



## information against the fear

# how to stop dublin deportations?

## introduction

If you have given your fingerprints to authorities in other European countries, for example in Italy, Bulgaria, Hungary or Greece on your way or even in other countries where you have applied for asylum before and you don't stay there but continue your journey, you might get threatened to be deported back. This is based on the so-called Dublin-regulation.

When you are threatened with "Dublin"-deportations this does not mean that finally you will be really deported. There are many people who have overcome the deportation threat and their asylum case has to be handled finally in Germany. Less than 10% are deported right now. The first step is to get organised for your right to stay.

Deportations to some countries (to Italy, Hungary, Bulgaria, Malta e.g.) are still contested in front of the courts in Germany. Some courts decide in single cases against Dublin-deportations, especially in cases of people the authorities consider being "vulnerable" (for example families with small children, persons with serious health problems or traumatised). If you have been fingerprinted it is very important to contact a specialized lawyer and/or counselling group.

Even if your fingerprints are found and the authorities plan to deport you within Europe, there are some possibilities to try to prevent a deportation. If you don't succeed with legal remedies, there are more ways to avoid being deported. Some useful hints you may find below.

**Note:** There is a difference between a fingerprint that was just taken after arrival in a country and a fingerprint combined with an asylum application. People who have been already rejected in another European country can face different difficulties and need special support by people who know what to do. Also people who received already a status in another European country (and have for example papers in Italy) face a different situation. Their cases will not follow the rules of the Dublin-regulation, but they will be deported under different readmission agreements. The following information is mainly for those who don't have papers in another European country.

## HOW DOES THE DUBLIN-REGULATION WORK?

Usually, the authorities will take your fingerprints upon registration to compare them with data from other EU-countries in the computerized system called Eurodac. The authorities will also ask you, which way you arrived (your travel route). Based on this information, they will decide if they are responsible to process your asylum application or if another EU-country (that you passed through earlier) is responsible for that. If they find your fingerprint or any other information to prove that you have been in another EU-country they will ask this country to take you back. If this country does not refuse within the legal time frame or does not answer at all, you will receive a (yellow) letter informing you about your scheduled deportation.

The good part is: in many cases the people, who had to give their fingerprints before in another country will not be deported back in the end. According to our experiences, we would even say that fewer and fewer people are deported. Fingerprints in EURODAC cannot be "deleted" or "cleared", but there are certain time limits for the deportation. So for example after Bulgaria, Italy, Hungary etc. became responsible for you, there is a time limit of 6 months to carry out the deportation.

**Important:** it is NOT 6 months from your arrival in another country, but six months after a date that can only be found in your file in the migration office. The final date will also change, if you stopped in between the deportation with an urgent appeal in front of the court. Then the 6 months will start again in case the urgent appeal ends with a negative decision. You need help to understand your personal time limit.

**Attention:** This time limit can be extended to 18 months if you were "hiding", what means that the authorities think you went underground.

## I am under 18 years old and alone, am I in risk of being deported?

Unaccompanied minors (under the age of 18) have no legal limitation to stay in any specific country. They can even apply for asylum several times within Europe. As long as they don't receive any papers they can move freely. If they are fingerprinted in the first country and registered there falsely as adults, in Germany they will still not be sent back if registered as under-aged here. Beware that this practice does not apply to all EU countries. We know for example that the Netherlands consider the age you have given in your first interview in an EU country as decisive. That means for example, if you have been registered in Bulgaria as an adult, you will be an adult in the Netherlands as well. Beware that you have to register your asylum application with the competent asylum authority before you turn 18! Beware, that in the moment you are made older by the authorities after an age-testing and you are not registered as a minor you are again in danger to be threatened with being deported under Dublin!

## WHAT CAN I DO IF THERE IS A RISK THAT I WILL BE DEPORTED TO ANOTHER DUBLIN STATE?

Here you will find some useful information, which way a deportation from Germany based on the so called Dublin-regulation can be avoided. This is possible in many cases and you can be sure that you have a lot of reasons to be hopeful not to get deported. How to do that:

### 1) Build your own team!

Like in most other struggles, you can succeed to stop a deportation if you are able to build a team. For your team you need some experts: counsellors who have knowledge about Dublin-deportations and how to stop them, most probably also a lawyer, maybe a good doctor and/or psychologist. And most importantly: friends who will support you to not give up, who will offer you a calm sleeping place during the time that you are most in panic etc.

