

DUBLIN II

Regulation & Asylum

In Bulgaria

Guide for asylum seekers - 2012

You are now in Bulgaria. The capital is Sofia, and the official language is Bulgarian. Bulgaria has 7.3 million inhabitants, and is a member of the European Union.



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ПРАВНА КЛИНИКА ЗА
БЕЖАНЦИ И
ИМИГРАНТИ



LEGAL CLINIC FOR
REFUGEES &
IMMIGRANTS

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

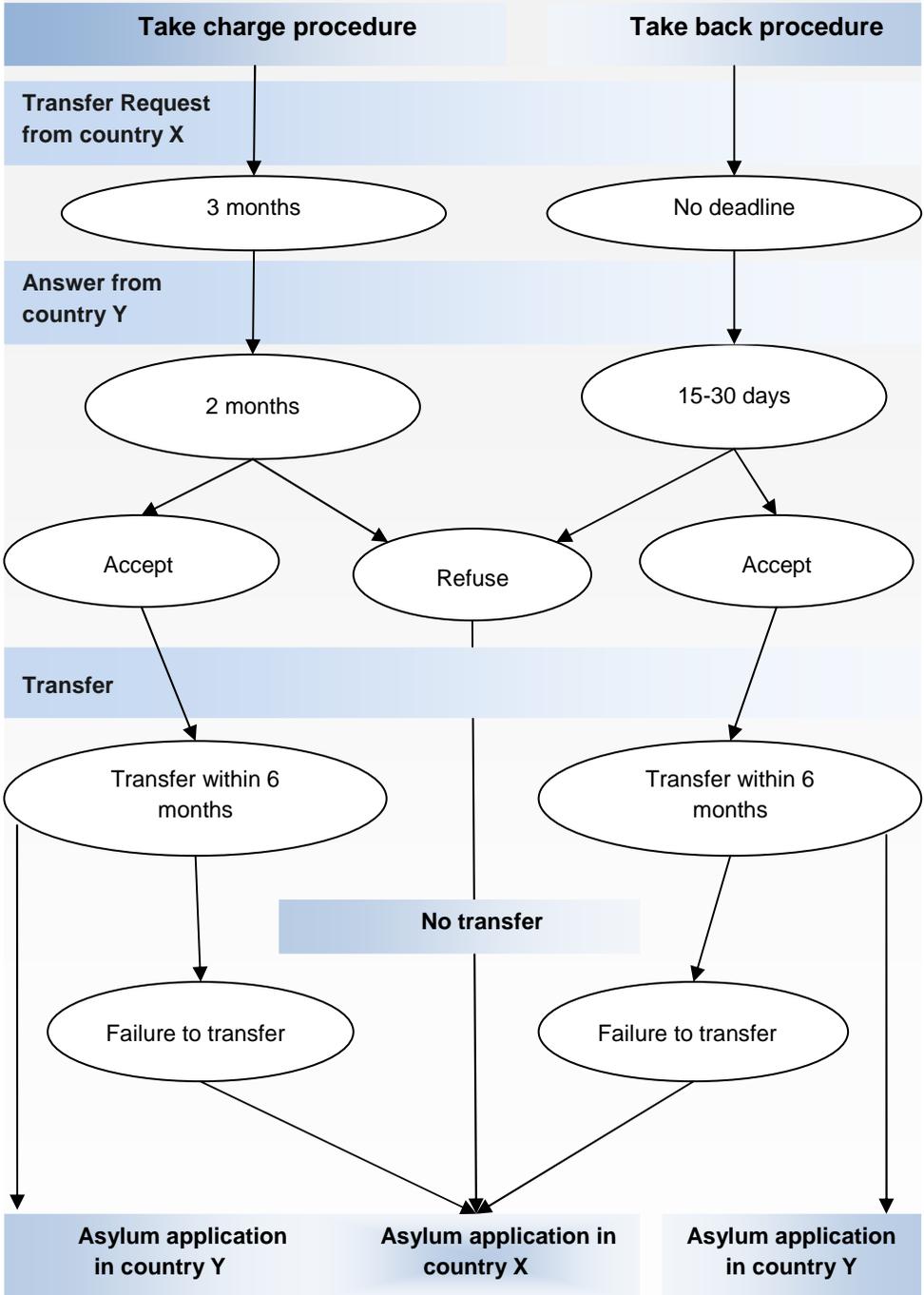
The Take Charge Procedure

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 Bulgaria

How Dublin II is applied in Bulgaria for outward transferees

I am asking for asylum in Bulgaria. Which procedure is applied?

