

# Information on procedural elements and rights of applicants subject to a Dublin transfer to France

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## **About this document**

*The ‘Roadmap for improving the implementation of transfers under the Dublin III Regulation’ was endorsed in the meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) of the Council of the European Union on 29 November 2022. The roadmap identified a clear need for objective and neutral information on reception and detention conditions and the asylum procedure in all the Member States, which can serve as reference in transfer decisions and that can be used in national courts when the person concerned has exercised his or her right to an effective remedy.*

*This data collection is based on Article 5 of the regulation on the European Union Agency for Asylum <sup>(1)</sup> (EUAA). Member States were requested to provide information that reflects both the relevant legal provisions and the practical implementation of these provisions. The scope of the fact sheet is limited to rules and conditions applicable to applicants for international protection as well as other persons that are subject to a transfer under the Dublin III regulation <sup>(2)</sup>.*

*The European Commission and the EUAA jointly developed the template which served as the basis for this fact sheet. The EUAA gathers and stores the fact sheets and requests Member States to update the information at least one time per year. The relevant national authorities of the Member States provide all the information contained within the fact sheet and are responsible for ensuring that it is accurate and up-to-date.*

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(1) [Regulation \(EU\) 2021/2303](#) of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021).

(2) [Regulation \(EU\) No 604/2013](#) of the European Parliament and of 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 (recast) (OJ L 180, 29.6.2013).

## 1. Access to material reception conditions

**1.1** What steps should an applicant complete following a Dublin transfer in order to gain access to accommodation and other material reception conditions in your Member State?

How long do these steps normally take?

French legislation complies with the objective and the letter of the Reception directive. The French system, since the creation of the structures for the initial reception of applicants (Structures de premier accueil de demandeurs d'asile, SPADA), has improved the access to the material reception conditions (MCAs), the guarantees of the traceability of applications and the prevention of trafficking in appointments as before the creation of SPADAs, some people bought and sold their places in the queue at the prefectures. The SPADAs prevented this abuse and reduced the queues at the prefectures.

Thus, an applicant must firstly make his/her application at one of the SPADA. These platforms are run by NGOs in the framework of a public contract with the French Office for the Immigration and the Integration (OFII), which provides the overall management and financing of the pre-registration network. An applicant can present him/herself at the SPADA without any appointment, except for the Ile-de-France region. He/she receives an appointment for registering his/her application at the single desk for asylum applicants (guichet unique pour demandeurs d'asile, GUDA) at the prefecture within three working days. The SPADA is meant to facilitate the access of all asylum seekers to these single desks. It informs the applicant about the asylum procedure and pre-fills an online registration form with basic details provided by the applicant, such as name, surname, nationality, date and place of birth, family members, civil status, date of entry on the territory of France and phone number. This form is automatically transmitted to the single desk GUDA.

SPADA is the first step towards access to material reception conditions, and to the opening of the rights to material reception conditions by OFII.

When and how is the applicant provided with information on how to gain access to accommodation and other material reception conditions?

When the request of the applicant is registered at the GUDA, an officer from the prefecture take the fingerprints of the applicant and interviews him/her to determine whether France or another Member State is responsible for the examination of the asylum application pursuant to the Dublin III Regulation. Just after the registration of the application, in the same location and during the same day, an OFII agent meets the applicant, assesses his/her personal situation and potential reception needs via a query, decides accordingly on the necessary reception arrangements and offers a care package.

**1.2** What material reception conditions (as per Article 2(g) Directive 2013/33/EU laying down standards for the reception of applicants for international protection (recast) (RCD) are available to applicants for international protection entitled to these in your Member State?

As foreseen by the Articles L. 550-1 form L. 554-4 of the code of entry and residence of foreigners and right of asylum (CESEDA), the material reception conditions are the same for every applicant. The applicant has access to reception facilities, which provide accommodation dedicated to asylum seekers with a specific social support offered by the NGO or entity in charge of managing the reception centre, and to an allowance ("allocation pour demandeur d'asile"). The manager of the accommodation facility must provide catering services when the facility does not have any kitchen – otherwise food costs are included in the allowance.

**1.3.** How does your Member State ensure that applicants for international protection in your Member State are provided with full access to the material reception conditions as defined in Article 2(g) of RCD in line with Article 17 and 18 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

The OFII agent at the GUDA is in charge of assessing the personal reception needs of applicants for each application. The OFII also evaluates the particular needs of vulnerable people in order to guaranty the proper care and support (for instance in case of pregnancy or when specific medical equipment are required).

