



The implementation of the Dublin III Regulation in 2018

March 2019



Table of Contents

Introduction	2
Key Dublin statistics for 2018	4
Asylum applications and Dublin procedures	4
Outgoing and incoming procedures	5
The responsibility criteria	8
Family unity	9
Irregular entry	10
The discretionary clauses	10
Procedures and safeguards	11
Remedies against rejected requests	11
Time limits for requests	12
Time limits for transfers	12
Detention in Dublin procedures	14
Suspension of transfers	17
The duty to investigate and obtain guarantees	17
The human rights threshold	19
Conclusion	20
Annex I – Outgoing Dublin requests and transfers by receiving country: 2018	21
Annex II – Incoming Dublin requests and transfers by sending country: 2018	22
Annex III – Outgoing requests by ground: 2018	23
Annex IV – Incoming requests by ground: 2018	23

Introduction*

As European Union (EU) Member States' persisting divisions on the reform of the Dublin system have led Brussels negotiations on the reform of the Common European Asylum System (CEAS) to a halt, the implementation of the current iteration of the system continues in their administrations' daily practice. The application of the Dublin III Regulation¹ is pursued by many of the participating countries as a matter of priority, often driven by a perceived urgency to counter secondary movements of asylum seekers throughout the continent.

This report provides an overview of developments in legislation, policy and practice relating to the application of the Dublin III Regulation based on: up-to-date statistics, practice developments and case law. It draws upon information collected through the Asylum Information Database (AIDA) managed by ECRE, case law compiled by the European Database of Asylum Law (EDAL) managed by ECRE, and other sources where relevant.

Up-to-date statistics on the operation of the Dublin system continue to be a challenge in the CEAS. The latest available figures on Eurostat refer to 2017 and were only made available towards the end of 2018.² In addition, Eurostat data on the application of the "cornerstone" of the EU's asylum policy is only provided on an annual basis, thereby preventing systematic and timely monitoring of the application of the Dublin Regulation. While negotiations on the European Commission proposal amending the Migration Statistics Regulation³ provided an opportunity to strengthen the EU legal framework on data collection on asylum, including on the periodicity of Dublin statistics,⁴ discussions between the co-legislators have so far maintained the provision of Dublin statistics on an annual basis.

Data for the year 2018 in this update are based on information made available by national authorities or obtained by civil society organisations in 23 European countries (Germany, France, Sweden, Denmark, Norway, Estonia, the Netherlands, Austria, Switzerland, Italy, Greece, Cyprus, Spain, Portugal, Malta, Ireland, United Kingdom, Poland, Slovenia, Croatia, Hungary, Romania and Bulgaria). Given that not all countries participating in the Dublin system are covered, the observations made in this report are indicative trends of practice rather than an exhaustive account of the system.

* ECRE thanks the AIDA experts, the Danish Refugee Council (DRC) and the Norwegian Organisation for Asylum Seekers (NOAS), as well as Member State authorities for the provision of Dublin statistics. All errors remain our own.

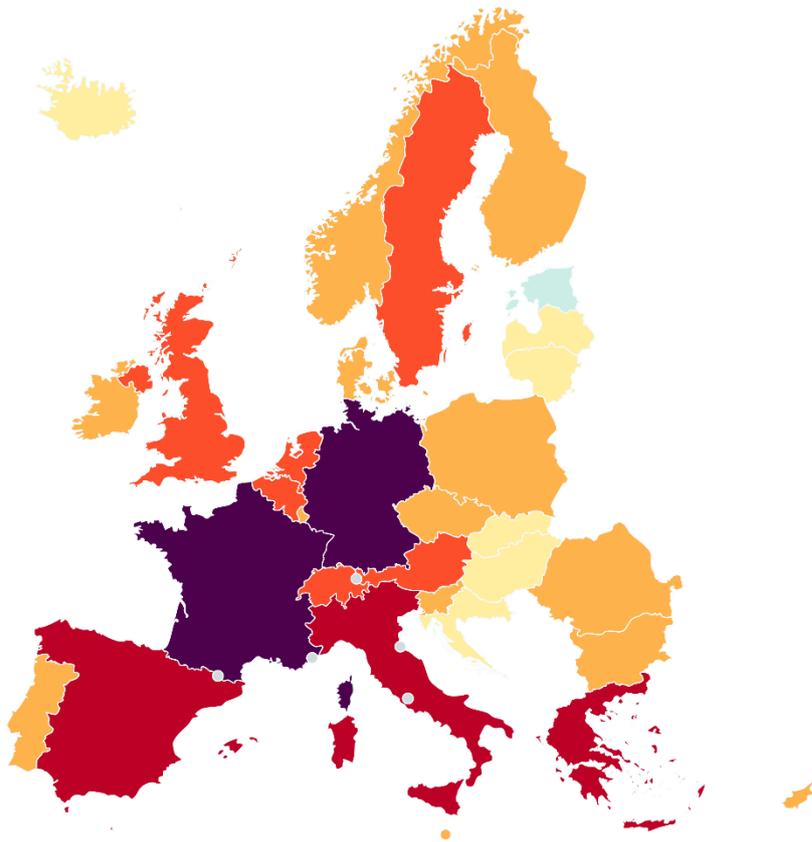
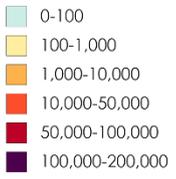
¹ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person (recast), *OJ* 2013 L180/31.

² For a discussion, see ECRE, *Making asylum numbers count*, January 2018, available at: <http://bit.ly/2CYMB6R>.

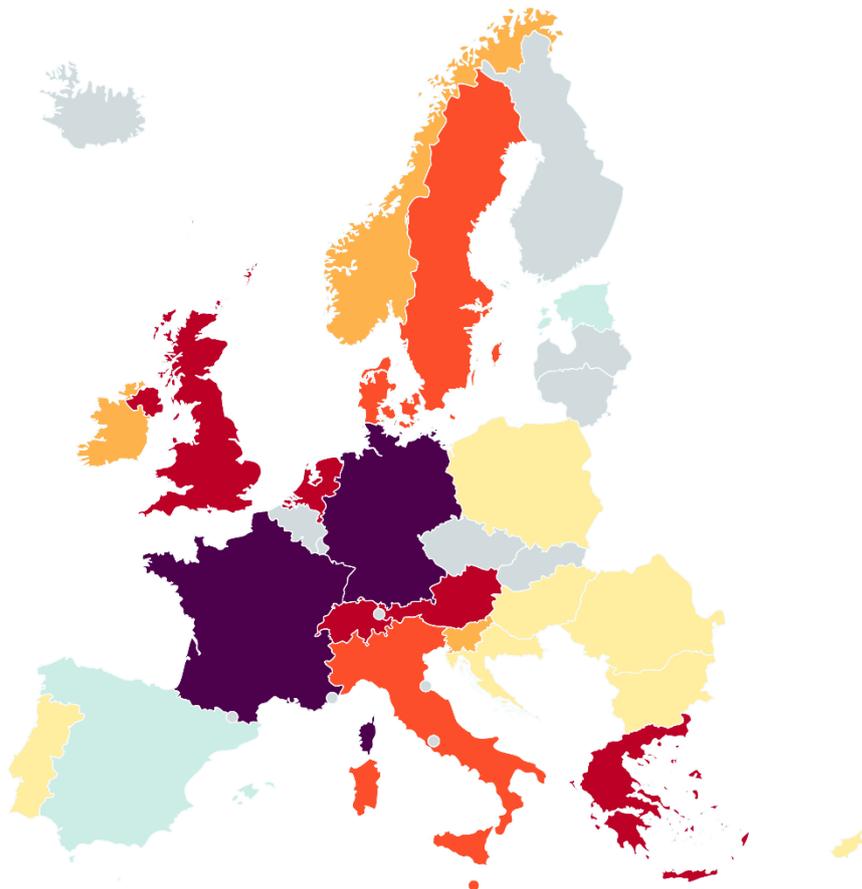
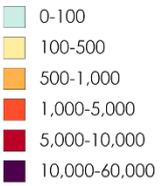
³ European Commission, *Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 862/2007 on Community statistics on migration and international protection*, COM(2018) 307, 16 May 2018.

⁴ ECRE, *Comments on the Commission proposal amending the Migration Statistics Regulation*, June 2018, available at: <https://bit.ly/2DM9ZX2>.

Asylum applicants



Outgoing Dublin requests



Key Dublin statistics for 2018

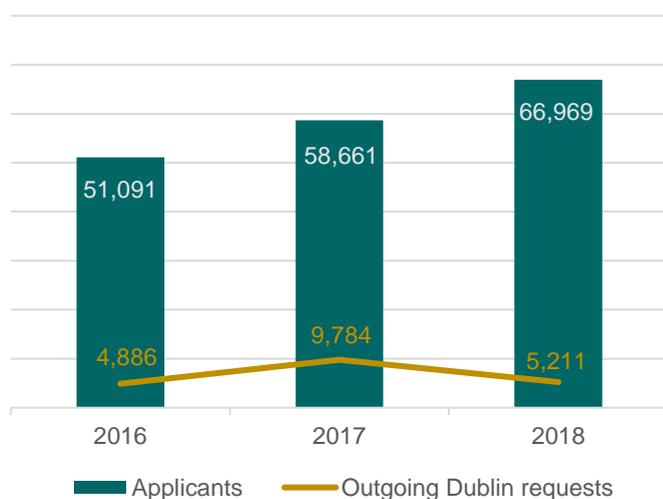
Asylum applications and Dublin procedures

In the majority of countries, the number of Dublin procedures initiated in 2018 decreased compared to 2017, even in countries witnessing a rise in asylum applications (**Greece, Spain, Slovenia**). On the other hand, **France, Italy, Croatia, Cyprus, Malta** and **Poland** were among the countries increasing the use of the Dublin procedure in 2018.

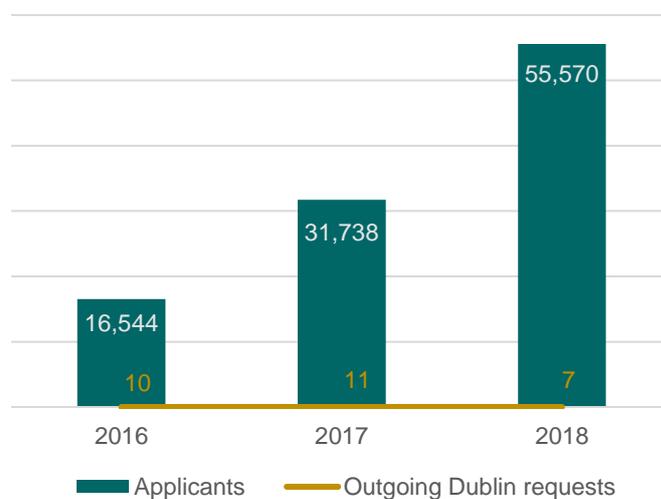
Germany and **France** continue to be the main destination countries of asylum seekers and the main operators of the Dublin system. In 2018, the two Member States respectively received 185,853 and 139,330 asylum applicants, and issued 54,910 and 45,760 outgoing Dublin requests. These figures indicate that nearly one in three asylum seekers in Germany and France were subject to a Dublin procedure.