The procedure is prescribed in Chapter VI, Section I"а", of the Law on Asylum and Refugees, referencing directly the applicable rules of the Dublin regulation.

If there is proof and/or circumstantial evidence that another Member State shall take back or take charge of the asylum application, Bulgaria files a request with that country for the transfer of the asylum seeker.

Once the other Member State agrees to accept the asylum seeker, a decision is issued that declares a refusal to initiate an asylum procedure in Bulgaria and allows transfer to the competent Member State. In that case, the asylum seeker in question is issued a laissez-passer and arrangements are made regarding the time and place of the asylum seeker's arrival.

Who are the competent authorities?

The competent authority to issue a transfer decision to another Member State is 'the decision-making organ' at the State Agency for Refugees. During the transfer process they are assisted by the Ministry of the Interior (Migration Office and Border Police Office) and the State Agency for National Security.

What can I do if I do not agree with the decision in my case?

You can appeal the transfer decision within a preclusive seven-day period; the deadline is seven days after the decision is given to the asylum seeker. The appeal is addressed to the Sofia City Administrative Court and is submitted through the State Agency for Refugees. The appeal has no suspensive effect on the execution of the transfer decision unless the court rules otherwise. The court appoints a court hearing and stipulates a judgment on the lawfulness of the transfer decision within one month from initiating the court case. This judgment is final and cannot be an object of further appeal.

What are my rights during the Dublin procedure?

During the procedure for determining the Member State responsible for the examination of your asylum application, you have the following rights under Article 29 (1) of the Law on Asylum and Refugees:

1. Right to remain in the territory of Bulgaria;
2. Right to accommodation and food;

NB: Registered asylum seekers are usually accommodated in the open reception centres of the State Agency for Refugees in the capital Sofia and in the village of Banya near the city of Nova Zagora. If the asylum seeker so wishes, they are allowed to live at an address outside the reception centre, but in that case they have to cover their accommodation expenses themselves and they receive no social assistance.

3. Right to social assistance in equal condition to those applied to Bulgarian citizens;
4. Right to health insurance and free medical assistance in equal conditions to those applied to Bulgarian citizens;
5. Right to psychological assistance;
6. Right to receive a 'registration card' (a temporary stay permit);
7. Right to an interpreter (including sign language).

Can I be detained during the decision-making process?

Bulgarian law allows detention of asylum seekers who have entered Bulgaria irregularly until his/her application is admitted to the regular examination procedure. Admission to the regular procedure occurs after the asylum application has been admitted for examination by Bulgaria and if it is not considered a manifestly unfounded one. Detention is explicitly prohibited for vulnerable persons such as minors and unaccompanied minors, pregnant women and persons with psychological and physical disabilities.

Can I be transferred if I am a vulnerable person or a person affected by psychological or physical problems?

There are no other protective legal provisions other than the above stated interdiction and provisions regarding unaccompanied minors in Art. 6 and Art.15 (3) of the Dublin regulation.

What to do when transferred to Bulgaria under Dublin II

What happens when I am transferred to Bulgaria under Dublin II?

The State Agency for Refugees informs the Border Police of the date and place of your arrival, they provide a copy of your laissez-passer. If an entry ban to Bulgaria has been imposed on you, the State Agency for Refugees informs the respective organ that it should repeal the entry ban in question. The Border Police receives you at your entry in Bulgaria. If the substance of your asylum application has not yet been decided by the State Agency for Refugees, the Border Police should hand over your case to the State Agency for Refugees and you will be accommodated at an open reception centre. If your asylum application has already been rejected on its substance by the State Agency for Refugees, the Border Police should hand over your case to the Migration Office and you will be detained until your expulsion from the country.

