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For freedom of movement: Independent information for refugees and migrants coming to Europe

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 Pour la libre circulation: Informations indépendantes pour réfugiés et migrants arrivant en Europe  
 برای آزادی و حرکت : اطلاعات مستقل برای پناهندگان و مهاجران آینده در اروپا

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## Info Sheet: DUBLIN III Returns to Greece

(last update: 14<sup>th</sup> of March 2017)

### Note:

1. **Every case is different.** As soon as you arrive in the country of your final destination, you should look for counselling and advice by people there who specialise in preventing Dublin-returns, who can assist with asylum procedures, and who can help you to go through all procedures in the best way possible.
2. **This info-sheet might be outdated soon.** So please check here regularly if there are any new updates online: <http://w2eu.info/greece.en/articles/greece-dublin2.en.html>

On the 8<sup>th</sup> of December 2016, the European Union Commission suggested the resumption of Dublin Returns to Greece, beginning in March 2017. Germany suggested already that it agreed that Greece had sufficiently improved the conditions for refugees, so that Germany would plan to re-start the returns from the 15<sup>th</sup> of March. With this announcement, the European governments show that they close their eyes to the fact that the living and detention conditions in the Greek camps continue to be deplorable and inhuman, that access to the asylum procedure is still not guaranteed, that procedures remain dysfunctional in general and that many of refugees continue to suffer from inhuman and degrading treatment while being stuck in Greece. The European Commission's recommendation included a gradual resumption of returns, with a first focus to return the ones who arrived in Europe **after** this date (15<sup>th</sup> of March) and **not** including unaccompanied minors or other vulnerable persons at that point.

Following these recent developments, many rumours have been created and hundreds of refugees started in panic to move onwards from Turkey and Greece, in order to reach the destination countries before that date. We therefore, decided to write this information sheet to explain some facts on who might be affected, to emphasise the grey areas, where it is unclear what will happen, and to give you advise on what can be done to prepare and protect yourselves.

### UNDERSTANDING DUBLIN RETURNS

#### What are Dublin III Returns and why has Greece been excluded from the returns for several years?

In January 2011 the European Court of Human Rights (ECtHR) decided in an individual case that Greece was violating the human rights of a refugee by detaining him under inhuman conditions and leaving him homeless. It also judged that Belgium violated his human rights by deporting him

back to Greece (see: <http://w2eu.net/2011/01/22/front-kick-dublin-2/>). Following that decision, deportations to Greece were temporarily halted in most EU-countries, because hundreds of other "Greek" cases were expected to be judged in the same way. This decision indiscriminately concerns until today both: persons who have been only registered and fingerprinted and have a "white paper" (chartia) for 30 days/or six months and also asylum seekers (holders of pink/white cards) in Greece.

The temporary stop of deportations to Greece was a result of the struggles of refugees and their supporters: After having been reported back to Greece, many refugees started their journeys again and returned to places where they wanted to stay. The violations of their rights in Greece is well known for a long time. In the time before 2011, when Dublin Returns to Greece were still carried out, some of them appealed before national (and European) courts against their deportation with the help of lawyers and NGOs, and succeeded.

These deportations back to Greece were and are based on an agreement between countries of the European Union (called "Dublin III" Regulation). According to this agreement, it is only possible to apply for asylum in one EU member state. This is not a country of your own choice, but in most cases the country where the refugee first arrived and got fingerprinted. Therefore, in the past, when authorities found the Greek fingerprints of an adult or of accompanied children in their European database (called: "EURODAC"), or if they could confirm by other means that a person had first entered the EU through Greece, they usually tried to deport this person back there. Following the ECtHR-decision in 2011 and until today (5th of March 2017) this was not possible anymore!

### **Will Dublin Returns to Greece start again?**

The EU Commission recommends to resume Dublin Returns to Greece from the 15<sup>th</sup> of March, 2017 – but to do so gradually. This means that not all people will be deported back to Greece after the 15<sup>th</sup> of March. Exceptions are:

- 1) In the beginning vulnerable persons, including unaccompanied minors, should not be affected.
- 2) The EU Commission recommends to return **only people who reached Greece after 15<sup>th</sup> of March**. This means all people who arrived in Greece before that date should most probably not be affected. There can be exemptions, for example for people **who received protection** in Greece already before 15<sup>th</sup> of March.

