



Guide to **joining family under the Dublin Regulation**

Contents

What is the Dublin Regulation?	3
Who can apply to join family under Dublin?	4
How long does it take?	8
The Dublin transfer process to join family members	8
What evidence is needed?	10
Tips for the Dublin process	12
How to seek further help	14
European Countries where Dublin applies	15
Glossary	16

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What is the Dublin Regulation?

The Dublin Regulation¹ is a European law that regulates which European country should take responsibility for asylum seekers'² claims for protection. On [page 15](#) there is a list of the European countries to which the Dublin Regulation applies.

The Dublin Regulation allows for families who are separated across different European countries to be reunited during their asylum claim. Children under 18 years old have the greatest range of possibilities to join their family members in another European country. Spouses, and dependent and vulnerable adults may also be eligible, depending on certain conditions.

After the applicant claims asylum, the Dublin process can take up to 11 months. If the application is accepted, the applicant will legally travel to join their family. The applicant is entitled to live in the same European country as their family members while their asylum claim is processed.

This guide explains the basic Dublin principles and procedures. It should not be used as legal advice. Where there are questions or doubts, it is always advisable to seek the advice of legal advisors, both in the country where the applicant is currently living, and the country where the family members are.

Please note:

The information in this guide is valid as of June 2018.

There will be expected reforms to the Dublin Regulation in the coming year.



Photo © Finnish Red Cross.

¹ EU Regulation No.604/2013

² An asylum seeker is a person who is outside of their country of origin and who fears that they will be persecuted if they return to their country. The 1951 Refugee Convention is the international law that most countries follow in order to decide whether to grant refugee status.

Who can apply to join family under Dublin?

Unaccompanied asylum seeking children

Unaccompanied children with family members or relatives in another European country can apply. Under the current Dublin Regulation, the terms **family members** and **relatives** are defined differently.

Family members

For children, their family member is defined as a **parent** or **legal guardian**. Unaccompanied children may also apply to be reunited with their **sibling**.

When the applicant is a child and they wish to join a family member (parent, legal guardian) or sibling, it must be shown that:

- they are related;
- the family member is willing for the child to be reunited with them; and
- it is in the child's best interests to do so³.

Relatives

Relative is defined as an **adult aunt, uncle** or **grandparent**. In addition to the above three requirements for family members, relatives must prove that they are able to 'take care' of the child. This means that the relative must be able to accommodate and care for the child appropriately. The suitability of the accommodation may be decided by an assessment made by a social worker or other professional designated by the authorities.



Photo © Simon Rawles/BRC.

Daniel's story*

Daniel is a 16 year old boy from Eritrea. He arrived in Spain but wanted to travel to Belgium where his 20 year old brother Freselam lives. Daniel claimed asylum and informed the authorities that his brother lived in Belgium. Freselam collected evidence to prove that the brothers are related. Daniel was transferred from Spain to Belgium. Daniel is now waiting for the decision on his asylum claim in Belgium.

***Daniel's story is not a real story but shows how an application for an unaccompanied asylum seeking child to join a family member might work in the Dublin process.**

When the applicant is a **child** and they wish to join a relative (**adult aunt, uncle** or **grandparent**), it must be shown that:

- they are related;
- the relative is willing for the child to live with them;
- the relative is able to 'take care' of the child;
- it is in the child's best interests to live with their relative⁴.



Saida's story*

Saida is 12 years old. Her parents are no longer alive. She travelled from Afghanistan to Greece. When Saida claimed asylum in Greece, she mentioned that her aunt lives in the UK. Saida's aunt showed that she and Saida are related. Before agreeing for Saida to transfer to the UK, a social worker visited Saida's house. The social worker checked that it was safe for Saida to live there, and that there was space for her to sleep. The social worker also checked that Saida's aunt had the time to care for Saida properly. Saida's case was accepted and she is now living in the UK.