- **If you have already applied for asylum in Bulgaria**

If your asylum procedure is still pending, you shall receive a decision on the merits of your asylum application.

If there is a rejection decision based on the merits of your application, you will be treated as an irregular immigrant who should return to his/her country of origin. The asylum procedure is stopped.

You have the right to reapply for asylum if there are new substantial circumstances related to your need for international protection. However, the new asylum application should be made as soon as possible.

- **If you haven't applied for asylum in Bulgaria yet**

Until you register as an asylum seeker, you are treated as an irregular immigrant and detained waiting for deportation. From immigration detention you have the right to submit an asylum application, the migration authorities are obliged to forward it to the State Agency for Refugees as quickly as possible.

The general procedural rules for examining the asylum application apply.

The Asylum procedure in Bulgaria

Forms of protection that you can get in Bulgaria

Refugee status (bejanski statut): granted to a person who has a well-founded fear of being persecuted in their country of origin because of their race, religion, nationality, political opinion or membership in a “particular social group”.

Subsidiary protection ‘humanitarian status’ (humanitaren statut): granted to a person who is at a real risk of suffering serious harm in their country of origin, because of:

- Death penalty;
- Torture, inhuman or degrading treatment or punishment;
- Serious threat to a civilian’s life because of indiscriminate violence in an armed conflict.

Furthermore, Article 9 (8) of the Law on Asylum and Refugees states that ‘humanitarian status’ may also be granted on grounds of other ‘humanitarian circumstances’, as well as reasons stated in the Conclusions of the Executive Committee of UNHCR.

Asylum by the President of the Republic of Bulgaria – under the Constitution of the Republic of Bulgaria the President has discretionary powers to grant asylum to foreign nationals who have been persecuted for their opinion or for actions in defense of internationally recognized rights and freedoms, as well as if the state interest so requires or there are other exceptional circumstances.

Procedure for claiming asylum

How should I submit my asylum application?

The competent body for the examination of the asylum application is the head of the State Agency for Refugees.

The asylum application should be submitted without any delay; otherwise it might be rejected as manifestly unfounded.

The asylum application may be submitted through any state organ (for example the Border Police or the Migration Office in cases of irregular entry), who are obliged to immediately report it to the State Agency for Refugees.

The asylum application may be in written or oral form. It is recommended that the asylum application is submitted in written form and that the state body is asked for an entry number from its registrar, which serves as proof of submission.

The asylum application may be written in a language that you speak or write. The State Agency for Refugees is able to translate it. It is recommended that the application clearly states that it is addressed to the State Agency for Refugees in the upper right corner of the paper write ДАБ (ДАБ is the abbreviation for 'State Agency for Refugees' in Bulgarian).

Remember to write your name, your country of origin and your current location, also, write clearly that you are applying for protection in Bulgaria.

How my application will be processed?

Please note that in Bulgaria there is a time gap between the submission and the registration of asylum applications. Even if you have submitted the asylum application, you are not regarded as an asylum seeker until the State Agency for Refugees registers you as an asylum seeker.

If there is an expulsion ordered against you, it can be executed during the time gap. If the State Agency for Refugees has not registered you as an asylum seeker within two weeks of the day they received your asylum application, you have the right to appeal their inaction before the Sofia City Administrative Court.

Once your asylum application is registered, the State Agency for Refugees decides which country is responsible for the examination of your asylum application. You are interviewed for details regarding your journey to Bulgaria.

If Bulgaria is the State responsible for the examination of your asylum application, there are two types of asylum procedures that could apply.

The first is the 'accelerated' procedure, for manifestly unfounded applications. In these cases, the decision on your asylum application is issued within three days of the decision that Bulgaria is competent to examine your asylum application enters into force.

The second is the 'regular' asylum procedure. In these cases, the decision on your asylum application is issued within three to nine months of the decision that Bulgaria is competent to examine your asylum application enters into force.

What do I do if my asylum claim is rejected or if I do not agree with the status granted?

