1. Asylum (Asyl):

Who receives asylum?

Article 16a paragraph 1 of the Basic Law of the German constitution guarantees the right to recognition of asylum to every person who is politically persecuted.

What kind of documents do I receive if I am granted asylum?

You will receive a residence permit (*Aufenthaltserlaubnis*) if you are granted asylum. This residence permit is issued for **3 years**. You will receive an identity card with which you may travel worldwide (except for your country of origin).

After 3 years of residence, the Federal Office for Migration and Refugees examines whether the preconditions for granting asylum are still given. If so, you may apply for a settlement permit (*Niederlassungserlaubnis*).

After 8 years of lawful residence in Germany, you are entitled to request German citizenship (you must also fulfill some other conditions). In all cases of naturalization, as a rule, you have to surrender your former citizenship.

Which social rights do I have if I am granted asylum?

- You have to participate in a language and integration course if you are a grown-up.
- You have free access to the labour market or to study.
- You have equal access to social benefits as German nationals, for example, you are entitled to accommodation, health insurance and a monthly allowance of 364 € as a single person (as long as you cannot financially maintain yourself).
- You are entitled to student loans (*Bundesausbildungsförderungsgesetz*), unemployment benefits, social assistance, benefits for children, child raising benefits and parental benefits.
- Your husband/wife or minor children are allowed to come to Germany, even if you are receiving social benefits.

2. Refugee status in the light of the Geneva Convention (Flüchtlingsstatus):

Who receives refugee status?

You will receive a residence permit (*Aufenthaltserlaubnis*) from the Aliens Authority if you are granted protection against deportation because you have a well-founded fear of being persecuted in your country of origin because of your race, religion, nationality, political opinion or membership of a particular social group (Geneva Convention).

What kind of documents do I receive if I am granted refugee status?

You will receive the same documents as those who are granted asylum (*see above*).

Which social rights do I have if I am granted refugee status?

You are entitled to the same social rights as those who are granted asylum (*see above*).

3. Subsidiary protection:

Who receives subsidiary protection?

If you are not granted asylum or refugee status but your deportation is impeded due to :

- Risk of torture (§ 60 para 2 Residence Act) (*AufenthG*)
- Risk of death penalty (§60 para 3 Residence Act) (*AufenthG*)
- Inhuman, degrading punishment or treatment (Art. 3 European Convention on Human Rights (ECHR)), protection of family or private life (Art. 8 ECHR), right to fair process (Art. 6 ECHR)
- There is a considerably real risk for life, physical integrity or liberty (§ 60 para 7 Residence Act (*AufenthG*))

What documents do I receive if I am granted subsidiary protection?

You should be granted a residence permit (*Aufenthaltserlaubnis*) from the Aliens Authority.

The residence permit is valid for **1 year** and will be prolonged as long as the Federal Office for Migration and Refugees determines that you can not safely be returned to your country of origin.

If you receive subsidiary protection, the Aliens Authority requests you to get your passport from your country of origin. If it is unreasonable and unfeasible to obtain this passport, you will receive a travel document issued by the Aliens Authority.

After 7 years, you may apply for a settlement permit (*Niederlassungserlaubnis*), you are granted this status only if you fulfill certain conditions, for example, that you do not receive social benefits.

After 8 years of lawful residence in Germany, you are entitled to request German citizenship (you must also fulfill some other conditions). In all cases of naturalization, as a rule, you have to surrender your former citizenship.

What social rights do I have if I am granted subsidiary protection?

In the first 3 years of residence, you are only allowed to access the labour market if it is permitted by the Aliens Authority and the Employment Agency which checks whether or not there is a German or other privileged foreigner for the same job.

If you are not able to financially maintain yourself, you will receive the same social minimum subsistence benefits as German nationals (*see under point of social rights of persons granted asylum*). As long as you receive social benefits, you are not allowed to freely choose your place of living, you are required to stay in the region where you were granted subsidiary protection. If you want to move, you must submit a well-justified request to the authorities.

Your husband/wife or minor children may only come to Germany if they pass a German language test and if you earn a sufficient income to maintain all of you.

Negative decisions of the Federal Office for Migration and Refugees:

1. Unfounded (*unbegründet*)

If your asylum application is rejected as being **unfounded**, you will receive a notification letter (*Bescheid*) from the Federal Office for Migration and Refugees and you will be requested to leave Germany within one month. In case you do not leave Germany by yourself, the Federal Office for Migration and Refugees will threaten you with deportation.

