



Ad-Hoc Query on the Dublin procedure with regard to foreigners, recognized as refugees under the mandate of the United Nations High Commissioner for Refugees

Requested by BG EMN NCP on 31 March 2009

Compilation produced on 7th July 2009

Compilation for Wider Dissemination

Responses from Austria, Bulgaria, Cyprus, Czech Republic, Finland, Germany, Greece, Hungary, Spain, Latvia, Malta, Netherlands, Poland, Portugal, Slovenia, Slovak Republic, Sweden, United Kingdom (18 in Total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

1. Background Information

The following Ad-Hoc Query was requested by the Dublin II and EURODAC Unit of the State Agency for Refugees:

2. Responses

		Wider Dissem	Question 1: Do you consider that the Dublin procedure is to be applied with regard to a foreigner, recognized as refugee under the mandate of the United Nations High Commissioner for Refugees, when the foreigner has entered your country to be granted refugee status?
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EMN Ad-Hoc Query: Conditions for granting residence permits to major investors – third country nationals

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		ination ?¹	
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further.
	Bulgaria	Yes	Yes, we consider that the Dublin procedure is to be applied with regard to a foreigner, recognized as refugee under the mandate of the United Nations High Commissioner for Refugees.
	Cyprus	Yes	Cyprus considers that if a person is recognized by the UN High Commissioner for Refugees, can travel to any member state under certain preconditions. In the case though, that a person applies for a refugee status to Cyprus for any other reason, the Dublin procedure will be applied. Cyprus would examine each case on its merits. A factor to consider is whether the m-s concerned has any agreement with the UN to automatically accept a person as a refugee without any other proceedings if recognized by the UN. If not, then the Dublin procedure would apply. Nevertheless, Cyprus considers that the question presents in itself a contradiction and cannot provide a clear answer.
	Czech Republic	Yes	No, the Dublin procedure cannot be applied to a refugee under the mandate of the UNHCR.
	Finland	Yes	We apply the Dublin procedure with regard to a third country national, recognized as a refugee under the Mandate of the UNHCR. For example a foreigner, who has been granted refugee status by UNHCR in Turkey and who crosses the border of the first Member State illegally or applies there for asylum before coming to Finland as an asylum seeker, may be returned to the first Member State according to the Dublin II Regulation. Our administrative court is of the opinion that the refugee status granted by UNHCR does not have a binding influence on Member States, which have the right to examine and decide the qualifications for granting refugee status independently according to their national asylum procedure. If the foreigner is a recognized refugee within the EU, we do not apply the Dublin procedure. In such cases we may return the applicant to the safe country of asylum (to the Member State that has granted the refugee status) according to the Finnish Aliens Act.
	Germany	No	This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further.
	Greece	Yes	The scope of the Dublin Regulation is to determine the responsible m/s for the examination of an asylum application which was submitted by a third country national. Any recognition as refugee under the mandate of the United Nations High Commissioner for Refugees is to be considered in the framework of the examination of the asylum case under the national asylum procedures and the content of the applicant's file.
	Hungary	Yes	Yes, as all third-country national asylum seeker falls under the scope of the Dublin regulation, in our opinion the Dublin procedure shall be applied if a third-country national recognized as a refugee by the UNHCR applies for international protection in Hungary.
	Latvia	Yes	So far we haven't had such cases in practice for that reason our reply is theoretically based. According to our understanding cases of persons recognized as refugees under UNHCR mandate should be examined in the framework of MS national asylum procedures.
	Malta	Yes	Yes, Malta considers that the Dublin Procedure is applicable with regard to a foreigner, recognized as refugee under the mandate of the United Nations High Commissioner for Refugees. The circumstances surrounding the application would merit consideration by the MS Dublin

¹ A clear "YES", your response may be circulated further (i.e. to national network members) or "NO" should be added here. In case of "NO", then the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further."

EMN Ad-Hoc Query: Conditions for granting residence permits to major investors – third country nationals

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			authorities whether he arrives from an EU member state or not.
	Netherlands	Yes	Yes, we consider the Dublin procedure is to be applied with regard to the foreigner recognized as refugee under the mandate of the United Nations High Commissioner for Refugees. Though if one of the EU countries has granted a refugee status, the Dublin procedure is not to be applied.
	Poland	Yes	Yes, we consider that the Dublin procedure is to be applied with regard to a foreigner, recognized as refugee under the mandate of the United Nations High Commissioner for Refugees.
	Portugal	Yes	The Dublin Regulation is applicable.
	Slovenia	Yes	No, we consider that the Dublin procedure is not to be applied with regard to a foreigner, recognized as refugee under the mandate of the United Nations High Commissioner for Refugees.
	Slovak Republic	Yes	Yes, we consider that the Dublin procedure is to be applied with regard to a foreigner, recognized as refugee under the mandate of the United Nations High Commissioner for Refugees, when the foreigner has entered country to be granted refugee status.
	Spain	Yes	Dublin Procedure is applied with regard to a foreigner, recognized as refugee under the mandate of the UNHCR
	Sweden	Yes	Persons who come to Sweden as part of the refugee quota are not automatically granted refugee status. They can receive either refugee status or that of a person in need of protection in Sweden ("subsidiary protection"). Article 7 of the Dublin II Regulation does formally only cover persons with refugee status. Persons granted subsidiary protection in Sweden may however be considered for reasons of family reunification by applying article 3.2 of the Regulation.
	United Kingdom	No	This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further.
