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

The information was provided on: 12 April 2023

The information was provided by:
Ministry of Interior of the Italian Republic - Dublin Unit

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 [(1)] (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 [(2)].

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.

---

(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?

Once the competent State has been determined, and the asylum seeker has been transferred to Italy for the examination of the application, the Dublin Unit, based at the Department for Civil Liberties and Immigration (DLCI) of the Ministry of the Interior, notifies the competent Authorities: the Border Police, the Police Headquarters and the Prefecture of the place of arrival, which is in charge for providing accommodation.

Both applicants for international protection who have to activate the asylum procedure applying for asylum for the first time in Italy and applicants for international protection who have not concluded their application for international protection in Italy are guaranteed reception in the reception centres.

How long do these steps normally take?

The timeframe for access to reception for asylum seekers under Dublin Regulation is the same as for other asylum seekers. Consequently, access to reception will be immediate, subject to the actual availability of places in the reception system.

In cases of vulnerability, the asylum seeker, even those under Dublin Regulation, will have priority access to the reception system through the attachment of specific medical certification, so as to allow priority and proper reception or, in some cases, hospitalisation.

In the cases of UAMs returning to Italy through the Dublin procedure, access to reception measures is immediate.

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

The right to information about material reception conditions is provided for in Art. 3 of Legislative Decree 142/2015, according to which it is the responsibility of the police office receiving the application to inform the applicant about the reception conditions in force.

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?

The material reception conditions guaranteed to asylum seekers accommodated in the governmental first reception facilities were redefined by Law Decree 130 of 2020, which in Art. 4 paragraph 1 establishes that adequate hygiene and housing standards are to be ensured; that health care, social and psychological assistance, linguistic-cultural mediation, the administration of Italian language courses and legal and territorial orientation services are also to be provided, also by means of organisation methods on a territorial basis, in addition to material reception services, according to the analytical provisions contained in the Outline of the Tender Specifications (Schema di Capitolato)

referred to in Article 12 of Legislative Decree 142/2015. In addition, it provides for ensuring respect for the private sphere, including gender differences, age-related needs, the protection of the physical and mental health of applicants, the unity of family units composed of spouses and relatives within the first degree, and the provision of the necessary measures for persons with special needs pursuant to Article 17 of Legislative Decree 142/2015.

Furthermore, appropriate measures are taken to prevent all forms of violence, including gender-based violence, and to ensure the safety and protection of applicants and staff working at the centres.

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 Italian State transposed Directive No. 2013/33/EU with Legislative Decree 142/2015 where Articles 9 and 11 provided for first reception centres and extraordinary facilities to guarantee access to reception measures for international protection seekers (and consequently also those under Dublin Regulation).

In addition, the Ministry of the Interior's Decree of 2018 and 2021 approved the Outline of the Tender Specifications (Schema di Capitolato) where the goods and services that must be provided within the reception centres were regulated in order to guarantee applicants for international protection adequate reception and dignified quality of life. Specifically, the following services have been provided: access to the National Health Service; accommodation and food; clothing; daily reimbursement for personal expenses (pocket money); telephone card; and coverage of health expenses not covered by the National Health System. In addition, linguistic-cultural mediation services were provided; legal information and orientation service; territory orientation service; social and psychological assistance service; Italian language administration service; laundry and transport service.

As for the more favourable provisions, they were introduced by Law 47/2017 on the protection of minors and the vulnerable.