The situation of Mediterranean countries merits consideration. According to United Nations High Commissioner for Refugees (UNHCR) figures, the main points of arrivals of people seeking protection in Europe in 2018 were **Spain** (65,400), **Greece** (50,500), followed by **Italy** (23,400).⁵ Greece and Spain have witnessed a steady increase in arrivals and asylum applications over recent years. Yet, the two countries seem to make entirely different use of the Dublin system. While Greece has heavily relied on the Dublin Regulation – mainly for family reunification cases – in the last three years, Spain's requests have remained at near-zero levels:

Asylum and Dublin caseload: Greece



Asylum and Dublin caseload: Spain



Source: AIDA.

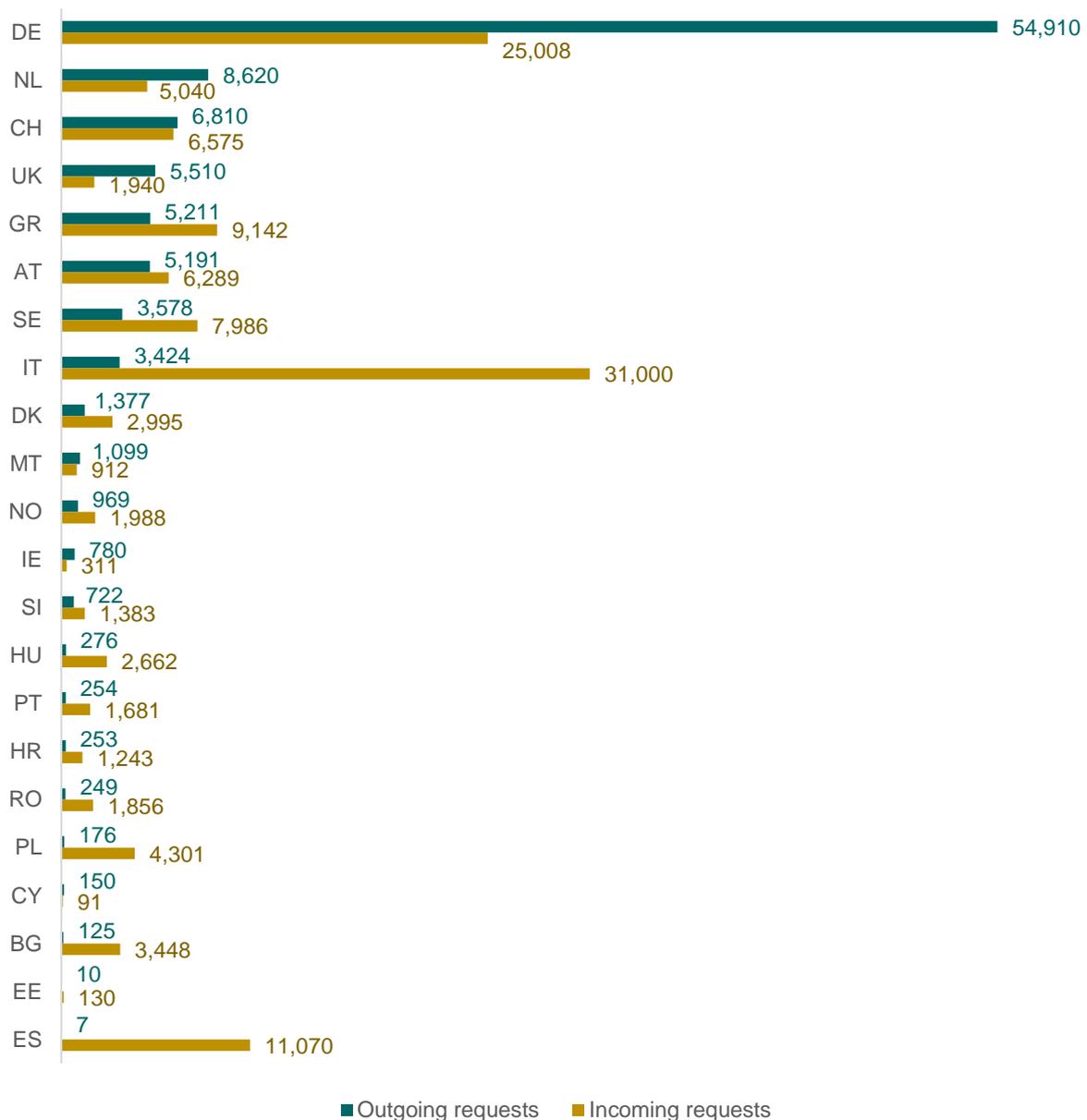
The situation in Italy differs from Spain and Greece. While the number of people lodging asylum applications drastically dropped from 130,180 in 2017 to 53,500 in 2018, the number of outgoing Dublin procedures rose from 2,481 in 2017,⁶ to 3,424 in the first eleven months of 2018.

⁵ UNHCR, *Desperate journeys: Refugees and migrants arriving in Europe and at Europe's borders*, January-December 2018, available at: <https://bit.ly/2Fw6LUZ>.

⁶ Eurostat, migr_dubro.

Outgoing and incoming procedures

Dublin requests: 2018



Source: AIDA. Figures for IT as of November 2018.

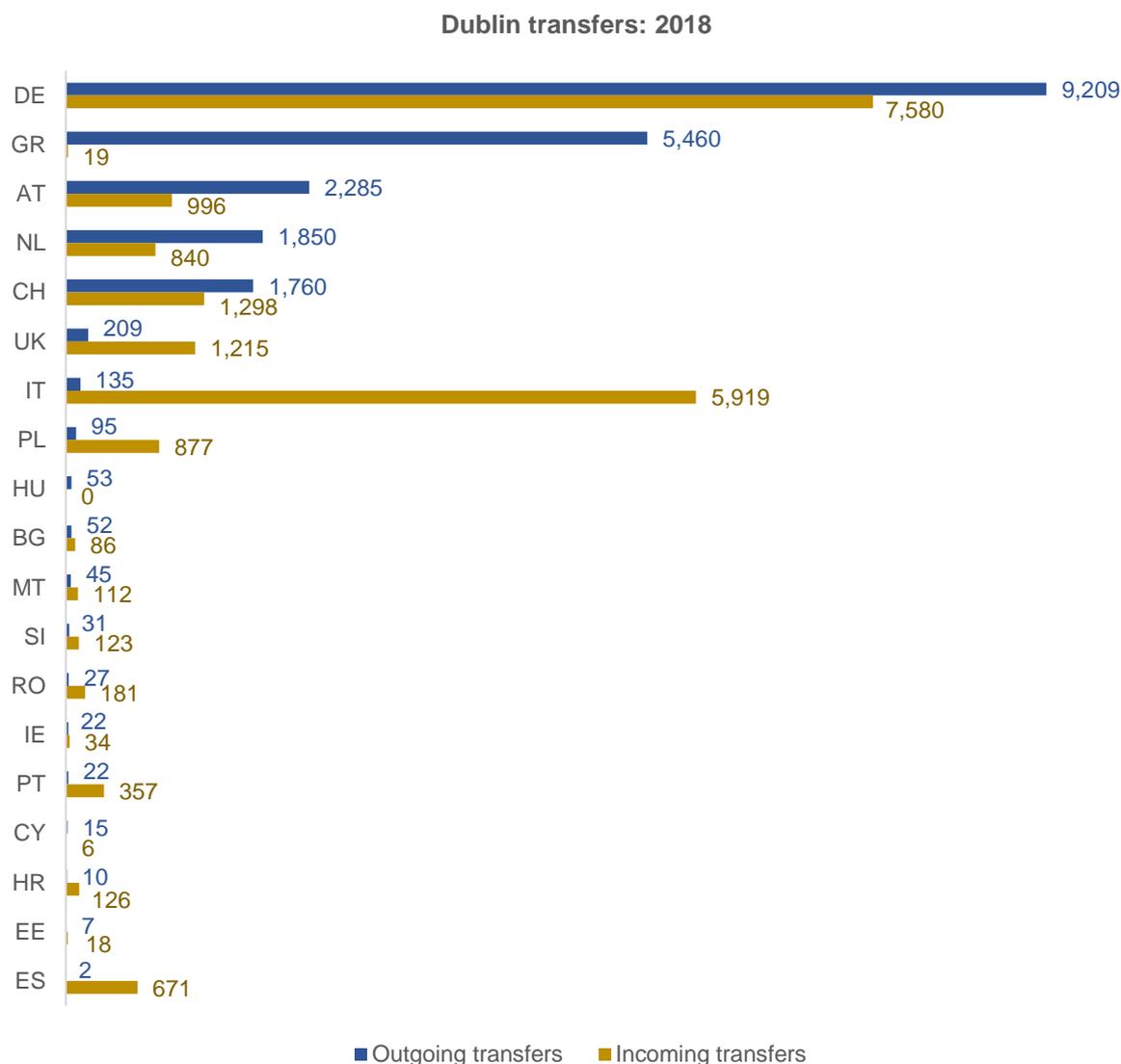
The majority of countries ended up as “net recipients” of Dublin requests in 2018, since they received more incoming requests than the number of outgoing requests sent. In some cases (e.g. **Switzerland, Malta, Austria**) incoming and outgoing requests were largely similar in numbers.

Italy and **Spain** are the main net recipients of Dublin procedures in 2018. Italy submitted 3,424 outgoing requests and, in the first eleven months of the year, received over 31,000 requests from other countries.⁷ Throughout the entire year, Spain submitted no more than 7 outgoing requests and received 11,070 requests from other countries. **Sweden** and **Greece** also had significantly higher incoming requests than outgoing requests.

⁷ AIDA, Country Report Italy, 2018 Update, April 2019, available at: <https://bit.ly/2JX2Aat>.