***Saida's story is not a real story but shows how an unaccompanied asylum seeking child might be reunited with a relative through the Dublin process.**

Adults

Adult applicants can apply to join their family members in another European country if the family member is a refugee⁵ or asylum seeker. For adults, **family member** is defined as: their **spouse** or **unmarried partner** and **children** (if the child is under 18 and not married). If the couple are unmarried, they must show that they are in a stable relationship, regardless of whether it was formed in the country of origin or afterwards. When the applicant is joining a family member who is a refugee, the Dublin Regulation states that the family relationship does not need to have been formed in the country of origin.

When the applicant is an **adult** and they wish to join their family member (**spouse, unmarried partner** or **children**), they must show:

- that they are related;
- if unmarried partners apply, they must show that they are in a stable relationship;
- that the family is willing to live together;
- the family member that the applicant wishes to join must have refugee status or subsidiary protection⁶; or
- the family member must be an asylum seeker and is waiting for a decision on their asylum claim⁷. In those cases, the family relationship must have existed before the applicant left their country of origin.

⁵ Or has been granted Subsidiary Protection. In the UK, Subsidiary Protection is called 'Humanitarian Protection'. ⁶ Article 9 of the Dublin Regulation. ⁷ Article 10 of the Dublin Regulation.

Dependants⁸

Family members are eligible for a Dublin transfer if they can prove that they are dependent on the assistance of their **child, sibling or parent** in another European country. The child, sibling or parent must be 'legally present' in the country where they are living. Additionally, the family relationship must have existed in their country of origin and not have been formed after they left. The application may be made either for the applicant to join the family member or for the family member to join the applicant. As part of the application they must explain in writing that they wish to be reunited.

The family must show that the dependency is because they are:

- pregnant
- have a newborn child
- have a serious illness
- have a severe disability, or
- are elderly.



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Abbas' story*

Abbas is an asylum seeker in the UK. Abbas married his wife, Fatema, in his home country, and the couple had two children together before Abbas travelled to the UK. Last year, Fatema and the children travelled to Bulgaria.

Abbas proved his relationship to his family through his marriage certificate and the birth certificates of the couple's children. Fatema claimed asylum in Bulgaria and told the Bulgarian authorities about her husband in the UK. The Bulgarian authorities requested a Dublin transfer. The application was accepted, and Fatema and the children travelled to the UK. Abbas and Fatema's asylum claims have been accepted and the whole family are now living in the UK with refugee status.

***Abbas' story is not a true story but shows how couples might be reunited through the Dublin process.**

Photo © iStock.

Other circumstances⁹

If adults and child applicants cannot fulfil any of the criteria on pages 6-8, the governments may request to reunite the family on the basis of exceptional circumstances that are not covered by the Dublin Regulation¹⁰ or for humanitarian reasons, based for example on family or cultural considerations¹¹ and for other reasons¹².

Examples of cases where discretion might be used could include:

- children who are over 18 but who are very dependent on their family;
- vulnerable adults with serious mental health or psychological difficulties.

Remember that it is the choice of the authorities to accept this type of application, which will be assessed under the discretionary clause. If the application is not accepted, the applicant may be required to continue to process their asylum claim in the country in which they are already living. It will be very useful to submit lots of relevant evidence to demonstrate why the application should be accepted. As part of the application the family must explain in writing that they wish to be reunited. See section on **Evidence**.

Habibullah's story*

Habibullah is currently in Greece. In his country he witnessed and experienced a lot of violence, including an attack that left his whole family dead. Habibullah's only remaining family members are his uncle and aunt in the UK. When he was 16, he left his country because he feared that he would also be attacked. During his journey towards his family in the UK, Habibullah was assaulted on several occasions. As a result of the trauma in his home country and on his journey, Habibullah now experiences psychological problems and receives medical treatment in Greece for his condition.

Habibullah wants to join his uncle and aunt in the UK. However, before Habibullah arrived in Greece, he had already turned 18 years old. He is therefore not eligible to apply for a Dublin transfer as a child. However, Habibullah has a lawyer who is working to show that the family should be reunited in the UK as a discretionary case. Habibullah has documents to show that he is related to his uncle, and medical records to show the psychological distress caused by the ongoing separation from his UK-based family.