The OFII officer will identify in particular "minors, unaccompanied minors, people with disabilities, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, people with serious illnesses, people with mental disorders and people who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as female genital mutilation". The need for accommodation takes into account the family composition and objective vulnerability detected during the interview. There are dedicated accommodation places for victims of trafficking in human beings (THB) or violence against women, as well as dedicated places for the LGBT applicants.

If the applicant spontaneously mentions health problems, he/she may be subject to a procedure known as MEDZO advice, which allows the OFII doctor to assess and specify his/her needs while guaranteeing respect for medical confidentiality. The applicant can be cared for in specific accommodation structures, with specialised support.

**1.4.** Does your Member State apply a policy in line with Article 20.1(c) of reducing or in duly justified exceptional cases withdrawing the access to reception conditions for applicants in cases the applicant lodged a subsequent application?

Yes.

In accordance with the provisions of Article 20.1(c), the provisions of Article L. 551-15 of the CESEDA specify that material reception conditions may be totally or partially refused to an applicant who submits a subsequent application, known as an application for review (3°). These provisions can apply in cases where the first asylum application has been

rejected. The personal situation of the applicant is always taken into account and material reception conditions may be granted.

If yes, what material support is provided to persons whose material reception conditions have been reduced or withdrawn in accordance with Article 20(1)(c) in your Member State to ensure a dignified standard of living and access to health care?

Applicants whose material reception conditions have been withdrawn continue to have access to reception conditions (full health care coverage notably). Besides, those in need can access the universal emergency housing system provided in France for homeless persons. In any case, a large number of local authorities provide various material aids to the people with limited means.

Pursuant to the article L. 345-2 2 of the Code of social action and families, a homeless person, in medical, physical or social distress has access to universal emergency housing system. An accommodation solution shall be proposed to every person, regardless of their age, wealth, or their stay situation.

This article L. 345-2 2 states that this emergency housing shall allow the applicant to benefit from housing, food, health, a first medical, psychic and social examination and to be oriented towards any kind of shelter.

**1.5** What health care is an applicant for international protection entitled to in your Member State in line with Article 19 RCD?

An applicant for international protection is entitled to full health care coverage: Protection Universelle Maladie (PUMa), as well as Complémentaire Santé Solidaire (CSS), a supplemental health insurance program.

Access to complete health care is immediate for minors and requires three months of residence in France for an applicant who has attained his/her majority.

During this three-month period, the applicant for international protection has guaranteed access to urgent care:

- Care where the vital prognosis is involved and the absence of care could lead to a serious and lasting deterioration in the health of the person or an unborn child;
- Care to prevent the spread of a disease to others or the community;
- Care of a pregnant woman and a new born (preventive examinations during and after pregnancy, childbirth);
- Abortion (voluntary or for medical reasons).

Besides, he/she can also benefit from free medical consultations through health care access permanencies (PASS) in health facilities or with certain associations (SAMU Social, Croix Rouge Française, Médecins du Monde) for dental, ophthalmological or psychological care.

**1.6** What steps are taken to ensure that applicants for international protection in your Member State have full/effective access to health care, in line with Article 19 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

An applicant for international protection is entitled to social aid, legal and administrative assistance throughout the entire duration of the asylum procedure in conditions described in the previous answer. This assistance is provided either by the reception facility hosting the applicant or by a SPADA.

**1.7** Please describe what are the support measures available/provided to persons with special reception needs in your Member State in line with Article 21 RCD (e.g. minors, unaccompanied minors)?

The CESEDA underlines that the aim of the vulnerability assessment is to identify, in particular, minors, UAMs, persons with disabilities, the elderly, pregnant women, single parents with children, victims of human trafficking, persons suffering from serious illness, persons suffering from psychological disorder, victims of torture, rape or other forms of serious psychological, physical or sexual violence, such as female genital mutilation.

The “vulnerabilities plan” of French asylum authorities, adopted in May 2021, draws several actions designed for a better and faster detection of vulnerabilities amongst applicants, including the training of all the institutional and associative actors contributing to this process and the identification of a specialists network, an improved targeted communication on the asylum process to vulnerable public, an expansion of dedicated accommodation places, a wider awareness of health professionals to psycho-trauma, a better follow-up care, a special attention to UAMs.