Pursuant to Article 14 of Legislative Decree 142/2015, "Reception measures are ensured for the duration of the procedure of examination of the application by the Territorial Commission for the Recognition of International Protection referred to in Article 4 of Legislative Decree No. 25 of 28 January 2008, as amended, and, in case of rejection, until the expiry of the time limit for challenging the decision. Without prejudice to the provisions of article 6, paragraph 7, in the event of a judicial appeal brought in accordance with article 35 of legislative decree no. 25 of 28 January 2008, and subsequent modifications, the claimant who lacks sufficient means shall benefit from the reception measures set out in the present decree for the time he/she is authorised to remain in the national territory in accordance with article 35-bis, paragraphs 3 and 4 of legislative decree no. 25 of 28 January 2008. In the cases referred to in Article 35-bis, paragraph 4, of the Legislative

Decree no. 25 of 28 January 2008, until the decision on the application for suspension, the applicant shall remain in the facility or centre where he/she is.

Finally, the first reception can also be ensured, within the limit of available places, in the structures of the System referred to in Article 1-sexies of the Decree-Law no. 416/1989, converted, with amendments by Law no. 39/1990, called Reception and Integration System (SAI). The latter is in turn divided into two levels: first level services accessed by asylum seekers, including all the services normally provided within the framework of local authorities' projects, with the exclusion of integration services; a second level of services aimed at integration, reserved for the categories of beneficiaries of international protection, as well as UAMs and holders of other protection categories.

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?

Our State has not provided for cases of reduction of reception measures but has regulated in Art. 23 of Legislative Decree 142/2015 the cases of withdrawal of reception measures.

Art. 23 c.1 Legislative Decree no. 142/2015 provides that the Prefect orders the revocation of the reception measures in the case of:

- no-show at the reception centre or the abandonment without previous communication to Prefecture (letter a);
- no-show at the personal hearing (letter b);
- presentation of a subsequent application that has been declared inadmissible because lodged without new elements comparing to the first application (letter c);
- verification of the availability of sufficient economic means (letter d);
- serious or repeated violation of the rules of the structures, including wilful damage to movable or immovable property, or seriously violent behaviour (letter e). In this regard, there are at the moment some legislative proposals aimed to implement the principles contained in the recent CJUE 422/21 01.08.2023;

Paragraph 7 of article 23 then adds the hypothesis in which the conditions for assessing the applicant's dangerousness emerge after being sent to the facilities.

Reinstatement is arranged only if the no-show or abandonment was caused by force majeure or unforeseeable circumstances or in any case by serious personal reasons

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?

No provision was made for material support to persons whose material reception conditions were revoked. These persons can independently have access to other kind of shelters offered by religious association such as Caritas, or such as Cold Emergency

shelters. They have also access to the social assistance services provided by the local stakeholders.

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

Asylum seekers are guaranteed access to in-depth medical examinations immediately after the initial medical screening. In particular, in HOTSPOT centres, where identification, first aid and reception activities take place, all migrants undergo in-depth medical examinations when special needs arise and in cooperation with local services.

Once transferred to the first reception centres, asylum seekers - consequently also so-called Dubliners - have access to medical examinations both by the doctor in charge within the centre and by the National Health Service, to which they are entitled to be immediately enrolled.

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?

Pursuant to Article 21 of Legislative Decree 142/2015, applicants for international protection have access to health care through registration with the national health service and are entitled to the care provided by the national health service in the same way as Italian citizens.

From the moment of entry at the border, by land or sea, international protection applicants are subject to health screening and surveillance procedures.

Asylum seekers hosted in HOTSPOT centres, defined as crisis points pursuant to Art. 10-ter of Legislative Decree no. 287/2003. 10-ter of Legislative Decree no. 286/98, are entitled to emergency health care, i.e. an initial medical screening to check for possible diseases or infectious pathologies.

Asylum seekers transferred to the centres defined as first reception centres - CAS and CPA (Extraordinary Reception Centres and First Reception Centres), respectively art. 11 and 9 of Legislative Decree 142/2015 - where the presence of a medical unit coordinated by a doctor in charge is foreseen, who identifies the most appropriate care and treatment paths, as well as referring vulnerable cases to the competent Authorities for the assessment of specific conditions of fragility.