### 2) Document your own story in for example Italy, Hungary or Bulgaria, the country you are threatened to be deported!

In order to document the bad living circumstances, mistreatment and human rights violations which you suffered in the country they want to deport you to, collect photos and any other forms of evidence that show your problems there, keep a copy of papers from doctors or NGOs about illnesses or injuries if possible in your Facebook or email-account to be able to get it back later. It is also helpful to write down in advance all your stories of persecution plus all difficulties you encountered on the road to and through Europe. There might be traumatizing experiences you yourself don't consider important but which your lawyer can use to argue against your intended deportation. Maybe you can write some data and stories as soon as possible (the more time is passing, the more you will forget). Many people for example tend to forget the name of the prison they were kept in or the date when they were imprisoned. Personal experiences, which you should definitely mention: if you have experienced pushbacks at the border, if police and/or military have beaten, kicked or threatened you, if you have been imprisoned, if you have been homeless or without food for longer times and if you have faced difficulties there that made it impossible for you to build your future there.

### 3) Contact support groups and look for counselling after arrival!

If you had to give fingerprints for example in Italy, Hungary, Bulgaria, Croatia or any other country that belongs to the European Union, you should contact support-groups in your city as soon as possible. In most cases you will also need a lawyer. Seek advice from support groups for contacts to good, experienced lawyers to prevent a deportation based on the Dublin III Regulation. Some useful contacts in Germany you may find here:

<http://w2eu.info/germany/en/articles/germany-contacts.en.html>. Or you just get into contact with [proasyl@proasyl.de](mailto:proasyl@proasyl.de). They can give you an advice how to find a counselling office and a good and trustful lawyer near your place of living.



### 3) Take a lawyer and fight for your rights in front of a court!

Good lawyers are very useful in the procedure, but seek advice which lawyers have experience with Dublin-cases before. Usually they take money for supporting your case. Even if you lack money, you can probably arrange to pay the lawyer in monthly rates with the social welfare money – it makes a lot of sense to invest this money. The moment when you receive a letter with a deportation order is the latest moment when **YOU HAVE TO SEEK HELP** of a lawyer **IMMEDIATELY**. There is only one week time for the lawyer to appeal before the court against your deportation. In the best case you will have already taken a lawyer in advance and you will be prepared to fight against your deportation. Don't wait until the last moment! The chances to stop a Dublin-deportation in front of a court are often given, when it is about Hungary, Italy, Bulgaria or Malta, because many judges know that the situation for refugees is very bad there. But there is a huge difference between the different courts and you cannot choose the court which is responsible for you. In the end it is like a lottery. About the legal steps read the chapter below.

### 4) In case you have medical or psychological problems look for a good doctor and/or psychologist!

In order to appeal against your deportation it is important to express your vulnerabilities and – if you have any - evidence on why your living circumstances in the country they want to deport you to were so sub-standard that you cannot return. Vulnerable groups such as families with children under 2 years, sick persons, the mentally ill, single mothers etc. are more likely not to be deported. Prepare a good documentation of your vulnerability. Lawyers need documents to argue on your behalf, so start early to collect any written evidence by doctors, psychologists, social workers etc.

### 5) Mention Family links if possible already in your first interview!

If you have any family members in Germany, explain to your lawyer and the authorities why you rely on the help of your relatives or why they rely on you. This dependency can be another factor supporting your claim that you cannot be returned to another EU-country, for example, if you have your elderly mother who cannot take care of herself, or an underage relative with no other family members nearby etc. It is good to mention all sorts of family links – authorities can decide not to follow the Dublin-procedure because of family links.

### 6) Even if the court will decide against you, there are many other ways to stop a deportation:

There are many people who manage to prevent Dublin-deportations even after negative court decisions. There is a time limit for the deportation: from the moment the country became "responsible" for you and/or after a negative court-decision, there are only 6 months given in which the authorities have to carry out the deportation. After this time limit expired, Germany will be responsible. So there are many people who managed to exceed that time limit:

- They resisted against the deportation and it was too late for the authorities to book a next flight. There are great examples of resistance.
  - a) In Osnabrück hundreds of refugees organised in a camp and choose a whistle as their main tool of resistance: they have nightshifts to watch out for police and as soon as they arrive to pick someone up early in the morning the whistle gives the alarm and quickly the whole camp starts whistling and moving around. The police gets confused and leaves the camp.
  - b) Also in other camps we heard from collective moves where the people the police was looking for managed to escape.
  - c) More hidden but also effective: many people are not there in the moment the police tries to pick them up.

**I**mportant: they are not hiding or went underground. They just have many friends they visit but they always return in their camp to pick up post and to be present and collect proves not to be registered as hidden (which can prolong the time limit to 18 months). And they have friends in the camps that are in solidarity with them: if police asks for someone to be deported this person was not for longer times absent, maybe you saw him yesterday or a few hours before.

