

Administrative Arrangement

pursuant to Article 36 Dublin III Regulation

between

**the Federal Ministry of the Interior, Building and Community of the
Federal Republic of Germany**

and

the Ministry of Justice and Security of the Netherlands

on practical modalities for facilitating and expediting the Dublin procedure in accordance with Regulation (EU) No 604/2013 of the European Parliament and 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 a stateless person (referred to in the following as the Dublin III Regulation)

The Federal Ministry of the Interior, Building and Community of the Federal Republic of Germany and *the Ministry of Justice and Security of the Netherlands*,

referred to in the following as the “Sides”,

have come to the following understanding in accordance with Article 36 (1) (b) Dublin III Regulation following prior consultation of the European Commission in accordance with Article 36 (3) Dublin III Regulation:

1.

Subject of this arrangement

(1) This arrangement governs the practical modalities for facilitating a more efficient application of the Dublin III Regulation.

(2) This arrangement complies with the Dublin III Regulation and its implementing acts.

(3) The Sides will use the terms from the Dublin III Regulation as they are defined there.

2.

Competent authorities

(1) The following authorities (referred to in the following as “competent authorities”) will be responsible for applying this arrangement:

a) for the Federal Republic of Germany:

Bundesamt für Migration und Flüchtlinge

Frankenstraße 210

90461 Nürnberg

(in the following referred to as the “Dublin office”)

and

Bundespolizeipräsidium

Heinrich-Mann-Allee 103

14473 Potsdam

b) for the Kingdom of the Netherlands:

Immigratie- en Naturalisatiedienst
(team Dublin)
Heilige Huisjes 1
6905 AA Zevenaar
(in the following referred to as the “Dublin office”)

Dienst Terugkeer en Vertrek
Postbus 164
2501 CD Den Haag

Koninklijke Marechaussee
Postbus 90615
2509 LP Den Haag

2) Only the Dublin offices will be authorized to make and reply to take charge and take back requests, requests for re-examination, refusals as referred to in Article 5 (2) of Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of the Dublin III Regulation (in the following referred to as the Commission Regulation) and requests for information pursuant to Article 34 Dublin III Regulation. They will also be responsible for exchanging information to prepare transfers.

(3) On the occasion of signing this arrangement, the Sides will exchange the contact information of those bodies within the competent authorities which are entrusted with applying this arrangement. The competent authorities will also immediately inform each other in writing of any changes in this regard.

3.

Time limits for replying

(1) The competent authorities will reply to requests to take charge as quickly as possible and within one month of receipt by the requested authority (calculated as described in Article 42 Dublin III Regulation).

(2) In urgent cases pursuant to Article 21 (2) Dublin III Regulation, the competent authorities will reply to the request within five working days of receipt (calculated as described in Article 42 Dublin III Regulation).

(3) The competent authorities will reply to requests for information pursuant Article 34 (3) Dublin III Regulation within five working days.(4) If the competent authority does not reply within the above-mentioned time limits, both Sides concur that this will not lead to a shift of responsibility.

(5) The competent authorities will reply to take back requests and refusals as quickly as possible. A shift of responsibility as a result of failing to reply within the time limit will be avoided as far as possible.

4.

Expedited procedure in case of re-entry

(1) Persons transferred to the responsible Side or who travelled to that member state within the time limit and who later re-enter the territory of the requesting Side will be subject to an expedited procedure.

(2) The expedited procedure will be applied only in cases in which the requesting Side can find no new evidence or indications (as listed in Annex II, A and B, of the implementing regulation) subsequent to the previous procedure which could indicate that another member state is responsible.

(3) The Side conducting the expedited procedure in case of re-entry will request the other Side for an urgent reply in such cases. The take back request will be marked accordingly (comparable to cases of detention referred to in Article 28 (3) Dublin III Regulation).

(4) In case of expedited procedures, the competent authorities of the requested Side will reply to the request without delay.

(5) Both Sides concur that a belayed response by the competent authority pursuant to Paragraph 4 will not lead to a shift in responsibility.

5.

Issuing an individual assurance

- (1) If requested by one Side, the requested Side will provide an individual assurance for the person concerned that this person will be accommodated in compliance with the Reception Conditions Directive (2013/33/EU) during the asylum procedure and his or her application will be examined in accordance with the Asylum Procedures Directive (2013/32/EU).
- (2) The individual assurance will be sent together with the acceptance or within two weeks if requested after the take back or take charge request.
- (3) It will suffice to give the name of the accommodation facility immediately after receiving the concrete notification of transfer.
- (4) The authorities of the requesting Side will be enabled to visit the facility at short notice if they so request.

6.

Collective transfers and other transfer modalities

- (1) The requested Side will enable collective transfers by means of charter measures by land and by air. Charter measures will be accepted by both Sides.
- (2) The competent authorities of both Sides will contact each other in this regard in a timely fashion to be able to ensure reliable and regular planning. Charter measures will be permitted for all persons whom the responsible Side is obligated to admit or re-admit.
- (3) The exact modalities for transfers using charter measures (e.g. place of transfer, advance notice, maximum number of persons, overbooking rate, time frame) will be jointly decided as described in Annex 1 of this administrative arrangement. Changes to this Annex will be possible only by mutual decision in writing of the competent authorities.
- (4) The exact modalities for transfers of single persons or family groups will be jointly decided as described in Annex 2 of this administrative arrangement. Changes to this Annex will be possible only by mutual decision in writing of the competent authorities.

(5) Transit by air will be carried out in accordance with Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air (OJ L 321, p. 26).

(6) If the transfer modalities given in this arrangement are not complied with, the requested Side may refuse to admit the transferred persons from the requesting Side at the desired time. In these cases, a different date and time for the transfer will be made by mutual decision. In individual cases if time limits are about to expire, the Sides may depart from these modalities by mutual consent.