*** Habibullah's story is not a true story but shows how a discretionary application might work in the Dublin process.**

⁹ Article 17 of the Dublin Regulation ¹⁰ Article 17(1) of the Dublin Regulation: the 'sovereignty clause'

¹¹ Article 17(2) of the Dublin Regulation: the 'discretionary' or 'humanitarian' clause

¹² UNHCR's report *Left In Limbo: UNHCR Study on the Implementation of the Dublin III Regulation* provides a detailed explanation of discretionary cases.

How long does it take?

The Dublin application process can normally take **up to 11 months from the moment an asylum application for protection is made**. Some applications can take over 11 months, if, for example, the first application is refused and a re-examination request is made.

The Dublin transfer process to join family members:

STEP 1: Applicant claims asylum

- The applicant must first make a claim for asylum in the European country in which they are present. It is at this stage that the Dublin process starts;
- In some countries, children need a legal guardian or representative to help them make their asylum claim;
- If an applicant needs help to access the asylum procedures or claim asylum, they should seek legal advice in the country in which they are present.

STEP 2: Host government makes a request for transfer under Dublin

- The 'Sending State' (the country in which the applicant makes their asylum claim) is responsible for sending a Dublin Take Charge Request to the government of the country in which the applicant's family is present (the 'Receiving State');
- Applicants cannot make a Take Charge Request directly to the Receiving State's government; the request has to be made by the Sending State's government on the applicant's behalf. (For example, if an applicant is based in Germany and wishes to be transferred to the UK, the applicant must make their request to the German authorities when they make their asylum claim. The German authorities will then make the Take Charge Request to the UK);
- The application is free of charge and does not require a separate application process.

- The Sending State has up to three months to make the Take Charge Request.
- Applicants are not obliged to use a lawyer during the Dublin process. However, it is recommended to seek legal advice, for example, to help with collecting information to support the application.

STEP 3: Decision on the transfer request

- The Receiving State has up to two months to make a decision on the Take Charge Request;
- The Receiving State will inform the Sending State of the decision;
- The Sending State will inform the applicant of the decision. If the applicant is a minor the authorities may inform their legal guardian or representative.

STEP 4A: Possible outcome – Refusal of Dublin request

- If the Take Charge Request is refused, the reasons for refusal should be provided in writing.
- The Sending State has 21 calendar days within which to request that the application is re-examined, and send in further evidence if appropriate. The re-examination request must be submitted by the Sending State.
- If, after the re-examination, the receiving country still refuses the application, the applicant or their family may wish to seek legal advice about their options. For example, there may be alternative visa applications or the applicant may consider remaining in the country where they are currently living.

It is always advisable to seek legal advice in both the sending and receiving country as soon as possible after a refusal.