In particular, as indicated in the Outline of the Tender Specifications (Schema di Capitolato) approved by the Ministerial Decree of 29.01.2021, which regulates the management of the first reception centres, a health care service is ensured that is complementary to the services guaranteed by the National Health Service through a fixed unit and the presence of a doctor inside the centres. This has the task of adopting, in case of need, prophylaxis, surveillance and health assistance measures and organising the transfer of the migrant to hospital facilities under the coordination of the health emergency operations centre. The doctor working inside centres also guarantees the entry medical

examination and first aid interventions, also aimed at ascertaining pathologies requiring isolation measures or specialist examinations or diagnostic and/or therapeutic courses at public health facilities, as well as the assessment of situations of vulnerability.

Asylum seekers who access the Reception and Integration System (SAI) projects, within the limits of available places, have the right to be regularly enrolled in the National Health Service, thus being able to access general and specialist healthcare services.

Among the most favourable provisions is that - both in the first reception centres and in the centres of the SAI network - the expenses for healthcare services not covered by the National Health System are guaranteed.

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 Prefectures of the place of arrival of asylum seekers, including those under Dublin Regulation, provide for a reconnaissance of available places, taking into account the specific situation of vulnerable persons referred to under Art. 17 of Legislative Decree 142/2015 - which transposes Art. 21 of the RCD - i.e. minors, unaccompanied minors, the disabled, the elderly, pregnant women, single parents with minor children, victims of human trafficking, persons suffering from serious illnesses or mental disorders, persons for whom it has been established that they have suffered torture, rape or other serious forms of psychological, physical or sexual violence or violence related to sexual orientation or gender identity, victims of genital mutilation. Pursuant to Art. 17 of Legislative Decree 142/2015, applicants for international protection identified as victims of human trafficking are subject to the programme of emersion, assistance and social integration pursuant to Art. 18 of Legislative Decree no. 286/1998, which guarantees adequate accommodation, food and health care conditions and, thereafter, continued assistance and social integration.

In the first reception centres provided for by Legislative Decree 142/2015, special reception services for vulnerable persons with special needs are guaranteed also in collaboration with the Local Health Authority (ASL) competent for the territory. These services - also provided for in the Draft Tender Specifications having as their object the supply of goods and the provision of services guaranteed in the various types of facilities - guarantee special care measures and adequate psychological support and provide for the referral of vulnerable cases to the competent Authorities for the assessment of specific conditions of fragility. The services provide guarantee both an initial assessment and a periodic verification of the existence of the conditions. People who have suffered torture, rape or other serious acts of violence access appropriate services or medical care.

The network of second reception projects of the Reception and Integration System (SAI) - to which applicants for international protection can have access within the limits of available places - provides for places for people with disabilities and/or mental or psychological distress and/or with specialised and/or prolonged health, social and home care needs.

UAMs are guaranteed reception in first reception centres, pursuant to former art. 19, paragraph 3-bis of Legislative Decree no. 142/2015 and within the network of projects of the Reception and Integration System that provides for specific projects for the reception of UAMs. For minors, in addition to reception measures, services are ensured to meet their needs in addition to recreational ones.

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?

The decision on the conditions of vulnerability of third-country nationals arriving on Italian territory, even following disembarkation, is made according to precise guidelines and following medical assessments or, for other types of vulnerability, at the outcome of assessments carried out by teams specialised in psycho-socio-health matters or in matters relating to the fragility that must be ascertained.

In particular, with the Decree of the Ministry of Health of 3 April 2017, the Guidelines were adopted on interventions for the assistance, rehabilitation and treatment of mental disorders of refugees and persons who have suffered torture, rape or other serious forms of psychological, physical or sexual violence, including any specific training and refresher programmes aimed at health personnel, the application of which is expressly extended to asylum seekers in reception.

The aforementioned Guidelines state that activities aimed at identifying vulnerabilities should start, compatibly with the different contexts of arrival, as soon as possible. However, should the condition of vulnerability emerge at a later stage, clinical-diagnostic assessment activities may also take place at a later stage.