Interestingly, **Germany** and **France**, the two countries spearheading Dublin procedures in 2018, exchanged a substantial number of requests. France received 4,445 requests from Germany and Germany received 10,328 requests from France. The latter point to an increasing number of applicants travelling to France after seeking asylum in Germany, such as asylum seekers from Afghanistan; the top nationality of applicants in France last year.⁸

As regards actual transfers carried out under the Dublin Regulation, available figures for 2018 point to the following outgoing and incoming transfers:



Source: AIDA. Figures for IT as of November 2018.

The table above presents a number of interesting observations. Firstly, **Germany** remains the top sender *and* top recipient of transfers, although this year it transferred more people out than those it received from other countries.⁹

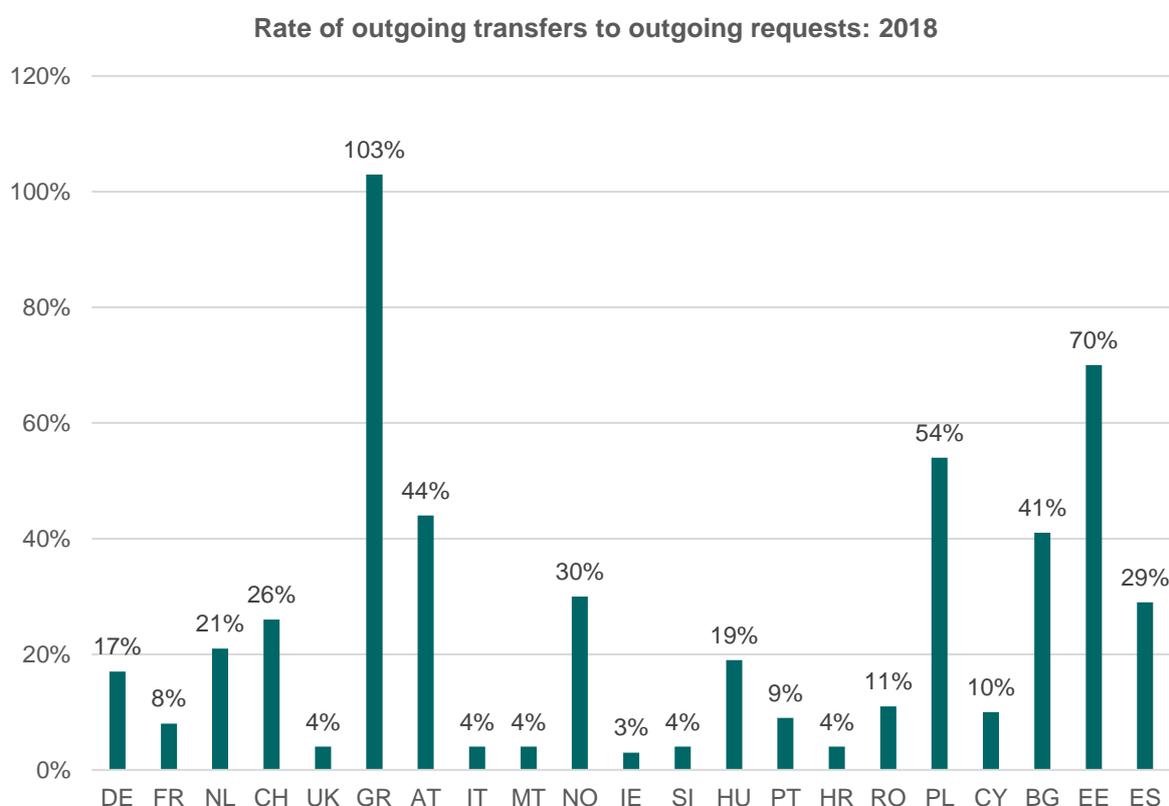
⁸ AIDA, Country Report France, 2018 Update, March 2019, available at: <https://bit.ly/2UW1Xia>, 10.

⁹ In 2017, Germany carried out 7,102 outgoing transfers and received 8,754 incoming transfers: ECRE, *The Dublin system in 2017*, March 2018, available at: <https://bit.ly/2uW0M9Q>.

Secondly, despite as many as 2,662 incoming requests, **Hungary** received zero transfers in 2018. **Greece** received 18 transfers and **Bulgaria** received 86. **Spain**, on the other hand, received 671 transfers, of which 243 from France and 215 from Germany. In the first eleven months of the year, **Italy** received 5,919 transfers, of which 2,150 from Germany, 1,570 from France and 863 from Austria.¹⁰

A closer look at the comparison of actual transfers and outgoing requests once again begs the “efficiency question” in the Dublin system. As ECRE has consistently stressed, Dublin transfers are not mandatory – the Dublin Regulation affords choice and discretion to Member States to examine asylum claims *in situ* to avoid unnecessary human, administrative and financial costs.¹¹

The rate of effective Dublin transfers to outgoing requests sent in 2018 across the different countries was as follows:



Source: AIDA. Percentage for **FR** as of October 2018 and for **IT** as of November 2018.

Germany implemented 9,209 outgoing transfers in 2018 but the figure still represented less than one fifth of the Dublin procedures initiated during the year. Similar observations apply to **France**, for which full year statistics are not yet available. During the first ten months of the year, the French Prefectures had implemented 2,930 transfers and sent 38,652 requests, thereby indicating a transfer rate of 7.6%¹² For its part, during the first eleven months of the year, **Italy** had implemented 135 transfers and sent 3,424 requests, meaning that 4% of procedures resulted in a transfer.¹³

¹⁰ AIDA, Country Report Italy.

¹¹ See e.g. ECRE, *To Dublin or not to Dublin?*, November 2018, available at: <https://bit.ly/2EbDosN>. See also CJEU, Case C-56/17 *Fathi*, Judgment of 4 October 2018, EDAL, available at: <https://bit.ly/2TUdfap>, para 53.

¹² AIDA, Country Report France, 45.

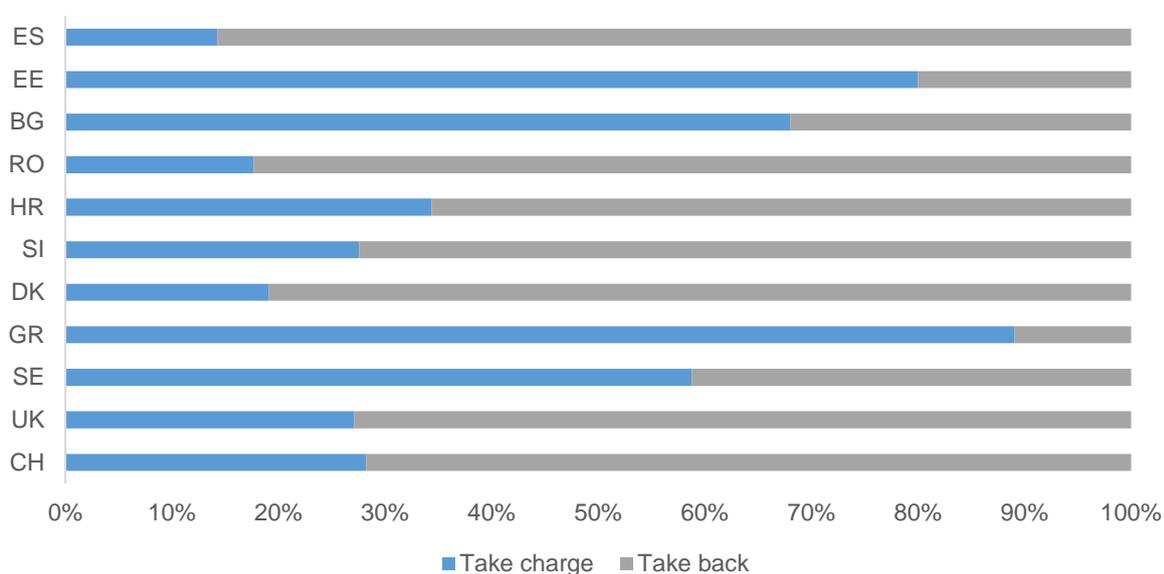
¹³ AIDA, Country Report Italy.

The failure of the Dublin system to meet its objective of swift and effective access to asylum procedures¹⁴ is striking, though not surprising. The majority of countries applying the Dublin Regulation make a conscious policy choice to subject both asylum seekers and their own administration to lengthy Dublin procedures which in all likelihood end up in no transfer, usually due to non-compliance with the time limits for carrying out the transfer.¹⁵ At best, this means that access to the asylum procedure *in situ* is severely delayed for the individual. In **France**, as many as 23,650 of the asylum seekers lodging applications with the Office of Protection of Refugees and Stateless Persons (OFPRA) were allowed to have their application processed in the country after their Dublin procedure came to an end (*requalifiés*). Of those, 8,810 had been placed in a Dublin procedure in 2018 and 14,840 in previous years.¹⁶

The responsibility criteria

Disaggregated statistics on outgoing and incoming requests by ground are available for nine countries. Available figures point to a prevalence of “take back” procedures in most countries:

Outgoing Dublin requests by category: 2018



Source: AIDA.

“Take back” requests based on Articles 18 and 20(5) of the Regulation made up 82% of the total number of requests sent by **Romania**, 81% of the requests sent by **Denmark**, 73% of the requests sent by the **United Kingdom**, 72% of the requests sent by **Switzerland** and **Slovenia**. Even in **Spain**, out of a total of 7 outgoing requests submitted in 2018, 6 were “take back” requests. This indicates that the majority of people placed in a Dublin procedure in these countries had already lodged an asylum application in another country. The rise in Dublin cases involving multiple asylum applications has been coupled with an increase in case law interpreting the rules governing the “take back” procedure.¹⁷

¹⁴ Recital 5 Dublin III Regulation.