STEP 4B: Possible outcome – Acceptance of Dublin request

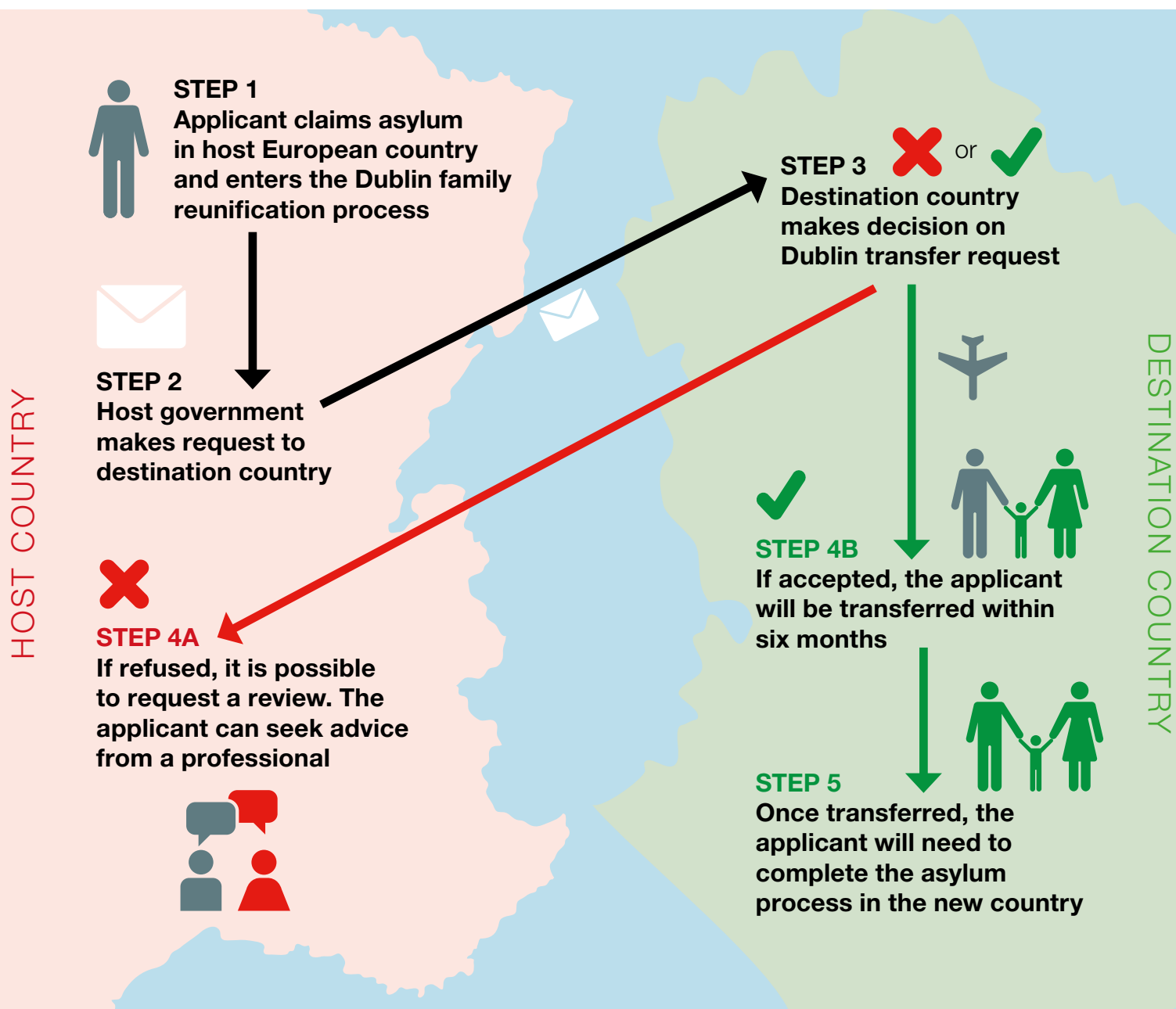
- If the request to take charge is accepted, the Sending State must arrange the transfer to the Receiving State.
- The Sending State organises and pays for the applicant’s travel.
- The Sending State has up to six months to transfer the applicant to join their family in the receiving country.

- The Sending State must pay for travel of the accepted applicant. If there are compelling circumstances (eg homelessness, vulnerabilities etc.) then the applicant, if a child, may request that the transfer take place sooner than the six-month deadline, although there are no guarantees that this will happen¹³.

STEP 5: Transfer and arrival

- On arrival in the Receiving State, the applicant must follow the domestic asylum claim procedures. It is always advisable to seek immigration advice to ensure that the process is properly followed.

¹³ If the applicant is based in France, the timescales may be quicker, as explained in an agreement between France and the UK called the ‘Sandhurst Treaty’. The Sandhurst Treaty came into force on 1 February 2018.



What evidence is needed?