The existence of vulnerability or special needs is communicated by the centre manager to the territorially competent Prefecture. The managers, through the multidisciplinary team at the service of the facility, are called upon to provide for the identification of all situations deserving protection, including the most delicate cases for the provision of specific welfare measures for persons with special needs and, together with the Prefectures, to ensure the relevant procedures for taking charge.

Requests for entry into the SAI reception centers can be received by the Central Service (established by the Ministry of the Interior Department for Civil Liberties and Immigration and entrusted by agreement to the National Association of Italian Municipalities with the role of coordinating the SAI network), using the appropriate forms, from Prefectures, from social services, from guardianship bodies present on the national territory. The assignment of a place in a SAI project is made by the Central Service on the basis of the indications provided by the reporting bodies, as well as in light of the identified vulnerabilities, within the limits of the available places.

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?

The national legislation provides for the appeal to the territorially competent Regional Administrative Court against refusal of reception measures pursuant to Article 15(6) of Legislative Decree 142/2015.

In addition, provision has been made for an appeal to the territorially competent Regional Administrative Court against the decision to revoke reception measures pursuant to Article 23 paragraph 5 of Legislative Decree 142/2015.

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?

> An applicant for international protection transferred to Italy following a Dublin transfer has to register his/her asylum application at the relevant Police Headquarter. The applicant will be assisted by the reception centre where he/she is hosted.

How long do these steps normally take?

> Upon arrival in Italy, the applicant is provided with an invitation to present himself at the Police Headquarters in a maximum period of 5/7 working days.
>
> The application will be registered by the relevant Police Headquarter as soon as possible. Usually the procedure can be completed within 15 days (maximum 30 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.)

> There are not any different steps to take for persons whose applications would be considered as subsequent applications, therefore the admissibility of subsequent applications shall be assessed under the ordinary conditions laid down by Articles 29 and 29 bis of the D.L 28 January 2008, n. 25 (please see point 2.2).

How long do these steps normally take?

> Please see point 2.2

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

> The National Commission for the Right to Asylum is in charge of the drafting and dissemination of the "Practical guide for applicants for international protection", an information document drawn up ad hoc for asylum seekers - available in 12 languages - which illustrates all the phases of the international protection procedure and the criteria by which the application shall be evaluated, including the particular procedural rules envisaged for the subsequent application and the rules for determining the competent Member State pursuant to the Dublin Regulation. Moreover, the document also provides useful contacts and contact details to facilitate access to information. The guide is aimed at all applicants for international protection and is delivered to them by the competent offices of the Border Police and/or the Police Headquarters.

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

> In case of a subsequent application, there is a preliminary examination by the President of the Territorial Commission for the recognition of international protection, in order to

ascertain whether new relevant elements emerge or have been adduced by the applicant. In the event that, at the end of the preliminary examination, the Commission decides that the application is admissible, it will continue the examination on the grounds, according to the ordinary procedural rules; if, on the other hand, during the preliminary examination it emerges that the applicant has submitted an identical application, without adding new elements regarding his personal conditions or the situation in his country of origin, the Commission will issue a decision of inadmissibility of the subsequent application.

As regards the deadlines within which to define the procedure, the legislation provides that, in the event of a subsequent application without new elements, the Commission must carry out and define the procedure, in an accelerated manner, within 5 days of receiving the application by the competent Police Headquarter.

Furthermore, the Italian legislation provides for a specific discipline for subsequent applications lodged during the execution phase of a provision which would entail the imminent removal of the foreigner from the national territory, in particular as regards the terms within which the preliminary examination must be carried out. In this case, in fact, the application must be sent immediately to the President of the competent Territorial Commission, who proceeds with the preliminary examination within three days and simultaneously declares the inadmissibility of the application if no new elements have been brought forward.