Since 2019, Asylum directorate has carried out several actions aimed at facilitating access to the asylum procedure for UAMs in need for protection, especially communication materials available to all the asylum reception points (a poster and a leaflet translated into 10 languages) which presents the asylum application procedure. An UAM must be legally represented in order for its asylum application to be registered (art L. 521-9 of the CESEDA). To this aim, the GUDA is entitled to refer to the public prosecutor and the regional council in order for the UAM to be represented and taken care of, through assistance and protective actions.

Since 2019, 14 training courses on access to the asylum procedure for UAMs have been organised, for local and specialised actors on access to the asylum procedure for UAMs, involving over 200 participants. These training courses, co-organised with OFPRA, the UNHCR and the French Red Cross, aimed to train mainly GUDA agents, departmental councils (in particular the ASE child welfare service), the youth judicial protection (protection judiciaire de la jeunesse (PJJ)), ad hoc administrators, structures for assessing minority and isolation, support and accommodation structures for UAMs, etc. As these training courses were planned to be face-to-face, they were strongly impacted by the health crisis. In addition, in order to reach all the actors in the territory, an online training module on the same theme has been developed and will be available soon.

Finally, the directorate of asylum also finances training courses organised by specialised partners: 12 training courses organised by the association Thémis (186 people trained) and 15 training courses organised by the Alliance des avocats pour les droits de l'homme (140 people trained), enabling the training of ad-hoc administrators, social workers, volunteers from associations and lawyers.

**1.8** How does your Member State ensure that applicants for international protection with special reception needs in your Member State are provided with full access to the reception conditions, which cater for their special reception needs, in line with Article 21(1) of RCD, and, where relevant, more favourable provisions set out in your national legislation?

After the OFII assessment on the particular needs of vulnerable applicants, they are placed in facilities in which one the staff is trained to deal with and to answer the needs of these applicants (LGBTQI+, victims of human trafficking, torture or other forms of violence, UAMs).

**1.9** How can an applicant for international protection avail themselves of a legal remedy in line with Article 26 RCD, in case they consider that their rights to material reception conditions are not being met in your Member State?

Pursuant to Article D. 551-17 of the CESEDA, the decision to refuse material reception conditions as foreseen by Article L. 551-15 of the CESEDA shall be written, state the reasons for the decision, and take into account the vulnerability of the applicant. Within two months of the decision's notification, the applicant may lodge an appeal with the Director General of OFII. The latter shall make a decision within two months. If not, the appeal is considered rejected. It is then possible to contest a decision that refuses, withdraws or suspends material reception conditions before an administrative court.

The standard of material reception conditions is defined by decree (Annex 8 of the CESEDA) with several amounts taking into account the personal and family situation of applicant for international protection.

The material reception conditions are not adjustable outside the several amounts previously mentioned and another fixed amount granted only in the case the applicant is not accommodated in a public facility.

Therefore, the applicant has the possibility to appeal against the legality of the decree setting the amount of the allowance.

## 2. Access to the asylum procedure

**2.1** What are the procedural steps that an applicant for international protection transferred to your Member State needs to undertake in order to gain access to the asylum procedure following a Dublin transfer to your Member State?

Before the implementation of the transfer procedure, the administrative services in charge of taking charge of incoming transferred applicant are notified twice about arrivals. The first notification is realised when the acceptance is given to the requesting Member State. The second notification is realised at the reception of the transfer form by the requesting Member State, which contains all the details about the incoming travel.

When the applicant arrives on the French territory, he/she is in charge by the border police, in order to confirm his/her identities and his/her situation. Depending on his/her situation, he/she is either oriented to the competent SPADA or is kept with the law enforcement authorities to process complementary checks and to fully analyse their situation.

In the case where the applicant transferred to France go to a SPADA where they receive a convocation for the GUDA as explained in question 1.1. The employees of the prefecture register the application (Art. 521-1 of the CESEDA), whereas the OFII workers evaluate the specific needs of the applicant and the modalities of the access to material and reception conditions. Afterwards, the applicant has to fill in a form addressed to OFPRA in order to properly lodge his/her application.

How long do these steps normally take?

Pursuant to Article L. 521-4 of the CESEDA, the prefects must register the application within 3 working days (or 10 working days in case of a large number of simultaneous applications for international protection). The OFPRA form must be filled within a deadline of 21 days.