Applicants should try to provide evidence that shows that they are related to their family and that they are eligible for transfer to join family under the Dublin Regulations. While the relevant governments should take reasonable steps to prove the family link themselves, it is helpful for families to gather evidence themselves too. Qualified immigration advisors may be able to help with this, either in the sending or receiving country. Evidence collection can take a very long time and may delay the process. It is advisable to start collecting evidence as early as possible.

Be sure that any documents submitted to support the Dublin application are genuine. If documents are believed to be false it could have a serious and negative impact on the application.

Evidence relating to application might include:

Documents that show name, date of birth and nationality, such as:

- national passport;
- Government-issued ID (e.g. Afghan 'Tazkira' or Syrian 'Family Book').

Documents that show the family's legal status in the country to which the applicant will travel, such as:

- Immigration Status Documents;
- Asylum Seeker Registration Card;
- Refugee Status papers.

Documents to show that the applicant is related to their family. For example:

- the asylum interview records of the family member or relative in which he or she confirms their relationship to the applicant;¹⁴
- government-registered documents such as birth or marriage certificates;
- a 'family tree' (a diagram that shows the names of family members and their relationships to each other);
- family photographs;
- If there are no available photographs that show the applicant and the family member together, separate photographs of the applicant and family member with mutual relations. For example, if the applicant is a nephew and wishes to join his uncle (his father's brother), he could provide photographs of himself and his father together, as well as separate photographs of his father and his uncle together;
- witness statements explaining the relationship between the applicant and their family relations.



Photo © iStock.

¹⁴ In the UK, for family members or relatives who have themselves claimed asylum in the UK, there may be details in their Home Office asylum and screening interview records. If they do not have a copy, they can request a copy by making a Subject Access Request to the Home Office. To find out more information about Subject Access Requests, look at the Home Office website.

Confirmation that the family is willing for the applicant to be reunited with them, for example:

- a dated and signed email, letter or witness statement.

For uncles, aunts and grandparents who wish for the child applicant to be reunited with them,¹⁵ proof that the relative is able to accommodate the applicant.

For example:

- this could be in the form of tenancy agreements and/or a letter of consent from the relative's landlord;

- proof that the relative is the owner of their accommodation (e.g. mortgage agreements or property deeds);
- proof that there is enough space for the applicant to live in the property (e.g. letter from landlord or property deeds).



Photo © Jarkko Mikkonen/Finnish Red Cross.

¹⁵ Under Article 8.2 of the Dublin Regulation.

Tips for the Dublin process

- Collecting evidence to show the applicant and family are related can take a very long time and may delay the process. It is advisable to start collecting evidence as early as possible.
- It is recommended to find immigration lawyers both in the sending and receiving countries to ensure that the Dublin process is appropriately followed. However in many circumstances a lawyer may not be necessary;
- To enter the Dublin process, the applicant must first claim asylum in the European country in which they are present. If there are challenges in claiming asylum in that country, seek legal advice there;
- Check that all names on all documents are spelled correctly and that all names, including middle names and extra family names are consistently in the same order;
- If nicknames or alternative names are used in any of the evidence submitted, explain why;
- Check that the details on all the documents are exactly the same. If the spelling of names or the dates on documents are different, explain why there is a difference;
- Clearly explain the family relationship and how the family relations are related. For example, if the family relationship is uncle and nephew, explain and name which of the nephew's parents is related to the uncle;
- In some cultures words like 'brother' and 'cousin' are used even when the relationship is not exactly that by blood. Make sure to accurately describe the family relationship;
- Any information submitted in support of the Take Charge Request may be cross-referenced with any other information about the family. This includes details included in family members' previous asylum claims and visa applications. Where possible, cross reference all information that the relations have already given to the authorities and make sure to explain the reason for any differences before submitting information to support the Dublin Take Charge Request;
- Keep copies of all documents submitted as part of the application;
- Remember that any documents that the authorities believe to be false will be very damaging to the application;
- If there are compelling reasons why the application should be processed quickly, explain why and if possible provide evidence. For example, if the applicant is in hospital and the family needs to be reunited so that family members can provide support, submit a copy of the applicant's medical records or letter from the doctor confirming this;
- Ask lawyers to request confirmation from the relevant government that the application has been submitted;
- The Dublin Take Charge Request process takes place between governments. The governments involved may not keep applicants and families up to date unless there has been significant progress in the Dublin application;