It has to be seen how and if this recommendation will be implemented by the EU member states. So keep yourself updated in general on new developments and read this info sheet carefully to understand if you are affected or not – and if you are, what to do against it.

### **When will they start to deport to Greece under Dublin again?**

The EU Commission recommended to start only with people who arrived in Greece after the 15<sup>th</sup> of March 2017. So, the persons who arrived before that date in Greece should NOT be affected. The German interior ministry announced so far to follow this recommendation. So at least for Germany it will most probably NOT affect people who arrived in Greece before 15<sup>th</sup> of March 2017.

### **Who is going to be affected?**

Even for those who arrived **after 15<sup>th</sup> of March** it will not affect everyone. Unaccompanied minors are anyway excluded from the Dublin-returns according to Dublin III. They will stay in the country where they finally apply for asylum. The recommendation is to restart Dublin deportations to Greece only for those who are not considered vulnerable, so most probably it will (at least in the

starting phase) not affect families with small children, pregnant women, sick and elderly persons.

### **Which countries have already announced to re-start returns?**

In Germany, the Interior Ministry announced to resume Dublin deportations as recommended. That means, only for people who arrived in Greece after the 15<sup>th</sup> of March 2017, and not for vulnerable groups. Also Austria and Belgium announced to follow the EU-Commission's recommendation.

So far, we have no official announcements of other EU-countries if or how they will implement it, but for most countries it has to be expected that they will follow this recommendation to restart returns too.

### **Can courts decide to stop Dublin deportations to Greece again?**

Certainly, a return to Dublin policies will also be legally challenged in front of the courts, which may make preliminary references to the European Court of Justice on the interpretation of the Dublin Regulation. Even if national authorities want to start sending back refugees to Greece, individuals can sue to block being returned. The Dublin returns were suspended in 2011 through two judgments of the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU). The recommendation of the EU Commission now can be seen as an attempt to see if the courts still see systemic deficiencies in the Greek asylum system. Inappropriate shelters with inhuman living conditions, insufficient access to education, detention on the Aegean islands and the slow efforts in relocations and family reunions from Greece are only some of the problems today in Greece.

### **If Dublin Returns to Greece had been halted, why was I sent back from Austria / Hungary / Bulgaria / Italy and other countries to Greece?**

We have to distinguish between different kinds of deportations:

#### **1) Readmissions/Pushbacks:**

Push-backs along the borders of Greece are a continuous problem, also during the time when Dublin-deportations to Greece were halted. Italy is constantly sending people back who, hidden on ferries, try to cross from Patras or Igoumenitsa to the Italian ports. The Italian authorities refer to these returns as regular readmissions, meaning legal deportations that are carried out in the frame of a bilateral agreement between Italy and Greece, but human rights groups have denounced these returns as push-backs. Push backs are illegal, as the authorities do not respect basic human rights concerning the right to seek protection. Also from FYROM (by refugees usually called Macedonia) deportations are carried out illegally as push backs. This also happens regularly from Serbia to Macedonia, from Hungary to Serbia etc. Most of these returns are illegal push backs. Official returns along these national borders are otherwise based on bilateral agreements (so-called Readmission Agreements). This chain-deportation effect might in the end result in someone being returned from Hungary to Greece, but instead of a direct return (based on the Dublin Regulation) these returns occur from one country to the next country.

#### **2) Return of Protection Holders to Greece:**

People who received a protection status in Greece (no matter if they received only humanitarian protection or if they are recognized refugees) can be deported back to Greece under other legal frameworks – but only if the authorities of one EU country finds out that a person already holds a residence permit in another EU country. They will then not give this person the possibility to apply (again) for asylum there. They might ask this person to leave or even try to deport her/him

back. If you are affected by this, consult specialised lawyers and NGOs (see: <http://w2eu.info/contacts.en.html>) in the European country, where you finally arrived to see if there are any other ways to get a residence permit for you and avoid a return to Greece.