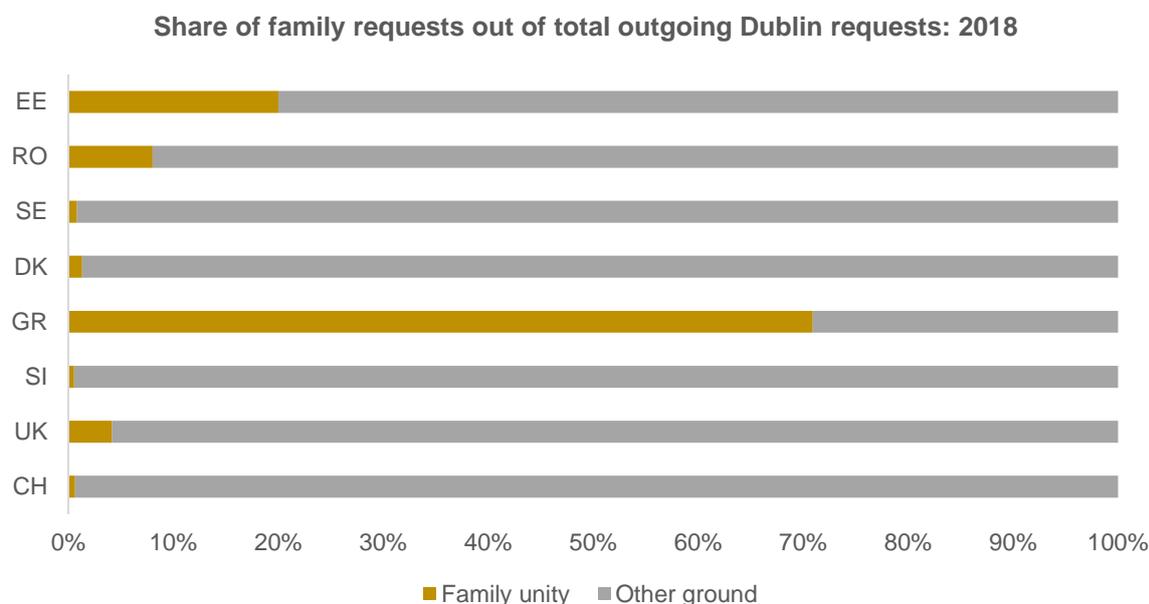
¹⁵ Article 29 Dublin III Regulation.

¹⁶ AIDA, Country Report France, 45.

¹⁷ See e.g. CJEU, Case C-360/16 *Hasan*, Judgment of 25 January 2018, EDAL, available at: <https://bit.ly/2CEH9Vr>; Case C-213/17 *X*, Judgment of 5 July 2018, EDAL, available at: <https://bit.ly/2HGoiXi>.

Family unity

The Regulation lists family unity considerations as the first in the hierarchy of responsibility criteria.¹⁸ Yet, the practice of Member States consistently reflects a “dead letter hierarchy” in the Dublin system, as the family provisions are rarely used in most countries.¹⁹ The following chart illustrates the share of “take charge” requests for family reunification out of the total number of outgoing requests, based on available figures for 2018:



Source: AIDA.

Greece remains an exception, with over 70% of its outgoing requests in 2018 relating to family reunification. Yet, countries receiving requests from Greece continue to impose excessive evidentiary requirements such as translation and authentication of documents proving family ties, previously submitted by the sending state, or DNA tests for children.²⁰ Lawyers in **Hungary** had similar observations in 2018, noting that Dublin transfers could hardly take place without their active involvement, due to an increasingly strict and negligent attitude from the authorities of other countries, including Austria, Germany and France.²¹

At times, the rejection of “take charge” requests for family reunification stems from erroneous interpretation of the provisions of the Regulation. It has been reported in **Greece** that a few respondent countries repeatedly held that “certain legal statuses of the family relations (resident or citizen status) did not fall under Dublin III” for the purpose of fulfilling the requirement of a “legally present” parent under Article 8(1).²²

With regard to unaccompanied children specifically, changes in policy took place in several countries. **Greece** revised its policy on Dublin procedures concerning cases where a subsequent separation of the family took place after their asylum application in Greece. Other countries had already started rejecting such requests in 2017 on the basis that the family separation was ‘self-inflicted’ and thereby

¹⁸ Articles 8-11 Dublin III Regulation.

¹⁹ See further UNHCR, *Left in Limbo: Study on the implementation of the Dublin III Regulation*, August 2017, available at: <http://bit.ly/2kPx9SX>, 86 et seq.; ECRE, *The Dublin system in 2017*, March 2018, 2-3.

²⁰ See e.g. PRAKSIS and Safe Passage, *Caught in the middle: Unaccompanied children in Greece in the Dublin family reunification process*, March 2019, available at: <https://bit.ly/2uu4zbJ>.

²¹ AIDA, *Country Report Hungary, 2018 Update*, March 2019, available at: <https://bit.ly/2OrO6xG>, 34.

²² PRAKSIS and Safe Passage, *Caught in the middle*, March 2019, 16.

contrary to the best interests of the child. In 2018, the Asylum Service partly adopted this argumentation. As a result, in cases of ‘self-inflicted’ family separations, the Dublin Unit announced it would no longer send outgoing take charge requests based on the family provisions or the humanitarian clause, arguing that this is not in the best interests of the child.²³

In **Hungary**, the Dublin Unit ceased its practice of relying on the “humanitarian clause” under Article 17(2) in the cases of unaccompanied children and instead started referring to Article 8 of the Regulation.²⁴

Courts have continued to interpret the family provisions of the Regulation.²⁵ The **United Kingdom** Upper Tribunal detailed in the case of *MS v Secretary of State for the Home Department* the state’s duty to “act reasonably” and to take “reasonable steps” in discharging the duty to investigate the basis of a “take charge” request sent by another country. This includes the option of DNA testing in the sending country or, if not, in the UK.²⁶

Irregular entry

Before 2018, the Dublin Unit in **Hungary** refused to apply Article 19(2) of the Dublin Regulation with regard to Bulgaria in cases of asylum seekers who had waited more than three months in Serbia before being admitted to the transit zones. This practice has changed in 2018. The Hungarian Helsinki Committee has witnessed cases where the courts would quash a Dublin decision and accept the argument of three-month stay outside of the EU,²⁷ as well as cases where responsibility was directly established by the Immigration and Asylum Office.²⁸

The situation of persons travelling to Bulgaria, Serbia and then Hungary without lodging an asylum application was also adjudicated in **Austria**. The Administrative High Court ruled that, in line with the Court of Justice of the European Union (CJEU) judgment in *A.S.*,²⁹ the criterion of irregular entry applies even if the person temporarily leaves the territory of the EU Member States and re-enters it through another EU country.³⁰

The discretionary clauses

Not all countries keep records of cases where they have used the sovereignty clause, as they do not necessarily issue a decision declaring their responsibility for an asylum application. The CJEU clarified in 2018 that the Regulation imposes no obligation on states to issue such a decision.³¹

Germany applied the sovereignty clause in 7,809 cases in 2018.³² **Switzerland** applied it in 875 cases.³³ **Hungary** applied it in 82 cases.³⁴ **Poland** applied it in two cases.³⁵ **Slovenia** and **Romania** did not use the clause in 2018.³⁶

²³ AIDA, Country Report Greece, 2018 Update, March 2019, available at: <https://bit.ly/2l3P95L>, 60.

²⁴ AIDA, Country Report Hungary, 34.

²⁵ See also ECRE/ELENA, *Case Law Note on the application of the Dublin Regulation to family reunification cases*, February 2018, available at: <https://bit.ly/2HFcco7>.

²⁶ (United Kingdom) Upper Tribunal, *MS v Secretary of State for the Home Department* [2019] UKUT 9 (IAC), 19 July 2018.

²⁷ (Hungary) Administrative and Labour Court of Szeged, Decision 11.K.27.085/2018/9, 23 February 2018.

²⁸ AIDA, Country Report Hungary, 34.

²⁹ CJEU, Case C-490/16 *A.S.*, Judgment of 26 July 2017, EDAL, available at: <https://bit.ly/2FC0w3a>.

³⁰ (Austria) Administrative High Court, Decision Ra 2017/19/0169-9, 5 April 2018.

³¹ CJEU, Case C-56/17 *Fathi*, Judgment of 4 October 2018, EDAL, available at: <https://bit.ly/2TUdfap>.

³² (Germany) Federal Government, Reply to parliamentary question by the AfD, 19/8447, 15 March 2019, available in German at: <https://bit.ly/2HU2TzZ>.

³³ AIDA, Country Report Switzerland, 2018 Update, February 2019, available at: <https://bit.ly/2Ynquif>, 29. Of these, 629 concerned Greece, 101 Hungary, 80 Italy and 65 other Dublin States.

The “humanitarian clause” under Article 17(2) of the Regulation is widely used by **Greece**, with 825 outgoing requests in 2018, other countries have made minimal or no use of the clause. The number of “humanitarian clause” requests sent in 2018 was no more than 9 for **Sweden**, 7 for **Bulgaria** and **Romania**, 5 for **Poland** and 2 for **Slovenia**. The clause was not applied at all in some countries (**United Kingdom, Malta, Denmark, Estonia, Spain**).

Germany recently indicated in response to a parliamentary question that it does not collect statistics on the humanitarian clause.³⁷ It stated, however, that in the context of *ad hoc* relocation arrangements following disembarkation in Italy and Malta since the summer of 2018,³⁸ it has applied the “humanitarian clause”.³⁹

The amenability of “humanitarian clause” requests to review was discussed by the **United Kingdom** Upper Tribunal in the *HA* case. The Tribunal held that there is a wide discretion available to the country receiving a “humanitarian clause” request under Article 17(2), but not an “untrammelled” one. It was therefore for the Home Office to take into account the right to family life and the best interests of the child when assessing whether or not a “humanitarian clause” request should be accepted.⁴⁰

Procedures and safeguards

During 2018, some countries have reorganised the way their administrations organise procedures under the Dublin Regulation. With a view to harmonising Dublin procedures across the national territory, the Ministry of Interior of **France** rolled out a regionalisation plan for the Dublin procedure, whereby only one Prefecture per region is now responsible for the implementation of the Dublin procedure for the applications registered in its respective region. The regionalisation plan has established specific Prefectures as regional focal points (*pôles régionaux*). The regionalisation plan had created difficulties for asylum seekers who had no means of travelling to the competent Prefecture after receiving a Dublin notice document, as missing an appointment led to reception conditions being withdrawn and applicants becoming exposed to destitution.⁴¹ The Council of State clarified, however, that where the applicant is required to travel from his or her place of residence to appear before the *pôle régional*, the transport costs have to be borne by the Prefecture.⁴²

Conversely, a recent legislative reform in **Italy** foresaw the creation of up to three regional sections of the Dublin Unit, to be established by decree in designated Prefectures. So far, one pilot section has been established in Gorizia, although it has not taken any transfer decisions so far.⁴³

Remedies against rejected requests

One of the questions brought before domestic courts in 2018 concerned the justiciability of a country’s refusal to accept a “take charge” request. Courts have not taken a uniform position on this point. The

³⁴ AIDA, Country Report Hungary, 34.

³⁵ AIDA, Country Report Poland, 2018 Update, March 2019, available at: <https://bit.ly/2U80lVw>, 23.

³⁶ AIDA, Country Report Slovenia, 2018 Update, March 2019, available at: <https://bit.ly/2JGstV0>, 27; Country Report Romania, 2018 Update, March 2019, available at: <https://bit.ly/2uvijmi>, 39.