Are there any different steps to take for persons whose applications would be considered as subsequent applications? (Location to register, fees, admissibility procedure etc.)

No.

How long do these steps normally take?

Cf. Previous answer.

Where can the applicant find this information, or be provided with this information?

As mentioned the transferred applicant are taken in charge by the border police upon arrival which will provide then to the necessary information about the relevant SPADA. Moreover, the CESEDA foresees that the applicant receives an information brochure (Guide du demandeur d'asile en France) from the officer of the prefecture at the GUDA upon registration.

**2.2** What are the procedural consequences in your Member State of an application for international protection being considered a subsequent application?

As foreseen by Article L. 531-41 of the CESEDA, the applicant who wants to introduce a subsequent application, shall register it to the competent authority at the GUDA. The applicant has eight days after the registration to lodge his/her application to the OFPRA (Article R. 531-36 of the CESEDA). Then, the OFPRA conducts a preliminary examination within eight days for the purpose of taking a decision on the admissibility of the application. If the OFPRA pursues the examination of the application, it informs without delay the prefect (Art. R. 531-38 and R. 531-39 of the CESEDA).

**2.3** Does your Member State avail itself of the possibility under Article 33(2) Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast) (APD) to consider an application for international protection lodged by an applicant transferred to your country through the Dublin procedure as inadmissible? If so, under which of the grounds listed in this Article?

There is no special procedure for a transferred applicant from another Member State. Thus, on a case by case basis, as any applicant for international protection, the OFPRA may consider their application as inadmissible, as foreseen by Article L. 531-32 of the CESEDA:

- when the applicant benefits from an effective protection as beneficiary of international protection in a Member State of the European Union;
- when the applicant benefits from an effective refugee status in a third State and provided that he or she will be readmitted to that country;
- when after the preliminary examination of the subsequent application, it appears that the subsequent application does not fulfill the criteria to be admissible.



### 3. Detention and limitations to the freedom of movement of applicants

**3.1** Are there any circumstances under which your Member State an applicant for international protection could be detained on public health grounds (e.g. quarantine), under applicable provisions of national law unrelated to Article 9 RCD?

No.

If yes, please describe these different types of circumstances, the legal basis for the detention, duration, conditions (incl. type of facilities), and the legal remedies available to challenge such a decision.

N/A

**3.2** How can an applicant challenge a decision to place them in detention according to Articles 8 and 9 RCD?

Third country nationals held in administrative detention centres are informed about the reasons for their placement in these centres. They are notified of the administrative decision to detain them with a view to their removal/transfer. This notification must state on which ground they are detained and why the removal cannot be implemented immediately. This document also mentions the legal remedies available to challenge this decision. French law foresees a judicial review of the lawfulness of the administrative detention for all third country nationals. The legality of detention falls under the responsibility of both the administrative court and the civil court.

- **Administrative court: legality of administrative decisions of removal and house arrest.** The administrative court is seized by a third country national (applicant if relevant) who challenges the legality of the decisions taken by the prefect, i.e. the measures of removal and/or house arrest. Removal orders and house arrest can be challenged within a period of 48 hours. The time limit for the court to take a decision is **96 hours** (CESEDA Art. 614-9). Appeals lodged against the measure of removal have suspensive effect over its execution.
- **Judge of Freedoms and Detention (JLD):** Basically, the JLD is seized by the prefect at the end of the **2 days** of administrative detention in order to authorise a prolongation after having examined the lawfulness of the administrative detention. The JLD intervenes a second time after 28 days of detention if the person is still detained and has not been removed. This judge can be seized at any moment by the person detained in administrative detention centres.
- **Additional possible appeal against detention for applicant:** If a third country national has applied for asylum from detention, and the prefect has taken a decision to maintain detention, the applicant has **48 hours** to lodge a suspensive appeal before the administrative court to ask for the cancellation of this decision (decision by which the prefect considers that the claim aims solely at avoiding an imminent removal: CESEDA Art. L. 754-4). The administrative judge has **96 hours** to take a decision.

**3.3** What are the limits set out in national law to the duration that an applicant may be placed in detention according to Article 9 RCD?

At what intervals does the judicial authority needs to review a detention decision according to Article 9(5) RCD?