### **3) Dublin deportations:**

Some countries continued to deport under the Dublin III Regulation when almost all EU countries had stopped Dublin deportations to Greece. There have been very few cases of Dublin-deportations from Hungary and Switzerland back to Greece last year (official statistics of the Greek authorities count only 3 persons in the whole year 2016!). Belgium, Croatia and Iceland also requested to return people to Greece, but in the end they were not successful.

### **What happens if I have already a protection status in Greece?**

There are various scenarios you might face:

If the authorities in your country of arrival know that you have documents in Greece (you showed them to the authorities or they found them): You are highly in danger of being deported to Greece. How your case is handled will depend on what kind of documents you received in Greece:

1. If you received protection status: No second asylum procedure is officially possible. Since August 2016, the migration office (BAMF) in Germany is instructed to give an automatic rejection if there is a protection status in another European County, but they are also instructed to check if there could be a breach of the law if you had to face inhuman treatment in Greece.

2. If your asylum was rejected: this person will have a Dublin procedure. If the person is for some reason not transferred then he might be possible to make a second application with new information in some EU countries. Which means that only reasons for asylum count that occurred after your first asylum application (interview) in Greece. This might be exile political activities, converting to another religion, change of your sexual orientation, a recent attack to your family back home by your enemies etc.

NOTE: If the authorities don't find the documents in your pocket and you don't tell them: it is still possible that they will not find out about it! This might change at some point, but until now in the European database there is NO information on the result of your asylum procedure in Greece.

**Every case is different, so if you have already a status in Greece you should for sure look for experienced counselling by a specialised lawyer or adviser as early in the procedure as possible. Find contacts here: <http://w2eu.info>**

### **What does the re-start of Dublin Returns mean for family reunifications under Dublin Regulation?**

According to Dublin III Regulation, families should be reunited to the countries:

- A. where the first asylum claim was made, and
- B. where the majority of the family lives, and
- C. based on the best interest of the child.

Due to the halt of Dublin Returns for the last six years, it was not considered as an option to reunite a family to Greece independently of these factors, as the overall situation was deemed inhuman. From 15<sup>th</sup> of March 2017 onwards, it is not clear if this practice will continue or not. Therefore, we suggest you seek up-to-date information and advise before any application is made.

**Attention!** If your relatives in another European country has applied for asylum before you do in Greece, it will not be a problem. If you have been together in Greece, and applied for asylum and then you get separated and only one / some of you arrive/s in another country and you want to apply for reunification, then first seek the advice of a lawyer.

## **PRACTICAL TIPS ON HOW TO PROTECT YOURSELF FROM BEING RETURNED TO GREECE (or elsewhere) DUE TO DUBLIN REGULATION**

**What evidence about my situation in Greece is relevant to collect during my stay in Greece in order to prove that I shouldn't be returned there?**

Collect any evidence about anything bad / any human rights violations you suffer from while you are in Greece. This can be:

- Illegal detention and / or bad detention conditions (overcrowding, mixed detention, under-aged adults or women with men for example), filthy and inadequate detention conditions, bad food, sleeping on the floor, no access to phones, being sick without medical help, darkness and lack of lamps etc.
- Bad living conditions (sleeping homeless, living in a tent, living without heating in the cold, no access to clean and adequate toilets and showers, bad food etc)
- No access to the asylum service and / or lawyers for legal aid
- Any form of abuse, ill-treatment (i.e. beatings) or even torture specifically by the authorities (i.e. police, soldiers, civil servants, coast guard etc.) and fascist/extremist/racist groups, but also by others
- Any form of exploitation (sexual or work exploitation for example).
- Also document any form of protest you participated in: demonstrations, self-harm, hunger strikes.