³⁷ (Germany) Federal Government, Reply to parliamentary question by the AfD, 19/8447, 15 March 2019, available in German at: <https://bit.ly/2HU2TzZ>.

³⁸ For a discussion, see ECRE, *Relying on relocation*, January 2019, available at: <https://bit.ly/2WuQ2ZV>.

³⁹ (Germany) Federal Government, Reply to parliamentary question by the AfD, 19/8447, 15 March 2019, available in German at: <https://bit.ly/2HU2TzZ>.

⁴⁰ (United Kingdom) Upper Tribunal, *HA v Secretary of State for the Home Department* [2018] UKUT 297 (IAC), 19 April 2018.

⁴¹ AIDA, Country Report France, 43-44.

⁴² AIDA, Country Report Italy.

⁴³ (France) Council of State, Order 422159, 26 July 2018.

United Kingdom Upper Tribunal held in *MS* that the principle of fairness requires the applicant to be given an opportunity to know the ‘gist’ of what is submitted against him or her in respect of the application of the Dublin criteria. Therefore in judicial review against the rejection of a “take charge” request by the UK, it is for the court or tribunal to decide whether the Dublin criteria have been correctly applied.⁴⁴ Courts in **Germany** have also adjudicated rejections of “take charge” requests in the context of family reunification.⁴⁵

Conversely, the Federal Administrative Court of **Austria** stated that the only available option following a refusal of a “take charge” request on family unity grounds is the submission of a re-examination request by the sending Member State. It found that the asylum seeker cannot act directly against the negative decision nor bring it to appeal, as this is a purely intergovernmental procedure.⁴⁶

Time limits for requests

The deadline for submitting a “take charge” request is three months from the lodging of an asylum application.⁴⁷ As detailed elsewhere,⁴⁸ the CJEU ruling in *Mengesteab*⁴⁹ held that the concept of “lodging” an asylum application in the Dublin Regulation is not the same as “lodging” as per the recast Asylum Procedures Directive, and thereby brought about significant changes to the way Member States calculate deadlines for sending a “take charge” request.⁵⁰

Several countries (**Germany, France, Italy, Belgium, Greece, Croatia**), which distinguish between “registration” and “lodging” of an asylum application in their systems, have aligned their practice with the *Mengesteab* ruling and now start the calculation of the three-month time limit from the moment the asylum seeker’s intention to seek international protection is registered.⁵¹

Time limits for transfers

The Dublin Regulation provides that the time limit for carrying out a transfer is six months following the acceptance of the request or the final decision on an appeal or review.⁵² Where appeals are submitted, the process can thus exceed the six-month limit. This is the case in **Switzerland**, for instance, where the average duration of the process in 2018 was 265 days from the issuance of the transfer decision to the actual transfer, likely due to the submission of suspensive appeals against such decisions.⁵³ In **Austria**, the Administrative High Court ruled that the transfer deadline is not suspended if the decision on the appeal is notified to the individual after the expiry of the six-month deadline; in such a case, the sending country becomes responsible for the asylum claim.⁵⁴

⁴⁴ (United Kingdom) Upper Tribunal, *MS v Secretary of State for the Home Department* [2019] UKUT 9 (IAC), 19 July 2018.

⁴⁵ See e.g. (Germany) Administrative Court of Münster, Decision 2 L 989/18.A, 20 December 2018, EDAL, available at: <https://bit.ly/2tG9CVN>.

⁴⁶ (Austria) Federal Administrative Court, Decision W175 2206076-1, 1 October 2018.

⁴⁷ Article 21(1) Dublin III Regulation.

⁴⁸ See e.g. (Germany) Administrative Court of Münster, Decision 2 L 989/18.A, 20 December 2018, EDAL, available at: <https://bit.ly/2tG9CVN>.

⁴⁹ CJEU, Case C-670/19 *Mengesteab*, Judgment of 26 July 2017, EDAL, available at: <https://bit.ly/2XvMKq2>.

⁵⁰ For a discussion of the impact of the ruling on registration, see AIDA, *Access to protection in Europe: The registration of asylum applications*, October 2018, available at: <https://bit.ly/2PySydX>, 22 et seq.

⁵¹ AIDA, Country Report Germany, 2018 Update, April 2019, available at: <https://bit.ly/2HRECve>; Country Report France, 42; Country Report Italy, specifically as regards the procedure in Friuli-Venezia Giulia; Country Report Belgium, 33; Country Report Greece, 59; Country Report Croatia, 2018 Update, March 2019, available at: <https://bit.ly/2CQpKsQ>, 40.

⁵² Article 29(1) Dublin III Regulation.

⁵³ AIDA, Country Report Switzerland, 33.

⁵⁴ (Austria) Administrative High Court, Decision Ra 2018/14/0133, 24 October 2018.

The issue is less pertinent in other countries where transfers are carried out within the six-month deadline. The average duration of the procedure from acceptance to transfer was less than a month in **Poland** and **Slovenia**, 2 months in **Romania** and **Bulgaria**, and 6 months in **Malta**.⁵⁵ In **Greece** the general average duration of the procedure is 11 months due to the number of family reunification cases to Germany pending from 2017, which resulted in transfers in 2018.⁵⁶ Others such as the **United Kingdom** do not collect statistics on the duration of the procedure.⁵⁷

The effect of appeals on the calculation of time limits was interpreted by case law in **France** in 2018. The Council of State clarified that the six-month deadline is suspended if the asylum seeker appeals the transfer decision, and continues to run from the delivery of the Administrative Court judgment, regardless of its outcome. Moreover, the time limit restarts only once. This means that if the Administrative Court annuls the transfer and the Prefect lodges an onward appeal, the six-month deadline is not renewed.⁵⁸

Where the “person concerned absconds”, the Regulation allows for an extension of the transfer deadline to 18 months.⁵⁹ The notion of “absconding” has been heavily debated in **Germany** in the framework of “church asylum” (*Kirchenasyl*), the temporary sanctuary offered by religious institutions to protect people facing deportation from undue hardship. The new guidelines of the Federal Office for Migration and Refugees (BAMF) which took effect on 1 August 2018 state that an extension of the transfer deadline to 18 months for reasons of “absconding” can be ordered under a number of circumstances, including where: (a) church asylum is not notified on the day it is provided; (b) the file is not transmitted to the BAMF within a four-week period to justify grounds of hardship; or (c) church asylum was only provided after a negative decision from the BAMF.⁶⁰ These measures have been criticised by religious and refugee-supporting organisations, and run counter to the approach taken by courts. In a 2018 ruling, the Administrative High Court of Bavaria held, in line with the dominant position of domestic case law, that a person receiving church asylum whose whereabouts are reported to the BAMF cannot be considered as “absconding” from the Dublin procedure.⁶¹

The CJEU recently provided guidance on the interpretation of Article 29(2) of the Regulation in *Jawo*.⁶² The Court stated that the term “absconding” in the Regulation “implies the intent of the person concerned to escape from someone or to evade something, namely, in the present context, the reach of the competent authorities and, accordingly, his transfer, that that provision is, in principle, applicable only where that person deliberately evades the reach of those authorities.”⁶³ It reasoned however, that a requirement on Member States to prove such intent would be considerably difficult and would hinder the effective functioning of the Dublin system.⁶⁴ Accordingly, the CJEU concluded that absconding “may be assumed that that is the case where the transfer cannot be carried out due to the fact that the applicant has left the accommodation allocated to him without informing the competent national authorities of his absence, provided that he has been informed of his obligations in that regard”.⁶⁵

⁵⁵ AIDA, Country Report Poland, 23; Country Report Slovenia, 28; Country Report Romania, 41; Country Report Bulgaria, 26; Country Report Malta, 2018 Update, March 2019, available at: <https://bit.ly/2HX2Lj4>, 27.

⁵⁶ AIDA, Country Report Greece, 63.

⁵⁷ (United Kingdom) Minister for Immigration, Reply, Asylum: EU Countries: Written question, 202853, 25 January 2019, available at: <https://bit.ly/2S0vCt3>.

⁵⁸ (France) Council of State, Decision 420708, 24 September 2018.

⁵⁹ Article 29(2) Dublin III Regulation.

⁶⁰ AIDA, ‘Germany: Measures restricting “church asylum” contradict case law’, 31 August 2018, available at: <https://bit.ly/2V1pSg4>.

⁶¹ (Germany) Administrative High Court of Bavaria, Decision 20 ZB 18.50011, 16 May 2018, EDAL, available at: <https://bit.ly/2FzKeld>.

⁶² CJEU, Case C-163/17 *Jawo*, Judgment of 19 March 2019, EDAL, available at: <https://bit.ly/2FxFsQa>.

⁶³ CJEU, *Jawo*, para 56.

⁶⁴ *Ibid*, paras 61-62.

⁶⁵ *Ibid*, para 70.

Detention in Dublin procedures

Article 28 of the Dublin Regulation permits detention as an exceptional measure “to secure transfer procedures” where there is a “significant risk of absconding” of the applicant. The aforementioned CJEU ruling in *Jawo* recalled that the term “absconding” is not defined in EU law.⁶⁶ However, in an earlier ruling, *Al Chodor*, the Court held that Dublin detention is unlawful if the objective criteria for determining a “significant risk of absconding” have not been laid down in a national legal provision of general application.⁶⁷

Al Chodor has generated spill-over effect well beyond the Czech Republic, which referred the question for a preliminary ruling, by clarifying a requirement on all countries operating the Dublin system to define the criteria for a “significant risk of absconding” in their domestic law. Following the judgment, such a definition was codified in the **United Kingdom** in March 2017,⁶⁸ **Belgium** in November 2017,⁶⁹ in **France** in March 2018,⁷⁰ and in **Cyprus** in July 2018.⁷¹

Other countries such as **Slovenia** and **Greece** continued to assess the risk of absconding with reference to the criteria laid down in pre-removal detention provisions. Domestic courts have held this to be unlawful.⁷² **Ireland, Bulgaria, Italy, Portugal, Spain** and **Malta** have not laid down any criteria.