If your asylum application has been rejected as manifestly unfounded in the accelerated procedure, you have a right to appeal within seven days from the day of receiving the decision. The appeal must be submitted through the State Agency for Refugees and must be addressed to the Sofia City Administrative Court. The appeal has a suspensive effect on the execution of the decision. The court appoints a court hearing and stipulates a judgment on the lawfulness of the decision within one month from initiating the court case. This judgment is final and cannot be an object of further appeal.

If your asylum application has been rejected in the regular procedure, you have the right to appeal within fourteen days of receiving the decision. The appeal must be submitted through the State Agency for Refugees and must be addressed to the Sofia City Administrative Court. The appeal has a suspensive effect on the execution of the decision. The court appoints a court hearing and stipulates a judgment on the lawfulness of the decision. This judgment can be appealed before the Supreme Administrative Court of the Republic of Bulgaria.

Special provisions for unaccompanied minors and vulnerable persons

The Law on Asylum and Refugees contains a general provision that in the asylum procedure due account should be given to the vulnerability of persons.

The accelerated procedure for manifestly unfounded applications cannot be applied to unaccompanied minors. Their asylum applications should be examined in a regular procedure.

According to the law, unaccompanied minors are appointed legal representatives and are accommodated with relatives, host families or other specialized institutions. However, in reality this provision is not applied.

Your rights as an asylum seeker:

Your legal rights during the administrative procedure

In Bulgaria the official language of the asylum procedure is Bulgarian. However, you have the right to have an interpreter provided free of charge to you by the State Agency for Refugees. This applies to your asylum interviews and when you receive the decision on your asylum application.

The State Agency for Refugees does not provide legal counselling and it is your responsibility to find a lawyer. There are non-governmental organizations that provide legal counselling. Their contact details are provided at the end of this brochure.

Your social and administrative rights during the processing of the asylum application

1. Right to remain in the territory of Bulgaria;
2. Right to accommodation and food;
Registered asylum seekers are usually accommodated in the open reception centers of the State Agency for Refugees in the capital Sofia and in the village of Banya near the city of Nova Zagora. If the asylum seeker so wishes, they are allowed to live at an address outside the reception centre, but in that situation they have to cover their accommodation expenses themselves and they receive no social assistance.
Asylum seekers who entered the country irregularly and those who have submitted a consecutive asylum application might be placed in immigration detention until they are admitted into the 'regular' asylum procedure.
3. Right to social assistance in equal conditions to those applied to Bulgarian citizens;
4. Right to health insurance and free medical assistance in equal conditions to those applied to Bulgarian citizens;
5. Right to psychological assistance;
6. Right to receive a 'registration card' (a temporary stay permit);
7. Asylum seekers are allowed access to the labour market one year after they submitted their asylum application.

Procedural outcome and consequences:

The asylum procedure has two possible outcomes:

1. Your asylum application is granted

If the applicant is granted refugee status by the head of the State Agency for Refugees or is granted asylum by the President of the Republic of Bulgaria, they have the same rights and obligations as Bulgarian citizens with the exception of political rights, the obligation to do military service and the possibility to take job posts reserved for Bulgarian citizens.

If the applicant is granted humanitarian status (subsidiary protection) by the head of the State Agency for Refugees, they have the same rights and obligations as foreign nationals with permanent residence in Bulgaria.

Both refugee and humanitarian status holders have the right to ask for family reunification with family members in the Republic of Bulgaria's territory.

2. Your asylum application is definitively rejected: Forced or voluntary return

If your asylum application is definitively rejected, normally you should leave Bulgaria, unless you have other grounds to stay in the country under the Law on Foreign Nationals in the Republic of Bulgaria.

You have the right to receive a time period to return voluntarily, which could be between 7 and 30 days. You can ask for an prolongation for up to 1 year. Caritas – Bulgaria and the International Organization for Migration regularly carry out programs for assistance for voluntary return. The contact details of these organizations are provided at the end of this brochure.

As a last resort measure, the migration authorities have the right to detain you with the intention of executing the order for your deportation. Please note that you only have seven days to appeal detention and the time limit begins the day of your detention. The maximum period of immigration detention in Bulgaria can be prolonged to up to 18 months.