- They stayed in a church-asylum. Some churches offer asylum and protect refugees who are under threat of deportation, which is called church asylum. To find a church that might help you, you need to ask local friends where to ask for. Be aware: In the moment many people ask for church asylum and so it is not easy to find. So you need to be prepared to wait some time and choose other ways of resistance in the meantime.
- They had been (mentally or physically) sick to a degree that they could not travel (mental state: i.e. that you are a danger for yourself or others; physical state: i.e. heart disease). This means you need to be in a hospital or to have a very good certificate of a doctor that states that you are unable to travel.
- There can be decisions to transfer the responsibility to the country of arrival, if there is a political decision or will to do so. For all these steps you need a good network of friends around you to support you.

**N**ote: In Germany there is still a lot of chaos in the whole system, because of many new asylum applications. The resulting delays lead in some cases to the expiration of time-limits defined in law concerning the Dublin deportations so that a forced return based on fingerprints cannot be carried out anymore. The more time is passing by, the better for you. BUT your lawyer needs to check the time limits by himself by getting your permit to look into your file.

**Good luck and a lot of strength for you for the future!**

## LEGAL STEPS THAT CAN BE TAKEN WITH THE HELP OF A LAWYER AGAINST THE DEPORTATION

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

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

You will get a deportation order (Abschiebebescheid) before you can get deported. It is a big yellow letter. You have to lodge an appeal against your deportation with the local administration within two weeks after you received it (the date when you received the letter is noted on the yellow envelope. Attention: this is the date that counts, not the date when you had it in your hands. So you need to check your postbox every day!). The problem is that this appeal does not have suspensive effect which means that you can still be deported even though the court has not decided about your appeal yet. Therefore, you can also lodge an urgent appeal for the suspensive effect (Eilantrag für aufschiebende Wirkung) which means that you ask the court to order a suspensive effect for the appeal.

**A**ttention: If your urgent appeal for the suspensive effect (Eilantrag für aufschiebende Wirkung) is rejected by the court, the six months time-limit is running again from the beginning starting from the day of the rejection! Therefore it does not make sense to do this step in all cases! Especially when some part of the time is already gone and in cases where you can estimate before that the court will reject them, it can be much more clever NOT to do it. In every case you need before counselling by an experienced person, be it a counselling office or be it a lawyer.

**A**ttention: the urgent appeal for the suspensive effect (Eilantrag für aufschiebende Wirkung) can only be lodged within 1 week after you received the yellow letter! Your urgent appeal should be well-reasoned. You should contact a lawyer as soon as possible and explain to them in detail why you do not want to be deported, for instance, describing what has happened to you in another Dublin state.

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

If the urgent appeal is rejected, you could lodge a complaint at the Constitutional Court of Germany and if the complaint is rejected by the Constitutional Court, you could lodge a complaint at the European Court of Human Rights. These steps don't make sense in all cases and you need to speak with your lawyer, if she/he thinks it is possible or not.

## HOW TO RESIST AGAINST A DEPORTATION LAST MINUTE

If it is already too late for legal steps and you are under immediate deportation threat the information on how to resist against a deportation might be important for you to read:

- <http://w2eu.info/germany/en/articles/germany-deportation.en.html>
- <https://www.youtube.com/watch?v=g2Umb7MyDhw&feature=youtu.be>
- <http://nodeportation.antira.info/abschiebungen-verhindern/>

This guide is written by the network "Welcome to Europe", which was formed by hundreds of activists that since 2009, have offered direct support to migrants and refugees. Some of us had been confronted with the problems the borders create and threatened by deportations themselves - others have been born in Europe. We support refugees in the places we live and elsewhere as activists, because for us all human beings are equal. We struggle for freedom of movement as everybody's right and a world without borders.

This guide is addressed to all the migrants who are threatened with the so called Dublin-deportations from Germany to other countries (like Italy, Hungary, Bulgaria or again Greece).

This version of the guide was written in August 2017 and by the time you receive it, there might have been some changes. You can read and download the whole guide directly here: [HTTP://W2EU.INFO/GERMANY.EN/ARTICLES/GERMANY-DUBLIN2.EN.HTML](http://W2EU.INFO/GERMANY.EN/ARTICLES/GERMANY-DUBLIN2.EN.HTML) (soon also in more languages!)

A lot of more information you can find in our Welcome to Europe-Webguide in the four main languages Arabic, English, Farsi and French: [HTTP://W2EU.INFO/](http://W2EU.INFO/)