The following tables compare the non-exhaustive lists of criteria laid down in national law as regards the identification of a “significant risk of absconding” for the purposes of Dublin detention. Only provisions specific to the Dublin Regulation are included:

Criteria for determining a “significant risk of absconding” under Article 2(n) Dublin Regulation			
Country	Legal basis	Year	Number of criteria
AT	Article 76(2) Aliens Police Act	2015	●●●●●●●●●●
BE	Article 1(2) Aliens Act	2018	●●●●●●●●●●
CY	Article 9ΣΤ-bis Refugee Law	2018	●●●●●●●●●●●●●●
DE	Section 2(14) Residence Act	2015	●●●●●●
FR	Article L.551-1(2) Ceseda	2018	●●●●●●●●●●●●●●
HR	Article 54(4) Law on International and Temporary Protection	2015	●●●●●●
HU	Section 36/E Asylum Decree	2013	●●●
NL	Article 51b.3 Aliens Decree	2013	●●●●●●●●●●●●●●
PL	Article Law on Protection	2015	●●●
RO	Article 19 ¹⁴ (2) Asylum Act	2015	●●●●●●
UK	Transfer for Determination of an Application for International Protection (Detention) Regulations	2017	●●●●●●●●●●
CH	Article 76a Foreign Nationals Act	2015	●●●●●●●●●●

⁶⁶ *Ibid*, para 54.

⁶⁷ CJEU, Case C-528/15 *Al Chodor*, Judgment of 15 March 2017, EDAL, available at: <https://bit.ly/2JEIUZU>.

⁶⁸ United Kingdom Transfer for Determination of an Application for International Protection (Detention) (Significant Risk of Absconding Criteria) Regulations 2017.

⁶⁹ Article 1(2) Belgian Aliens Act, as amended by Law of 21 November 2017.

⁷⁰ Article L.551-1(2) French Code of Entry and Stay of Foreigners and the Right to Asylum (Ceseda), inserted by Law n. 2018-187 of 20 March 2018.

⁷¹ Article 9ΣΤ-bis Cypriot Refugee Law, inserted by Law No 80(I)/2018 of 12 July 2018.

⁷² (Slovenia) Administrative Court, Decision I U 618/2017-14, 6 April 2017; Decision I U 2578/2018-13, 31 December 2018.

The length of the lists varies from one country to another and can range from three criteria (**Hungary, Poland**) to 12 (**Netherlands, France**) or even 13 (**Cyprus**). The content of those criteria also varies considerably across countries:

Criteria for determining a “significant risk of absconding” under Article 2(n) Dublin Regulation	
Objective criterion	Countries where codified
Personal statements	
False or misleading information	BE, CY, DE, HR, HU, UK
Unfounded statements during Dublin interview	CY
Concealment of identity, travel route, fingerprinting, family composition	BE, FR, HR
Concealment of prior application in another country	BE, FR, CH
Failure to cooperate with the authorities e.g. in information requests or in establishing identity	BE, CY, DE, FR, HR, HU, NL
Documents	
Deliberate destruction of identity or travel documents	CY, DE
Falsification of documents	FR
Lack of identity documents	PL
Failure to obtain a travel document for removal	AT
Compliance with and resistance to removal measures	
Prior absconding from return or transfer or attempts to abscond	AT, CY, DE, FR, HR, NL, UK, CH
Non-compliance with alternatives to detention	AT, FR, RO, UK
Refusal to be fingerprinted	FR
Declared refusal to comply with return or transfer	BE, CY, DE, FR, HR, RO
Likelihood of refusal to comply with transfer	HU, UK
Likelihood of non-compliance with alternatives to detention	UK
Likelihood of non-compliance with official orders	CH
Irregular entry and engagement with the asylum process	
Eurodac ‘hit’	HR, RO
Entry ban	AT, BE, CH
Payment of substantial amount to a smuggler	DE
Failure to apply for asylum within reasonable time	BE
Application following irregular entry	PL, RO, NL, UK
Application following prior return or refusal of entry	BE, CY, FR, RO
Application from pre-removal detention	AT
Application solely to avoid removal	CH
Arrival for reasons other than those stated in application	BE
Subsequent application without right to remain	AT
Application withdrawn in the country	AT
Rejected asylum application in the responsible country	FR
Withdrawn asylum application in another country	UK
Irregular border-crossing following application	RO
Multiple applications	AT
Multiple applications under different identities	CH
Multiple rejected asylum applications	BE

Fine for abusive asylum appeal	BE
Reception and residence	
Departure from reception centre, registered address or assigned area	AT, CY, FR, CH
Violation of house rules of reception centre	HR
Lack of reception conditions and of a place of residence	FR
Change of address without notification to the authorities	DE
Other	
Conviction, including in another country, indicating likelihood of absconding	CY, CH
Threat to other persons	CH
Schengen Information System alert	PL
Ties in the country	AT, UK

Source: AIDA.

Available information suggests at least 44 different criteria in national legal frameworks on the basis of which an individual may be detainable for reasons of a “significant risk of absconding”. The criteria common to most countries concern: failure to cooperate in establishing identity; provision of false or misleading information; previous absconding or attempts to abscond; and declared intention not to comply with a transfer.

However, several criteria introduced by countries appear to be irrelevant to the assessment of a risk of absconding and/or problematic.⁷³ For example, **Croatia** deems violations of reception centre house rules as a ground for determining such a risk, while **Germany** considers the payment of substantial amounts of money to smugglers as such a ground. More worryingly, the lack of reception conditions or a place of residence is listed as a criterion in **France**, despite the fact that the reception system falls far short of meeting actual reception needs to date; only 44% of asylum seekers registered in 2018 were granted accommodation.⁷⁴ Under the French definition of the risk of absconding, the very failure of the country to offer adequate reception conditions is imputed to asylum seekers as grounds for detention. In practice, when an asylum seeker without stable accommodation is notified of a transfer and appears before the Prefecture, he or she is placed under house arrest.⁷⁵

The use of administrative detention in Dublin procedures varies from one country to another, with some systematically relying on detention in 2018. Out of 95 transfers under escort done by **Poland**, 82 were carried out from detention centres.⁷⁶ **Switzerland** detained 1,213 persons in a Dublin procedure, while it only allowed voluntary transfer to 65 people in 2018 from the “test centres” in Zurich and Boudry.⁷⁷ **Austria** also refrains from allowing voluntary transfers.⁷⁸ **France** increasingly applies detention in Dublin cases, including before the acceptance of a request by the responsible country.⁷⁹ ECRE has highlighted that “securing transfer procedures...amounts to removal from the territory in all but name”,⁸⁰ and that detention prior to the issuance of a final transfer decision cannot be considered lawful, since there is no basis for depriving liberty of an asylum seeker who has a right

⁷³ For a discussion, see ECRE, *The legality of detention of asylum seekers under the Dublin III Regulation*, June 2015, available at: <https://bit.ly/2lrNou1>, 4-5.

⁷⁴ AIDA, Country Report France, 83.

⁷⁵ AIDA, Country Report France, 45.

⁷⁶ AIDA, Country Report Poland, 24.

⁷⁷ AIDA, Country Report Switzerland, 33, 93.

⁷⁸ AIDA, Country Report Austria, 2018 Update, March 2019, available at: <https://bit.ly/2TPuU20>, 40.

⁷⁹ AIDA, Country Report France, 97.

⁸⁰ ECRE, *The legality of detention of asylum seekers under the Dublin III Regulation*, June 2015, 7.

to remain and is not (yet) deportable under the ECHR and the Charter.⁸¹ Nevertheless, the CJEU found in 2018 that Article 28(2) of the Dublin Regulation does not prohibit detention during the determination of the responsible Member State, even before the submission of a Dublin request.⁸²

Suspension of transfers

Litigation of Dublin cases accounts for a large share of cases before domestic courts, European Courts and international fora. “Courts are usually prepared to scrutinise Dublin procedures and halt dangerous transfers, provided that asylum seekers are able to effectively access a remedy. Yet, litigation is a reactive or remedial measure. It is not an adequate substitute for sound and rights-compliant policy from the start.”⁸³

The duty to investigate and obtain guarantees

ECtHR case law has highlighted the duty of sending countries to obtain guarantees to ensure the legality of Dublin transfers in certain cases.⁸⁴

Most countries (France, Austria, Sweden, Italy, Greece, Portugal, Malta, Spain, Romania, Bulgaria, Croatia) have no formal policy in place which requires the provision of individual guarantees prior to a Dublin transfer, including for groups such as families with children or other groups with special needs. Others request such guarantees from specific destination countries:

National policies on individual guarantees in Dublin cases	
Dublin Unit	Countries from which guarantees are requested
DE	GR, HU
CH	IT
NL	IT
BE	GR, IT
PL	GR, HU, BG
HU	BG
SI	GR, IT

Source: AIDA, Country Report Germany; Country Report Switzerland, 31-3; Country Report Netherlands, 30-32; Country Report Belgium, 34; Country Report Poland, 24; Country Report Hungary, 35; Country Report Slovenia, 28.

From the perspective of receiving countries, **Greece** provides guarantees on asylum seekers’ access to accommodation upon return.⁸⁵ Out of 9,142 incoming requests received in 2018, the vast majority – 8,825 (96.5%) – were rejected by the Greek Dublin Unit, *inter alia* due to the lack of available reception places.⁸⁶

⁸¹ ECRE, *Comments on the proposal for a Dublin IV Regulation*, October 2016, available at: <https://bit.ly/2q9vDvJ>, 32. On this point, see (Netherlands) Council of State, Decision 201605964/1, 1 November 2016; 201801240/1/V3, 2 May 2018.

⁸² CJEU, Case C-647/16 *Hassan*, Judgment of 31 May 2018, EDAL, available at: <https://bit.ly/2FBz9GJ>, para 67.

⁸³ ECRE, *To Dublin or not to Dublin?*, November 2018, 4.

⁸⁴ For a discussion, see AIDA, *The concept of vulnerability in European asylum procedures*, September 2017, available at: <https://bit.ly/2f9gOmN>, 50 et seq.

⁸⁵ See also Point 10 Commission Recommendation of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) No. 604/2013, C(2016) 8525.

⁸⁶ AIDA, Country Report Greece, 67; Country Report Germany.