You can lodge an appeal against this decision at the administrative court within **2 weeks**. The appeal has suspensive effect which means that until the court has issued a decision about your appeal, you cannot be deported.

If the court rejects your appeal, you can lodge an appeal against the decision at the Constitutional Court (*Bundesverfassungsgericht*) and as a last resort at the European Court of Human Rights. Contact a lawyer or counseling agency that can help you with the appeal.

2. Manifestly unfounded (*offensichtlich unbegründet*)

If your asylum application is rejected as being **manifestly unfounded**, in the notification letter (*Bescheid*) from the Federal Office for Migration and Refugees, you will be requested to leave Germany within 1 week. If you do not leave Germany within a week, the Federal Office for Migration and Refugees will threaten to deport you.

You can lodge an appeal against this decision at the administrative court **within 1 week**. The appeal does not have suspensive effect which means that even though the court has not made a decision about your appeal, you can be deported in the meantime. Therefore, you also have to lodge an urgent appeal for suspensive effect of the appeal (*Eilantrag*), this suspends the deportation decision until the court decision has been issued. If you lodged an appeal for a suspensive effect and it is not granted, you will be in danger of being deported.

What happens if my asylum application is rejected but I cannot be deported?

It may happen that your asylum application is definitely rejected but that you still cannot be deported as a result of legal or actual reasons which hinder your deportation. For example, this may happen if there is no flight connection to your country of origin or you do not have any travel documents. In such cases, the Aliens Authority will issue you a "**Duldung**" (temporary toleration permit) which is not comparable to a residence title but clearly states that you are theoretically obliged to leave Germany but that you cannot be deported at the moment. With a *Duldung*, you will receive the same social benefits as asylum seekers. If you do not fulfill the demands of the Aliens Authority (for example, if you do not make an effort to get the travel documents that are necessary for a deportation) your social benefit allowances could be cut. The Aliens Authority is allowed to decide whether you are allowed to work or not.

Subsequent Asylum Application (*Folgeantrag*)

After you received a rejection of your first asylum application, you may lodge a subsequent asylum application in writing if you can present new documents or other new evidence for your asylum claim. Subsequent asylum applications must be very well-prepared. You should contact a lawyer or counseling agency if you are in this situation.

What is the procedure if you are an unaccompanied minor?

In the German Asylum or Residence Law, minors between 16 and 17 years old are treated as if they are able to manage their asylum procedure by themselves (*verfahrensfähig*). In some parts of Germany, 16-17 years old minors are even sheltered in the same accommodation centers as adults and not in youth welfare facilities (*Jugendhilfeeinrichtung*). This may be changing slowly but currently the above mentioned procedure is still practiced.

Concerning the practice of custody for minors, the procedures may differ substantially between the different Federal States and regions. As an unaccompanied minor, the Youth Welfare Office (*Jugendamt*) is generally responsible for you. In an initial interview that is done either by the Youth Welfare Office or in the youth welfare facilities, an assessment of age may be done (in cases when your age is unclear), your personal data, information concerning family members, and reasons for your flight are asked ("Clearing process").

In general, if you are an unaccompanied minor, you will receive a guardian who supports you. If you are under 16 years old, you should also receive legal assistance in the form of a legal counselor or a lawyer. In some regions, you will be granted legal assistance if you are between 16 – 17 years old. As an unaccompanied minor, you are entitled to have a specialized case officer during the personal interview. Specialized case officers are trained in dealing with unaccompanied minors.

Minors below 16 years old should be placed in special residential homes suitable for children or juveniles with specialized staff (youth welfare facilities). In some Federal States, 16-17 years old are not accommodated in special residences but in the same collective housing facilities as adults.

If you are accommodated in a youth welfare facility, you will receive the same benefits as German minors. In other words, you will receive good supervision and care, standard German health insurance, things that you need to meet your daily demands, and pocket money (the amount depends on your age). If you are accommodated in the same collective housing facilities as adults, you will receive the same limited social benefits as adult asylum seekers.

As a minor you have the right to attend school but it is not obligatory for you in all the Federal States, this may be difficult for you because the state will not financially support you with regard to school books, public transports costs etc. It is common that 16 and 17 year old minors do not attend school.