A person can be placed in administrative detention for a maximum of 90 days (CESEDA L. 742-1 to L. 742-10):

1. Initial decision to be placed in detention valid for **2 days**.
2. The prefect has to lodge a request before the **Judge of Freedoms and Detention** (JLD, i.e. the civil court, whose competences are set out in Article 66 of the Constitution) to prolong the duration of administrative detention. The Judge can order an extension of the administrative detention for another **28 days** after the initial placement.
3. A second prolongation for **30 days** can be granted and followed by 2 additional prolongations of 15 days but only under certain conditions.
4. Beyond this total period of **90 days**, any third country national who has not been removed must be released.
5. As alternative to Point. 3 a second and other prolongations for 30 days can be granted under exceptional conditions as a ban of French territory or a return decision for terrorism. The total period is **180 days**. 2 additional prolongations of 15 days, but only under certain conditions can be granted. In these very exceptional cases the total period is **210 days**.

A person can only be received in a LRA (Administrative Detention Places / locaux de rétention administrative) until the judge decides on the extension of the detention and must then be transferred to a CRA (CESEDA Art. R. 744-9).

- **Applicant from detention:** they have **5 days**, after being notified their rights, to apply for asylum. The 5-day deadline is not applicable if the person calls upon new facts occurring after the 5-day deadline has expired, although this last condition does not apply to an applicant coming from a Safe Country of Origin (Art. L. 754-1 of the CESEDA). OFPRA has **96 hours** to issue a decision on their case.
- **Dublin cases:** the determination of the responsible Member State and the enforcement of the transfer decision has to take place within the **90 days** timeframe and article 28 of the Dublin III regulation applies for the relevant procedural steps. The transfer decision cannot be executed *ex officio* before the expiration of a period of 15 days. However, this period is reduced to 48h in cases where a decision of placement in detention in application of article L. 751-9 CESEDA has been notified with the transfer decision or that the third country national has already been the subject of such measures (CESEDA article L.572-2).

**3.4** What types of less coercive (alternative) measure to detention are used in your Member State?

Please elaborate under which conditions these are generally used and how does your Member State ensure that these less coercive alternative measure to detention are used when they can be applied effectively as per Article 8.2 RCD?

The detention is only considered if the house arrest cannot be effectively implemented (art L. 751-9, L. 752-2 and L. 753-2). Before deciding to detain an applicant, the prefect must systematically consider whether less coercive measures are possible, while respecting the principle of fundamental freedom of movement.

Article L. 732-1 of the CESEDA, which is common to all three cases of house arrest, foresees that « decisions on house arrests, including renewals, shall be motivated », which necessary implies that the individual situation of the applicant, and in particular the risk of absconding, shall be assessed, and that the measure shall be proportionate.

The house arrest measure is limited in time: it is taken for a maximum period of forty-five days (art. L. 732-3 of the CESEDA), renewable three times. The applicant is provided with « information on how to exercise their rights and the obligations incumbent upon them » (art. L. 732-7 of the CESEDA).

Articles L. 733-1, L. 733-2 and L. 733-3 detail the terms and conditions, and the gradation of the house arrest. The house arrest can be more or less strict, on a case by case basis:

- it can be only a periodical presentation to the police station, the applicant can leave his accommodation;
- the applicant remains in his accommodation in a manner that respects the privacy rights. The maximal length of 3 hours can be extended to 10 hours if the applicant represents a threat to public order or if the applicant does not rely on Dublin procedure;
- the applicant is escorted by law enforcement agent if he or she represents a particularly serious threat to public order.

**3.5** What conditions, set out in Article 10 RCD, are provided to applicants whilst in detention (specialised detention facilities, access to open-air space, possibility to communicate with UNHCR or an organisation working on behalf of UNHCR, possibility to communicate and receive visits from family members, legal advisers or counsellors and persons representing NGOs, information on the rules of the facility)?

Access to outdoor space

Yes.

Visitors/access to external communications

- NGOs are present quasi-permanently in administrative detention centres in order to provide legal information and assistance.

- Journalists: they can access administrative detention centres, but their access must be authorized by the prefect. In case of denial, the decision has to be grounded.
- Premises allowing access for visiting families and the consulate authorities.
- Premises reserved for lawyers.
- Premises allocated to the OFII, which among others organises voluntary return.
- A telephone every fifty detainees freely accessible;

#### Access to education (school for minors, language courses, etc.)

Access to education is not foreseen in France in CRA since accompanied children are not supposed to stay there (they stay a few days maximum).