Italy previously provided other countries' Dublin Units with a list of projects accommodating families with children under the System of Protection of Asylum Seekers and Refugees (SPRAR).⁸⁷ Following a recent reform which transformed SPRAR into the System of Protection for Beneficiaries of International Protection and Unaccompanied Minors (SIPROIMI) and excluded access thereto to asylum seekers, Italy issued a letter to other Dublin Units on 8 January 2019, specifying that "all applicants under the Dublin procedure will be accommodated in other Centres referred to in Legislative Decree No. 142/2015... In consideration of the efforts made by the Italian Government in order to strongly reduce the migration flows, these Centres are adequate to host all possible beneficiaries, so as to guarantee the protection of the fundamental rights, particularly the family unity and the protection of minors."⁸⁸ The guarantee provided by the 8 January 2019 letter has been deemed as sufficient by the Netherlands.⁸⁹ Germany has also based itself on that letter to discontinue its previous policy of requesting guarantees for families with young children.⁹⁰

Hungary has not provided individual guarantees when requested to do so by other countries.⁹¹ It has also refused responsibility for certain cases but refused to enter a conciliation procedure with the Netherlands.⁹²

No Dublin Unit has requested **Spain** to provide guarantees prior to performing transfers. However, Dublin returnees had difficulty re-accessing reception conditions in Spain throughout 2018. Following several reports of returnees excluded from accommodation and being rendered destitute, the Superior Court of Madrid condemned the Spanish Government in January 2019 for denying reception to asylum seekers transferred to Spain under the Dublin procedure. The Ministry of Labour, Migration and Social Security issued an instruction establishing that asylum seekers shall not be excluded from the reception system if they voluntarily left Spain to reach another EU country.⁹³

Despite the absence of policies on guarantees in countries, or the limited scope of such policies where they exist, domestic courts have continued to scrutinise the conduct of Dublin procedures and to suspend transfers where they deem that guarantees should have been obtained. In **Belgium**, for example, the Council of Alien Law Litigation annulled transfer decisions where the Aliens Office had failed to obtain guarantees for specific vulnerabilities such as HIV,⁹⁴ or for cases requiring medical follow-up.⁹⁵ The Council applied the same approach vis-à-vis guarantees from countries such as Spain⁹⁶ and Germany.⁹⁷ In the **United Kingdom**, the Upper Tribunal held in *SM* that, in the case of a "particularly vulnerable person", failure to consider whether to apply the "sovereignty clause" was likely to render the transfer decision unlawful.⁹⁸

⁸⁷ See e.g. Italian Dublin Unit, Circular: Dublin Regulation Nr. 604/2013. Vulnerable cases. Family in SPRAR projects, 4 July 2018, available at: <https://bit.ly/2OwbIGT>.

⁸⁸ Italian Dublin Unit, Circular 2019/1, 8 January 2019. The Ministry of Interior also specified in a Circular of 3 January 2019 that Dublin returnees who had previously applied for asylum would be returned to the region where they had applied to receive accommodation.

⁸⁹ AIDA, Country Report Netherlands, 2018 Update, March 2019, available at: <https://bit.ly/2CFMIYZ>, 31.

⁹⁰ Informationsverbund Asyl und Migration, 'BAMF führt Überstellungen nach Italien wieder "uneingeschränkt" durch', 29 March 2019, available in German at: <https://bit.ly/2Uobbqu>.

⁹¹ AIDA, Country Report Germany.

⁹² See e.g. AIDA, Country Report Netherlands, 35.

⁹³ AIDA, Country Report Spain, 2018 Update, March 2019, available at: <https://bit.ly/2V0vkAc>, 34, 57.

⁹⁴ (Belgium) Council of Alien Law Litigation, Decision No 201 167, 15 March 2018.

⁹⁵ (Belgium) Council of Alien Law Litigation, Decision No 215 169, 15 January 2019.

⁹⁶ (Belgium) Council of Alien Law Litigation, Decision No 203 865, 17 May 2018; Decision No 203 860, 17 May 2018.

⁹⁷ (Belgium) Council of Alien Law Litigation, Decision No 207 355, 30 July 2018.

⁹⁸ (United Kingdom) Upper Tribunal, *R (SM) v Secretary of State for the Home Department (Dublin Regulation – Italy)* [2018] UKUT 429 (IAC), 4 December 2018.

The human rights threshold

The case law of European Courts maintains the position that a Dublin transfer is unlawful if it exposes the individual to a real risk of a serious violation of the prohibition of inhuman or degrading treatment under Article 3 ECHR and Article 4 of the Charter in the destination country.⁹⁹ The CJEU recently recalled the principle in *Jawo* and added that situations of a high degree of insecurity and poor living conditions only trigger *refoulement* insofar as they amount to inhuman or degrading treatment.¹⁰⁰

Material deprivation is a factor central to the assessment of *refoulement* in many Dublin cases. Other factors can also come into play e.g. a country's hostile policy and environment to migrants,¹⁰¹ or chain *refoulement* stemming from a country's refugee status determination policy.¹⁰²

The majority of countries (Germany, France, Austria, Switzerland, Italy, Belgium, Greece, Cyprus, Malta, Slovenia, Croatia, Romania, Bulgaria, Poland, Ireland) have no formal policy against Dublin procedures to an EU Member State or Schengen Associated State. Official positions against transfers have been taken by a few countries in respect of Greece and Hungary, but not Italy or Bulgaria:

- **Transfers to Greece:** Following a European Commission Recommendation of December 2016, most countries have revisited their position on transfers to Greece. Toward the end of 2018, a formal resumption of Dublin procedures to Greece was announced by **Romania** and **Malta**.¹⁰³ Transfers to Greece remain suspended as a matter of policy in the **United Kingdom, Spain** and **Portugal**,¹⁰⁴ which have maintained a suspension policy since the *M.S.S. v. Belgium and Greece* judgment. **Hungary** also maintains a suspension, following a period of resumed transfers in 2016.¹⁰⁵
- **Transfers to Hungary:** While no country implemented transfers to Hungary in 2018, most states have not officially announced a suspension of transfers. A few exceptions include the **Netherlands, Sweden** and the **United Kingdom**.¹⁰⁶
- **Transfers to Italy:** Domestic courts have not taken a uniform approach to the assessment of human rights risks, including following the exclusion of asylum seekers from the SPRAR system following the 2018 legislative reform. Inconsistent court decisions have been noted in

⁹⁹ ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011, EDAL, available at: <https://bit.ly/2ErG9VZ>; CJEU, Case C-578/16 PPU C.K., Judgment of 16 February 2017, EDAL, available at: <https://bit.ly/2Wvgjqr>.

¹⁰⁰ CJEU, *Jawo*, para 93.

¹⁰¹ ECRE, *To Dublin or not to Dublin?*, November 2018. See e.g. (France) Administrative Court of Paris, 1807362/8, 25 June 2018; Administrative Court of Paris, 1810819/8, 3 August 2018; Administrative Court of Bordeaux, 1803602, 29 August 2018; Administrative Court of Melun, 1807266 and 1807354, 18 September 2018; Administrative Court of Versailles, 1807048, 11 October 2018; Administrative Court of Pau, 1802323, 15 October 2018; Administrative Court of Toulouse, 1805185, 9 November 2018; Administrative Court of Paris, 1811611/9, 6 July 2018; (Romania) Regional Court Galați, 5362/2017, 4 December 2017.

¹⁰² ECRE/ELENA, *Case Law on return of asylum seekers to Afghanistan 2017-2018*, February 2019, available at: <https://bit.ly/2TYeyFg>. See e.g. (France) Administrative Court of Bordeaux, 180412, 15 June 2018; Administrative Court of Rouen, 1801386, 31 May 2018; Administrative Court of Appeal of Nantes, 17NT03167, 8 June 2018; Administrative Court of Appeal of Lyon, 17LY02181, 13 March 2018; Administrative Court of Lyon, 1702564, 3 April 2017; (Italy) Civil Court of Rome, 58068/2017, 25 May 2018; (Germany) Administrative Court of Saarland, 5 L 140/18, 27 February 2018.

¹⁰³ AIDA, Country Report Romania, 44; Country Report Malta, 29.

¹⁰⁴ AIDA, Country Report UK, 2018 Update, March 2019, available at: <https://bit.ly/2HJ1Cwo>, 34; Country Report Spain, 34; Country Report Portugal, 2018 Update, April 2019, available at: <https://bit.ly/2YC1m7L>.

¹⁰⁵ AIDA, Country Report Hungary, 38-39.

¹⁰⁶ AIDA, Country Report Netherlands, 25; Country Report Sweden, 2018 Update, April 2019, available at: <https://bit.ly/2FMK8Mp>; Country Report UK, 34.

Germany¹⁰⁷ and the **Netherlands**.¹⁰⁸ In **Switzerland**, courts have not changed their previous position on the legality of transfers to Italy.¹⁰⁹

- **Transfers to Bulgaria:** Domestic case law in 2018 has been inconsistent in countries such as **Germany**,¹¹⁰ **Austria**,¹¹¹ **Romania**.¹¹² While recent case law in **Switzerland**, **Italy** and the **Netherlands** has ruled against transfers,¹¹³ courts in **Greece** and **Denmark** have upheld transfers.¹¹⁴

Conclusion

The implementation of the Dublin III Regulation in 2018 demonstrates that the European Union's rules on allocation of responsibility for receiving people fleeing from persecution and serious harm remain marred by unnecessary inefficiency. Dublin procedures come at a substantial human, administrative and financial cost, and yet many countries continue to use them recklessly: one out of three asylum applicants in Germany and France was placed in a Dublin procedure, and more than four out of five Dublin procedures failed to meet their aim. Insofar as states are not required to carry out Dublin transfers, the insistence on unnecessary procedures is a policy choice.

The Dublin system's compliance with human rights still leaves much to be desired. The duty and potential of states to safeguard refugees' family unity through the Regulation appears to remain an afterthought: family and humanitarian clause requests sent by Dublin Units are dwarfed by "take back" and entry-related procedures, and are consistently met with restrictive positions from the receiving countries' side. In addition, the protection of asylum seekers from *refoulement* to countries unable to guarantee basic reception, fair refugee status determination or protection from chain *refoulement*, is too readily pushed to the courts by policy choices to shy away from suspension of transfers and to turn a blind eye to violations of asylum standards, however severe or deliberate.

¹⁰⁷ (Germany) Administrative Court of Arnsberg, Decision 5 L 1831/18.A, 29 November 2018; Administrative Court Braunschweig, Decision 1 B 251/18, 16 October 2018. Contrast High Administrative Court of Bavaria, Decision 10 CE 19.67, 9 January 2019.

¹⁰⁸ (Netherlands) Regional Court Arnhem (MK), Decision NL18.19370, 17 December 2018; Regional Court Zwolle (MK), Decision NL18.17455, 11 December 2018; Regional Court Zwolle (MK), Decision NL18.17854 and NL18.17856, 11 December 2018, and Regional Court Amsterdam, Decision NL18.19712, 22 November 2018; Council of State, Decision 201808522/1/V3, 19 December 2018.

¹⁰⁹ (Switzerland) Federal Administrative Court, Decision E-6313/2018, 29 November 2018.