- It is possible that the Receiving State will contact the family to check their identity. Provide full contact details and times that the family in the receiving state is available to be contacted (mobile and daytime telephone number, as well as email address and home address). If the family changes contact details or address throughout the process, please tell both the Sending and Receiving States, as well as lawyers working on the case.
- It is possible that the Receiving State will visit the proposed address where the applicant intends to live. This might be to check that the accommodation is suitable for the applicant to live in, particularly if the applicant is a child.



How to seek further help

The Dublin process can be very complex. It is advisable to seek legal advice in both the country where the applicant is present and the country where the family is living.

Access to Legal Aid for Dublin transfers to join family depends on the rules in the European countries in which the applicant and their family are present.

In the UK, subject to certain conditions, immigration lawyers should be able to provide legal advice under the Legal Aid contract. It could be that to receive payment for their work on a Dublin case, immigration lawyers must first make an application for Exceptional Case Funding¹⁶. Applicants and family members themselves can also make applications for Exceptional Case Funding¹⁷. Office of Immigration Services Commissioner (OISC) -regulated lawyers are available on the OISC website¹⁸. Another source for immigration lawyers is the UK Law Society's 'Find a Solicitor' website¹⁹.

For further information on the Dublin process, please contact the British Red Cross Dublin Enquiries Service

dublinenquiries@redcross.org.uk.



Photo © iStock.

¹⁶ For more information on Exceptional Case Funding, please see here:

<http://www.publiclawproject.org.uk/exceptional-funding-project>

¹⁷ A guide to completing your own Exceptional Case Funding application can be found here:

<https://publiclawproject.org.uk/resources/how-to-get-exceptional-case-funding-for-immigration-cases/>