Contact information:

LEGAL CLINIC FOR REFUGEES AND IMMIGRANTS

Free legal help and counseling

Address: 1582 Sofia, 130 Prof. Tsvetan Lazarov blvd., office No.9

Phone: +359 888 401 489

Email: lcribg@gmail.com , valeria.ilareva@gmail.com

[http://Website: www.lcrien.wordpress.com](http://www.lcrien.wordpress.com)

Call for an appointment first!

Visits to the immigration detention centre.

BULGARIAN HELSINKI COMMITTEE

Refugees' and Migrants' Legal Protection Programme

Free legal counseling

Address: 1000 Sofia, 1 Uzundjovska Street

Phone/Fax:+359 2 988 0057, +359 2 981 3318

E-mail: refunit@bghelsinki.org

Website: <http://www.bghelsinki.org/en/>

FOUNDATION 'CENTER FOR LEGAL AID – VOICE IN BULGARIA' (CLA)

Free legal counseling

Address: Sofia 1000, 5 Б Triaditsa Str., floor 2, office 226

Phone/ Fax: + 359 29810779 ; GSM: + 359 894 760180

Email: daskalova.diana@gmail.com

Website: <http://www.centerforlegalaid.com/>

Reception hours: Every Thursday, 10:00 - 12:00 AM

ASSISTANCE CENTRE FOR TORTURE SURVIVORS (ACET)

Psychological assistance for people who are members of vulnerable groups

Address: 1680 Sofia, Belite Brezi, 7 - 9 Zvanika Str., Floor 1, apt. 3

Phone/Fax: (02) 958 46 36

Email: office@acet-bg.org ; acet@omega.bg

Website: <http://www.acet-bg.org/>

Reception time:

Monday – Wednesday: 9 AM–5:30 PM

Thursday and Friday: 9 AM–2:30 PM

BULGARIAN RED CROSS

Refugee-Migrants Service

Address: 1407 Sofia, 76 James Baucher blvd.

Phone: (359 2) 81 64 814;

Email: lotus@redcross.bg

Website: <http://en.redcross.bg>

JUSTICE 21 Civil Initiative

Social mediation and counseling

Address: 1202 Sofia, 26 Vesletz Str.

Phone: +359 (0) 2 9833959

Email: edyankova@gmail.com

Website: <http://justice21.posterous.com/>

CARITAS BULGARIA

Address: 1504 Sofia, Oborishte Street 9

Phone: +359 2 94 41 858 ; +359 2 94 41 873

Email: caritas.bulgaria@caritas-bg.org

Website: <http://www.caritas-bg.org/>

COUNCIL OF REFUGEE WOMEN IN BULGARIA

Social mediation and counseling; interpreters

Address: 1407 Sofia, 76 James Baucher blvd.

Phone: +359 2 81 64 729

Email: l.awanis@redcross.bg

Website: <http://crw-bg.org/>

UNHCR – BULGARIA

United Nations High Commissioner for Refugees

Address: 1000 Sofia, 19 Denkoglu str.

Phone: + 359 2 980 2453

Email: bulso@unhcr.org

Website: <http://www.unhcr-centraleurope.org/bg/index.html>

INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM) – BULGARIA

Address: 1000 Sofia, 145, Kniaz Boris I street, entr.B

Phone: +359 2 939 47 74

Email: iomsofia@iom.int

Website: <http://www.iom.int/jahia/Jahia/bulgaria>

STATE AGENCY FOR REFUGEES

Address: 1618 Sofia; 21A "Montevideo" str.

Phone: +359 2 81 81 204

Email: saref@spnet.net

Website: <http://saref.government.bg/>

MIGRATION OFFICE AT THE MINISTRY OF THE INTERIOR

Address: 1202 Sofia; 48 "Kniaginia Maria Luiza" blvd.

Email: migration@mvr.bg

Website: <http://eu.mvr.bg/Areas/Migration/default.htm>

SOFIA CITY ADMINISTRATIVE COURT

Address: 1301 Sofia; 17 "George Washington" str.

Phone: + 359 2 4215 727; + 359 2 4215 724

Email: admsecretar@admincourts Sofia.bg

Website: <http://www.admincourts Sofia.bg/>

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 a 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>