¹¹⁰ (Germany) High Administrative Court of Lüneburg, Decision 10 LB 82/17, 29 January 2018; Administrative Court of Sigmaringen, Decision A 3 K 6441/17, 22 March 2018; Administrative Court Magdeburg, Decision 4 B 761/17 MD, 16 January 2018. Contrast Administrative Court of Düsseldorf, Decision 29 L 2092/18.A, 29 August 2018; Administrative Court of Karlsruhe, Decision A 13 K 15354/17, 30 October 2018.

¹¹¹ (Austria) Constitutional Court, Decision E2418/2017, 11 June 2018. Contrast Federal Administrative Court, Decision W235 2176540-1, 28 August 2018; Decision W233 2188772-1, 14 March 2018.

¹¹² (Romania) Regional Court of Rădăuți, Decision 2693/2018, 8 August 2018; Regional Court of Galați, Decision 1327/2018, 16 July 2018. Contrast Regional Court of Rădăuți, Decision 2692/2018, 8 August 2018; Decision 375/2018, 29 January 2018; Regional Court of Giurgiu, Decision 2946/2018, 18 May 2018; Decision 157/2018, 17 January 2018.

¹¹³ (Switzerland) Federal Administrative Court, Decision E-3356/2018, 6 May 2018; Decision D-6725/2015, 4 June 2018; Decision E-26/2016, 16 January 2019; (Italy) Civil Court of Rome, Decision 982/2019, 9 January 2019; Decision 3289/2019, 7 February 2019; (Netherlands) Council of State, Decision No 201707643/1/V3, 24 August 2018.

¹¹⁴ (Greece) Administrative Court of Appeal of Athens, Decision 1141/2018, 24 October 2018; (Denmark) Refugee Appeals Board, Decision Stat/2018/1/TBP; Decision Syri/2018/32/CHHA.

Annex I – Outgoing Dublin requests and transfers by receiving country: 2018

	Outgoing requests							Outgoing transfers						
	Total	First country		Second country		Third country		Total	First country		Second country		Third country	
AT	5,191	IT	1,951	DE	1,305	BG	276	2,285	IT	1,103	DE	642	FR	81
BG	125	DE	56	UK	21	MT	13	52	DE	31	UK	7	MT	7
CY	150	:	:	:	:	:	:	15	:	:	:	:	:	:
DE	54,910	IT	17,286	GR	7,079	FR	4,445	9,209	IT	2,848	FR	753	PL	691
DK	1,377	DE	361	SE	299	IT	208	:	:	:	:	:	:	:
EE	10	FI	3	IT	1	SE	1	7	FI	3	IT	1	SE	1
ES	7	DE	5	FR	2			2	FR	2				
FR	45,760	:	:	:	:	:	:	:	:	:	:	:	:	:
GR	5,211	DE	2,312	UK	778	SE	471	5,460	DE	3,466	UK	940	CH	254
HR	253	GR	107	BG	45	DE	19	10	SE	4	DE	4	BG	1
HU	276	BG	209	DE	33	AT	7	53	DE	26	AT	12	IT	5
IE	780	:	:	:	:	:	:	22	:	:	:	:	:	:
MT	1,099	IT	696	SE	42	FR	33	45	IT	16	SE	16	FR	5
NL	8,620	DE	3,180	IT	2,270	FR	540	1,850	DE	910	IT	190	FR	160
PL	176	DE	61	FR	21	GR	18	95	DE	41	LT	12	IT	9
PT	254	IT	82	DE	46	ES	28	22	IT	3	DE	3	ES	2
RO	249	BG	182	DE	28	UK	7	27	DE	16	BG	2	UK	2
SE	3,578	GR	636	IT	605	DE	428	:	:	:	:	:	:	:
SI	722	GR	274	HR	262	BG	53	31	HR	19	IT	6	DE	3
CH	6,810	IT	2,501	DE	1,524	FR	537	1,760	IT	728	DE	482	FR	120
UK	5,510	IT	1,840	DE	939	FR	646	209	FR	51	DE	26	AT	23
NO	969	GR	541	IT	98	DE	59	295	:	:	:	:	:	:

For IT, statistics are only available for the period 1 January to 30 November 2018:

IT	3,424	DE	1,423	FR	295	AT	288	135	DE	48	:	:	:	:
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Annex II – Incoming Dublin requests and transfers by sending country: 2018

	Incoming requests							Incoming transfers						
	Total	First country		Second country		Third country		Total	First country		Second country		Third country	
AT	6,289	:	:	:	:	:	:	996	:	:	:	:	:	:
BG	3,448	FR	1,103	DE	1,007	AT	244	86	DE	36	UK	13	AT	8
CY	91	:	:	:	:	:	:	6	:	:	:	:	:	:
DE	25,008	FR	10,328	NL	3,193	IT	2,215	7,580	GR	3,495	FR	978	NL	875
DK	2,995	DE	1,266	FR	869	SE	210	:	:	:	:	:	:	:
EE	130	DE	63	FR	25	FI	14	18	DE	8	FI	4	DK	4
ES	11,070	FR	5,353	DE	2,923	BE	1,260	671	FR	243	DE	215	NL	55
GR	9,142	DE	6,773	SE	592	BE	548	18	DE	6	BE	4	NO	4
HR	1,263	DE	290	SI	289	FR	143	126	AT	50	DE	24	SI	19
HU	2,662	:	:	:	:	:	:	0	-	-	-	-	-	-
IE	311	:	:	:	:	:	:	34	:	:	:	:	:	:
MT	912	DE	372	GR	83	SE	48	112	GR	58	DE	22	SE	8
NL	5,040	DE	2,060	FR	1,480	BE	370	840	DE	470	BE	70	FR	60
PL	4,301	DE	2,037	FR	1,418	NL	177	877	DE	657	AT	48	NL	46
PT	1,681	FR	957	DE	388	BE	98	357	FR	135	DE	114	NO	19
RO	1,856	DE	1,355	AT	205	FR	180	181	DE	111	AT	25	CZ	9
SE	7,986	DE	2,838	DE	1,867	IT	164	1,312	DE	458	GR	183	DK	120
SI	1,383	FR	390	DE	329	IT	298	123	DE	53	AT	19	FR	12
CH	6,575	DE	2,361	FR	1,903	NL	477	1,298	DE	547	GR	276	FR	120
UK	1,940	GR	752	FR	518	IE	196	1,215	GR	946	FR	92	DE	29
NO	1,988	DE	743	FR	637	SE	126	:	:	:	:	:	:	:

For IT, statistics are only available for the period 1 January to 30 November 2018:

IT	31,000	DE	13,000	FR	11,000	CH	1,634	5,919	DE	2,150	FR	1,570	AT	863
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Annex III – Outgoing requests by ground: 2018

Dublin III Regulation criterion	CH	GR	UK	SE	DK	SI	RO	BG	EE
Family unity: Articles 8-11	43	3,688	229	29	18	4	20	71	2
Regular entry: Articles 12 and 14	1,823	5	87	1,324	171	3	13		6
Irregular entry: Article 13		10	1,177	468	74	190	4		0
Dependent persons: Article 16	55	106	0	0	0	0	0	0	0
Humanitarian clause: Article 17(2)		825	0	9	0	2	7	7	0
“Take back” requests: Articles 18, 20	4,889	577	4,017	1,283	1,114	523	205	40	2
Total outgoing requests	6,810	5,211	5,510	3,578	1,377	722	249	125	10

Annex IV – Incoming requests by ground: 2018

Dublin III Regulation criterion	GR	SE	BG	UK	RO	EE
Family unity: Articles 8-11	57	355	78	810	25	4
Regular entry: Articles 12 and 14	1,187	213		137	29	99
Irregular entry: Article 13	3,286	15		4	56	1
Dependent persons: Article 16	0	7	0	17	1	0
Humanitarian clause: Article 17(2)	11	71	6	106	8	0
“Take back” requests: Articles 18, 20	4,599	6,032	3,362	866	1,737	26
Total incoming requests	9,142	7,986	3,448	1,940	1,856	130

THE ASYLUM INFORMATION DATABASE (AIDA)

The [Asylum Information Database](#) is a database managed by ECRE, containing information on asylum procedures, reception conditions, detention and content of international protection across 23 European countries. This includes 20 European Union (EU) Member States (Austria, Belgium, Bulgaria, Cyprus, Germany, Spain, France, Greece, Croatia, Hungary, Ireland, Italy, Malta, Netherlands, Poland, Portugal, Romania, Sweden, Slovenia, United Kingdom) and 3 non-EU countries (Switzerland, Serbia, Turkey).

The overall goal of the database is to contribute to the improvement of asylum policies and practices in Europe and the situation of asylum seekers by providing all relevant actors with appropriate tools and information to support their advocacy and litigation efforts, both at the national and European level. These objectives are carried out by AIDA through the following activities:

❖ **Country reports**

AIDA contains [national reports](#) documenting asylum procedures, reception conditions, detention and content of international protection in 23 countries.

❖ **Comparative reports**

Comparative reports provide a thorough comparative analysis of practice relating to the implementation of asylum standards across the countries covered by the database, in addition to an overview of statistical asylum trends and a discussion of key developments in asylum and migration policies in Europe. AIDA comparative reports are published in the form of thematic updates, focusing on the individual themes covered by the database. Thematic reports published so far have explored topics including [reception](#), [admissibility procedures](#), [content of protection](#), [vulnerability](#), [detention](#) and [access to protection](#).

❖ **Comparator**

The [Comparator](#) allows users to compare legal frameworks and practice between the countries covered by the database in relation to the core themes covered: asylum procedure, reception, detention, and content of protection. The different sections of the Comparator define key concepts of the EU asylum *acquis* and outline their implementation in practice.

❖ **Fact-finding visits**

AIDA includes the development of fact-finding visits to further investigate important protection gaps established through the country reports, and a methodological framework for such missions. Fact-finding visits have been conducted in [Greece](#), [Hungary](#), [Austria](#), [Croatia](#) and [France](#).

❖ **Legal briefings**

Legal briefings aim to bridge AIDA research with evidence-based legal reasoning and advocacy. [Legal briefings](#) so far cover: Dublin detention; asylum statistics; safe countries of origin; procedural rights in detention; age assessment of unaccompanied children; residence permits for beneficiaries of international protection; the length of asylum procedures; travel documents for beneficiaries of international protection; accelerated procedures; the expansion of detention; relocation; and withdrawal of reception conditions.

❖ **Statistical updates**

AIDA releases short publications with key figures and analysis on the operation of the Dublin system across selected European countries. Previous updates have been published for 2016, the first half of 2017, 2017 and the first half of 2018.

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