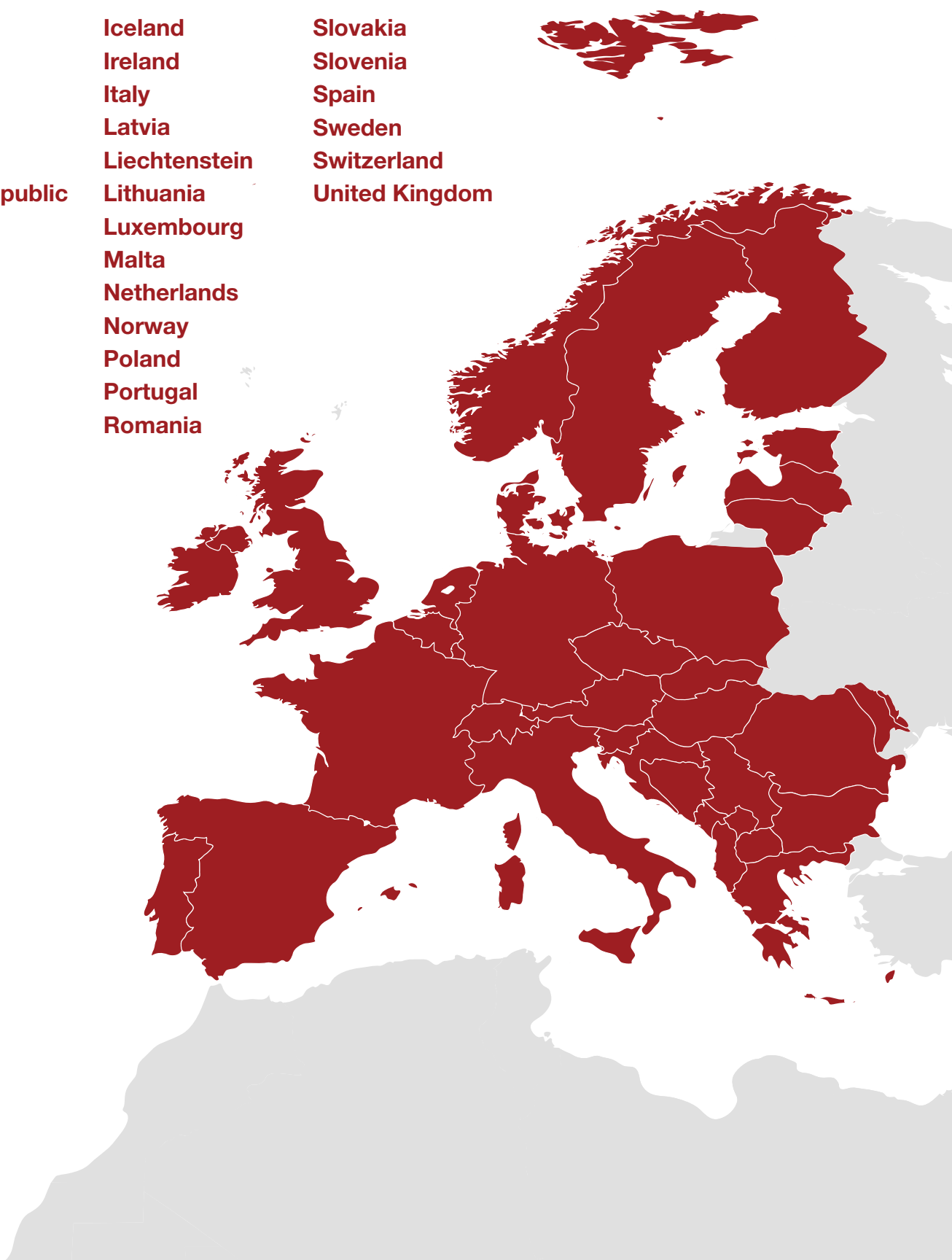
¹⁸ http://home.oisc.gov.uk/adviser_finder/finder.aspx

¹⁹ <http://solicitors.lawsociety.org.uk/>

European Countries where Dublin applies

The European countries where the Dublin family reunion process applies are:

- | | | |
|----------------|---------------|----------------|
| Austria | Iceland | Slovakia |
| Belgium | Ireland | Slovenia |
| Bulgaria | Italy | Spain |
| Croatia | Latvia | Sweden |
| Cyprus | Liechtenstein | Switzerland |
| Czech Republic | Lithuania | United Kingdom |
| Denmark | Luxembourg | |
| Estonia | Malta | |
| Finland | Netherlands | |
| France | Norway | |
| Germany | Poland | |
| Greece | Portugal | |
| Hungary | Romania | |



Glossary

Destination country the European country to which the Dublin applicant wishes to travel to join their family member.

Dublin Regulation a European law that decides which European member country should take responsibility for processing individual asylum seekers' claims. (See section "Who can apply to join family under Dublin?" above.)

Family member A family member is defined as a spouse or unmarried partner; unmarried children under 18; or when the applicant is a minor child, the applicant's mother, father or responsible adult.

Host country the European country in which the Dublin applicant is currently living.

Legal Aid Government funding to pay for legal advisors when a person cannot afford legal costs themselves.

Receiving state The country in which the applicant's family are based and that must make a decision on whether to accept the Dublin Take Charge Request under the Dublin Regulation.

Relative The applicant's adult aunt or uncle, or grandparent.

Sending state The country in which the applicant is present and which makes a Dublin Take Charge Request to the receiving state.

Take Charge Request A formal request by the Sending State to the Receiving State to take responsibility of the applicant and their asylum claim. If the Take Charge Request is accepted, the applicant will be transferred to the Receiving State. If the Take Charge Request is refused, the Sending State may request a review of the decision. Applicants are entitled to seek legal advice to discuss their options.

[redcross.org.uk](https://www.redcross.org.uk)

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