**What form can documentation have?**

- You can take **photos** of yourself / your family under bad conditions, showing injuries, showing yourself in long queues for food or before the asylum service, showing fences or security forces that hinder access to specific services. It would be good to note the date when the photo was taken somewhere.
- Also you can record **videos / films** showing you / your family in the inadequate conditions or suffering specific conditions. Also here: try to remember the date, when the video was taken.
- Save any **medical and psychological documents** and certificates on your condition.
- Save any **official documents** you get from the authorities or the asylum service.
- Save any **certificates issued by NGOs** about your condition and keep the **contact cards / names of the persons servicing you there** (name, family name, telephone number and email), so you can contact them at any point for further information / documentation even after leaving Greece.

**Attention!** You might not be able to estimate which documentation might be relevant, so keep copies of everything and then show all the documentation to your lawyer in the country of destination so he / she can sort out which ones to use. Better to have too much than too little.

**Attention!** Take photos of all these pieces of evidence and keep them safe in your e-mail or facebook account, so you will not lose them even if you lose your phone or your papers. Be

careful who you share it with. Not everything should be published on your facebook page, but just stored so that you can use it in case you need it.

**Attention!** Always document yourself in these conditions, your own individual situation. You can also collect general materials on the situation in Greece but most importantly you need evidence about your own personal situation.

### **What do I need to do first upon arriving at my destination in order to protect myself from a Dublin return to Greece?**

#### **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, for sure contacts to good NGOs are helpful, maybe a good doctor and/or psychologist. And most importantly: friends who will support you and encourage you to not give up.

#### **Contact support groups and look for counselling after arrival!**

If you had to give fingerprints in Greece, you should contact support groups in your country of arrival as soon as possible. In most countries and in most cases you will also need a lawyer. Seek advice from support groups or NGOs for contacts to good, experienced lawyers to prevent a deportation based on the Dublin III Regulation to Greece.

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

Tell your lawyer or your supporters openly about your fingerprints and ask specifically for support to protect you from a return to Greece. In some countries (for example in Germany) lawyers are very useful in the procedure. Usually they take money to support your case. Even if you lack money, you can probably arrange to pay the lawyer in monthly rates with the social welfare money you get from the state where you seek asylum – it makes a lot of sense to invest this money. In other countries (for example France) lawyer work for free and/or are paid by the state. 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** for the lawyer to appeal before the court against your deportation. In the best case you would 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 deportation to Greece in front of a court are often given (for sure depending on the country and the place you finally are), because many judges know that the situation in Greece for refugees is very bad.

You can ask for good contacts for lawyers here: <http://w2eu.info/contacts.en.html>.

For Germany it is also useful to check here: <https://www.proasyl.de/beratungsstellen-vor-ort/> - Or you can ask Pro Asyl, Tel +49 (0)69-242 314 20 (Mo–Fr 10–12 & 14–16) or email [proasyl@proasyl.de](mailto:proasyl@proasyl.de).

#### **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 - show evidence for 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 small children, 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.

## **Mention family links if possible already in your first interview!**

If you have any family members in the country where you are registered and where you want to stay, 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 Greece, 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.

## **Continue to fight against your deportation even if the court rejected your appeal!**

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, the authorities have six months to carry out the deportation. After this time limit expires, the country of arrival will be responsible. So there are many people who managed to exceed this time limit:

- a) they were (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),
- b) they resisted against the deportation and it was too late for the authorities to book a next flight,
- c) in some countries churches offer asylum and protect refugees who are under threat of deportation,
- d) 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.

**Attention!** In many countries there are many new asylum applications right now so the asylum system including the registration system and the comparison of fingerprints is blocked sometimes for weeks and even months. The resulting delays lead in some cases to the expiration of deadlines 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 him/herself. He/she needs your permission to look into your file.

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Permalink to this infosheet: <http://w2eu.info/greece.en/articles/greece-dublin2.en.html>

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## **What is w2eu.info?**

*w2eu.info provides contacts and counselling to refugees and migrants on their way. At the outer borders of Europe, people are refused entry, they are imprisoned and deported. Nevertheless people are coming. w2eu.info is supporting you who come to Europe in your struggle for a better life. We welcome all travellers on their difficult trip and wish you all a good journey - because freedom of movement is everybody's right!*

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