7.

Practical issues

To resolve practical issues related to applying this arrangement, the Dublin III Regulation and the Commission Regulation, each Side, acting through the competent authorities, may request a meeting. The time and place of these meetings will be decided by the competent authorities by mutual consent. Modalities for exchanging liaison officers may also be decided in this framework, if the competent authority of one of the Sides so desires.

8.

Start of cooperation

(1) This Arrangement will come into effect 30 days after its signature by both Sides.

(2) If the Dublin III Regulation or Commission Regulation is amended, the Sides will revise this arrangement accordingly.

Signed at [place], on [date].

For the Federal Ministry of the Interior, Building
and Community of the Federal Republic of
Germany

For
The Ministry of Justice and Security of the
Netherlands

Modalities for collective transfers

1) General modalities

- a) Both Sides consent to the implementation of collective transfers for all categories of applicants under their responsibility. Both Sides decide to facilitate the realization of these transfers by all means.
- b) Unless agreed otherwise, there will be no more than one collective transfer by land per week, in principle taking place on Wednesdays from 7 am to 3pm, excluding public holidays. Collective transfers by land may not concern more than 30 applicants per week in total and will only take place on working days.
- c) With the aim to further increase the maximum frequency and capacity of collective transfers by land and to implement collective transfers by air, both Sides decide to evaluate this paragraph after six months of signing this bilateral arrangement.
- d) If an applicant is transferred as part of a collective transfer, the Side organizing the transfer will transfer it to the place designated by the responsible Side. Only one place is designated for all applicants included in the collective transfer. This place permanently replaces the one initially indicated in the acceptance decision of the applicants concerned.
- e) For the time being unaccompanied minors and people who require special assistance (e.g. mentally or physically disabled persons), are excluded from collective transfers.
- f) Time limits will be calculated as described in Article 42 Dublin III Regulation.
- g) Before a transfer to a location on the territory of one Side is executed for the first time, both Sides ensure that the legal foundations for this execution are agreed upon, especially regarding any actions taken by any official personnel involved.

2) Organization of the transfer

- a) When one of the two Sides wishes to make a collective transfer, it requests via DubliNet the other Side at least 14 working days before the date of the transfer, specifying the number of people to be transferred, the desired date and the mode of transport used (air or land).
- b) The requested Side responds within four working days to designate the arrival transfer location from those listed below.
- c) At least ten working days before the transfer is made, the transferring Side sends the list of people to be transferred via DubliNet to the responsible Side. The number of people listed can be up to twice the number of people who will actually be transferred. This list contains the surnames, forenames, nationalities, date of birth, reference numbers of the initial request and of the acceptance decision for each person. The list also contains information about persons considered a potential threat, in accordance with national and european data protection law.
- d) If available, further information may be added to this list, e.g. information on criminal records or family connections within the transferring Side, in accordance with national and european data protection laws.
- e) The requesting side will inform the requested side of any changes in the list of people to be transferred submitted according to Paragraph 2c) as soon as possible.

Annex 1

Administrative Arrangement pursuant to Article 36 Dublin III Regulation between the Netherlands and Germany

3) Execution of the collective transfer

- a) Only persons on the above mentioned list will be accepted for the upcoming transfer. If the collective transfer contains persons not listed, entry for those persons will be denied.
- b) Immediately after the start of the collective transfer, a list of persons actually on the transfer will be transmitted to the responsible authority of the requested Side.

4) Places of the collective transfer

- a) **Collective airline transfers may be arranged** to any airport designated by the requested Side. The requested Side will designate an alternative airport, if requested by the transferring Side.
- b) **Collective land transfers may be arranged** to Nieuweschans-Bunde, Bad Bentheim-Oldenzaal, Gennep-Goch and Heerlen-Aachen Noord.
- c) **Collective land transfers may be arranged** to and from the Dutch application center in Ter Apel, provided that the Dutch Side provides resources to safeguard its own sovereign rights on its territory.
- d) More Places where collective transfers may be arranged, can be added by mutual consent.

Modalities for individual transfers

1) General modalities

- a) Both Sides agree to the implementation of individual transfers for all applicants under their responsibility. Both Sides commit to facilitate the realization of these transfers by all means.
- b) At least two locations for transfers by air and at least one location for transfers by land will be designated in all acceptance decisions. If no location for transfer is indicated in the acceptance decision, the transferring Side informs the other Side which one of the locations listed below it designates for the transfer.
- c) Time limits will be calculated as described in Article 42 Dublin III Regulation.

2) Organization of the transfer

- a) The notification time through DubliNet for individual transfers is three working days. The notification includes the actual transfer location.
- b) The notification time through DubliNet for individual transfers of persons in need of special assistance (e.g. mentally or physically disabled persons, unaccompanied minors) or persons considered a potential threat is ten working days.
- c) Individual transfers may be organized from Monday to Friday from 7 am to 6 pm, excluding public holidays.

3) Places of the individual transfer

- a) **Individual land transfers may be arranged for the following border crossings:** Nieuweschans-Bunde, Bad Bentheim-Oldenzaal, Gennep-Goch and Heerlen-Aachen Noord
- b) **Individual airline transfers may be arranged to** all airports with non-stop connections of commercial airlines between the Netherlands and Germany, as well as all connecting flights of commercial airlines via airports of other Member States.

Annex III

Joint statement

Both parties agree that the practical issues concerning collective transfers will be further worked out by the responsible organizations. This will include a mutual understanding and agreement on the starting date of collective transfers as soon as possible after the signing of the agreement. Both parties agree that any practical questions and/or issues concerning collective transfers will be dealt with in close cooperation.