**Unaccompanied minors**, whose age is not disputed - and therefore not subject to age assessment - are never detained.

#### Opportunity to leave the detention facility

- Men and women held in detention centres have separated living spaces ("zones de vie").
- A minimum usable surface of 10m<sup>2</sup> per detainee comprising bedrooms and spaces freely accessible during opening hours.
- Beyond forty persons detained, a recreational and leisure room distinct from the refectory, which is at least 50m<sup>2</sup>, increased by 10m<sup>2</sup> for fifteen extra detainees;

Freedom of movement within the detention centre

#### Access to legal advice/assistance

- **Legal assistance** for persons held in administrative detention (including applicants) is provided by law. Currently, five NGOs which assist foreigners are authorised, by agreement (public procurement) with the Ministry of Interior, to provide "on duty" legal advice in CRA.
- **Lawyers** the law foresees that third country nationals held in administrative detention can be assisted by a lawyer for their appeals (during the hearing) in front of the administrative court or for their presentation in front of the JLD.

#### Language support (translation and interpretation services)

Yes, in support of their rights and claims: asylum, other rights

#### Medical care

- One or several rooms medically equipped, reserved for the medical team.
- Health and social support is provided by medical and nursing staff on site, belonging to an independent health body (UMCRA).

- Each person placed in administrative detention is seen by the nurse upon arrival. The person is seen by the doctor upon request or on the request of the nurses, in principle within 2 days from arrival.

## 4. Available legal remedies and access to legal aid

**4.1** At which stages of the asylum procedure does an applicant have the right to legal aid after having been transferred to your Member State?

After OFPRA rejected his/her asylum application, the applicant may request, as foreseen by the law of the 10th July 1991 n°91-647, for legal aid to be defended at the CNDA.

**4.2** Is the legal aid provided free of charge to applicants for international protection or does your Member State apply any form of means testing? If so how is this applied in practice?

It is provided free of charge, if the applicant asks for it within 15 days after the notification of the OFPRA negative decision (Art. R. 532-1 of the CESEDA).

**4.3** What are the deadlines within which your Member State requires that an applicant lodge an appeal with regards to decisions not to grant international protection or not to further examine the application on grounds of inadmissibility?

The applicant shall lodge an appeal within a month after the notification of the OFPRA negative decision (Art. L. 532-1 and R. 532-10 of the CESEDA). In case of a request for legal aid, the one-month appeal period stops running and will resume running again from the notification of the legal aid decision.

**4.4** What are the formal requirements when lodging an appeal as referred to in question 4.3?

The appeal shall refer to the first name, last name, date and place of birth, the citizenship and the address of the applicant. The applicant explains the circumstances in fact and in law of his appeal, in a French-written document, with his/her (or his/her lawyer's) signature. The negative decision of the OFPRA is joined (Art. R. 532-6 of the CESEDA).

**4.5** Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State pending the examination of the application in case of a request for extradition of the applicant to a third country? If yes, how do the competent authorities of your Member State ensure that a decision to extradite an applicant to a third country pursuant to Article 9(2) APD is taken in accordance with Article 9(3) APD, i.e. it does not result in direct or indirect refoulement, in violation of international and Union requirements?

French legislation foresees an exception from the right to remain in France pending the examination of the application in case the applicant is the subject of a definitive extradition decision to a country other than his/her own, or an European arrest warrant, or a request for surrender presented by an international criminal court. These provisions apply subject to compliance with Article 33 of the Geneva Convention and Article 3 of the European Convention on Human Rights (Art. L. 542-2 2° d of the CESEDA).

**4.6** Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State where a person makes subsequent applications as referred to in Article 41 APD?

If yes, how do the competent authorities of your Member State ensure that a decision to return the applicant to a third country does not result in direct or indirect refoulement, in violation of international and Union requirements as per Article 41(1) APD?

Yes, as foreseen in Article 9(2) APD, where a person makes subsequent applications as referred to Article 41 APD, the CESEDA provides for an exception from the right to remain in France pending the examination of his/her application: if the applicant makes another subsequent application following a final decision to reject a first subsequent application (Art. L. 542-2 2° c and R. 521-10 of the CESEDA – e.g. situations of a second, third, etc. subsequent application).

Regarding the risk of direct or indirect refoulement, the application has been reviewed twice, and the applicant can lodge an appeal with regards to the OQTF (obligation de quitter le territoire français / obligation to leave the French territory) decision concerning him/her.