Procedure for vulnerable persons

According to an EU Directive, vulnerable persons have to be identified and supported according to their needs, for example, with regard to medical care and shelter. Unfortunately, to date (October 2011), this is not provided. Only in Berlin, is there a procedure in order to identify vulnerable persons. If you are pregnant, a single parent, disabled, physically or mentally ill, if you do not feel comfortable in your accommodation, or you need special support in an asylum procedure, you should go to a counseling agency.

Contact Information

(Dial + 49 for calling to Germany)

Refugee Council Hesse (*Hessischer Flüchtlingsrat*)

Leipziger Straße 17

D - 60487 Frankfurt am Main

Deutschland

Telephone: +49(0) 69976 987 10

Fax: + 49(0)69976 987 11

Email: hfr@fr-hessen.de

Internet: <http://www.fr-hessen.de/>

Activities: Contributes to the improvement of the legal and social rights and the living conditions of refugees, networks with institutions and initiatives that are active in the area of refugees. Provides advice to political stakeholders. Conducts lobbying, public relations, organization of seminars and trainings.



List of support organizations for asylum seekers in your country:

PRO ASYL

Bundesweite Arbeitsgemeinschaft
für Flüchtlinge e.V.

Postfach 16 06 24

D - 60069 Frankfurt/Main

Tel.: 069 / 23 06 88

Fax: 069 / 23 06 50

Internet: www.proasyl.de

E-Mail: proasyl@proasyl.de

Activity: A National Working Group, comprised of refugee councils, churches, unions as well as welfare and human rights organizations who work together to protect refugees' rights and to give voice to their concerns.

Bundesfachverband

Unbegleitete minderjährige Flüchtlinge e.V.

Postfach 81 02 44

D - 90247 Nürnberg

Tel.: 0911/2373753

Fax: 0911/2373756

Internet: <http://www.b-umf.de/>

Activities: The Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*, in short: *B-UMF*) aims to improve the legal situation of minors who come to Germany without the support of a guardian.

UNHCR Der Hohe Flüchtlingskommissar der
Vereinten Nationen - Vertretung in Deutschland -
Wallstr. 9 - 13
D - 10179 Berlin
Tel.: 030 / 20 22 02 - 00
Fax: 030 / 20 22 02 – 20

Internet: www.unhcr.de

Activities: Focuses on the legal protection of recognized refugees and asylum seekers. Provides legal opinions to government and parliament with regard to the application of the German asylum law in light of international protection of refugees. In some cases, gives opinions to individuals.

Sub-Office Nürnberg

Frankenstraße 210
D-90461 Nürnberg
Telefon +49 (0)911 - 44 21 00
Telefax +49 (0)911 - 44 21 80
e-mail: gfrnu@unhcr.org

List of all Refugee Councils in Germany:

Flüchtlingsrat Baden-Württemberg:

Tel: 0711/5532834
e-mail: info@fluechtlingsrat-bw.de
www.fluechtlingsrat-bw.de/

Flüchtlingsrat Bayern:

Tel.: 089/762234
e-mail: bfr@ibu.de

Flüchtlingsrat Berlin

Tel. 030 / 24344 - 5762
e-mail: buero@fluechtlingsrat-berlin.de
Internet: <http://www.fluechtlingsrat-berlin.de/>

Flüchtlingsrat Brandenburg (in Potsdam)

Tel. 030 / 6317873
e-mail: buero@fluechtlingsrat-berlin.de

Flüchtlingsrat Bremen:

Tel.: 0421 / 369 41 68
0421 / 369 41 67

Flüchtlingsrat Hamburg:

Tel.: 040 / 43 15 87

Flüchtlingsrat Mecklenburg-Vorpommern:

Tel.: 0385 / 58 15 790
Fax: 58 15 791

Flüchtlingsrat Niedersachsen:

Tel.: 05121/ 15 605

Fax: 05121/ 31 609

e-mail: [HYPERLINK "mailto:nds@nds-fluerat.org"nds@nds-fluerat.org](mailto:HYPERLINKmailto:nds@nds-fluerat.orgnds@nds-fluerat.org)

Internet: <http://www.nds-fluerat.org>

Flüchtlingsrat Nordrhein-Westfalen:

Tel.: 0201 / 899080

Fax: 0201 / 8990815

e-mail: geschaefsstelle@fluechtlingsrat-nrw.de

Internet: <http://www.fluechtlingsrat-nrw.de/>

Kölner Flüchtlingsrat - Nordrhein-Westfalen:

Fax: 0221 / 33 82 - 237

e-mail: kfr-asyl@netcologne.de

Arbeitskreis Rheinland-Pfalz:

Internet: www.asyl-rlp.org

e-mail: info@asyl-rlp.org

Saarländischer Flüchtlingsrat:

Tel.: 06831 / 127270

Fax: 06831 / 1272727

e-mail: fluechtlingsrat@asyl-saar.de

Internet: www.info@asyl-saar.de

Flüchtlingsrat Sachsen:

Tel. + Fax: 0351/ 47 14 039

Flüchtlingsrat Sachsen-Anhalt:

Tel. + Fax: 0391 / 53 71 279

e-mail: akeff@web.de

Internet: www.fluechtlingsrat-lsa-online.de/

Flüchtlingsrat Schleswig-Holstein:

Tel.: 0431 / 73 50 00

Fax: 0431 / 73 60 77

e-mail: fluechtlingsratSH@t-online.de

Flüchtlingsrat Thüringen:

Tel.: 0361 / 21 727 -20 (-11)

Fax: 0361 / 21 727 - 27

Internet: www.fluechtlingsrat-thr.de

e-mail: fluechtlingsrat-thr@dgb-bwt.de

List of relevant public administrations in Germany

Bundesamt für Migration und Flüchtlinge (BAMF) (*Federal Office for Migration and Refugees*)

Frankenstr. 210

90641 Nürnberg

Tel: 0911-9430

Fax: 0943-9431000

E-Mail: info@bamf.de (Pressestelle)

E-Mail: poststelle@bamf.bund.de

Internet: <http://www.bamf.de>

Branches:

Dublinreferat in Dortmund (Referat 431)

Huckarder Straße 91

44147 Dortmund, Nordrhein-Westfalen

Telephone: 0231 9058-0

Telefax: 0231 9058-199

Dublinreferat in Nuremberg (*Nürnberg*) (Referat 430)

(Address see above)

A list with the different branches of the Federal Office for Migration and Refugees can be found here: <http://www.bamf.de/DE/DasBAMF/Aufbau/Aussenstellen/aussenstellen-node.html>

Further useful information:

- Lawyers specialized in asylum law : <http://www.asyl.net/index.php?id=64>
- For further information regarding the Dublin procedure and for informational leaflets in different languages : www.asyl.net
- For further information for refugees and migrants coming to Europe: www.w2eu.info
- For information about centers, organizations and projects that focus on the social, psychological and medical care and treatment of refugees and survivors of organized violence, see the website of the German Association of Psychosocial Centers for Refugees and Victims of Torture : <http://www.baff-zentren.org/>
- Contact points for traumatized persons : <http://www.asyl.net/index.php?id=66>

Transnational Dublin Project

European network for technical cooperation on the application of the Dublin II regulation

In order to overcome the shortcomings of the Dublin II Regulation, the French association Forum Réfugiés coordinates a 18-month project which aims to develop tools for comprehensive information and training on the procedure of the Dublin Regulation and the asylum national systems and monitoring tools for asylum seekers placed under the Dublin procedure.

The main objective of this project is to create an European network of associations providing follow-up and assistance to asylum seekers in their charge, finding themselves under the Dublin procedure.

Dublin II Regulation: Council Regulation No.343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member States responsible for examining an asylum application lodged in one of the Member States by a third-country national.

European partner organizations:

Asyl in Not (Austria), Italian Council for refugees (Italy), Comisión Española de Ayuda al Refugiado (Spain), Danish Refugee Council (Denmark), Dutch Council for Refugees (Netherlands), Forum Réfugiés (France), France terre d'asile (France), Hungarian Helsinki Committee (Hungary), Jesuit Refugee Service (Romania), Organisation Suisse d'Aide aux Réfugiés (Switzerland), Refugee Council Hessen (Hessischer Flüchtlingsrat, Germany), AITIMA (Greece), The Human Rights League (Liga za ľudské práva, Slovakia), Legal Clinic For Refugees and Immigrants (Bulgaria), ECRE (European Council on Refugees and Exiles).

<http://www.dublin-project.eu>