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 are no particular hypotheses of inadmissibility for applications for international protection presented by applicants transferred to Italy through the Dublin procedure. In such cases, the same discipline provided for other applications for international protection by Italian legislation applies, which contemplates two cases of inadmissibility of the application, namely: a) the case in which the applicant has already been recognized as a refugee or subsidiary protection from a State signatory to the Geneva Convention and the same can still avail itself of this protection, and b) the case in which the applicant has repeated the same request, after a decision has been taken by the Commission itself, without submitting new information about his/her personal circumstances or the situation in his/her country of origin.

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. There are no grounds for detention such as quarantine on health grounds but applicants are obliged to follow the same measures applied to all the citizens for health protection. This means that they can be isolated from the rest of the guests if any infectious disease is detected.

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.

No, there are not any circumstances under which in Italy an applicant for international protection could be detained on public health grounds.

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

The applicant cannot be detained for the mere fact of having presented an application for protection; as provided by directive 2013/33/EU, the national legislation provides for some precise cases, in which detention can be ordered on a case-by-case basis by the Police Headquarter Chief (Questore) with a written provision, motivated and translated into a language that is understood by the interested party.

Detention can only be ordered against the applicant who has committed some serious crimes, who is in conditions of social danger in which the preventive measures would be applicable, who could constitute a danger to public order or the security of the State, who is suspected of working with terrorist organizations, who at the time of submitting the application was already in detention for the purpose of executing an expulsion order (where there are well-founded reasons to believe that the application was presented for the sole purpose of preventing the execution of the expulsion measure), or in case of absconding risk.

Competent for the validation of the detention of the asylum seeker and for its possible extensions is the monocratic Court.

An applicant can challenge a decision to place them in detention before the special section of the Court which is specialised on immigration and international protection.

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?

The detention cannot last beyond the time strictly necessary for the examination of the application; the detained applicant who presents a judicial appeal against the rejection decision of the competent Territorial Commission, remains in detention for as long as he is authorized to remain in the national territory as a result of the proposed judicial appeal.

In this case, the Police Headquarter (Questura) requests for the extension of the detention for further periods not exceeding sixty days to the Court. Paragraph 8 of the art. 6 establishes the maximum duration of the measure which in any case cannot exceed 12 months.

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

There are no alternative measures in place.

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?

-

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)?

Regarding the conditions of detention, art. 7, in implementation of the articles. 10 and 11 of the directive, provides that the necessary assistance and respect for human dignity are guaranteed; furthermore, the consideration of gender difference for accommodation purposes, the usability of outdoor spaces and the unity of the family nucleus is protected, where possible.

Access to the centers and freedom of interviews with applicants from the UNHCR, refugee protection bodies, family members, applicants' lawyers and religious ministers are allowed. This access may be limited, for reasons of security or public order or for reasons related to the administrative management of the centres. The applicant is informed of the rules in force in the center in an understandable language.

Applicants whose health conditions are incompatible with detention cannot be detained. Periodic verification of the existence of conditions of vulnerability is ensured in order to assess their compatibility with permanence in the centre.

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?

The asylum seeker can be assisted by a lawyer in each phase of the procedure for the recognition of the international protection. As a rule, in the administrative phase, legal assistance is optional and is paid by the applicant. In the event that, following the decision of the Territorial Commission, the applicant proposes an appeal to the Court, the technical defence becomes mandatory and the law provides access to free legal aid, where necessary.

In the case of unaccompanied minors, in order to protect them, the law provides that, in the event that the applicant chooses to make use of the technical defence already in the administrative phase, he has the possibility to access free legal aid at the expense of the State also for this phase of the procedure.

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?

In the jurisdictional phase (exception made for unaccompanied minors, reported in the answer to the previous question) the applicant can have access to legal aid provided free of charge, if he does not have an income exceeding a certain limit established by law. The applicant can self-certify his income with a declaration, presenting autonomous requests for each level of judgment, to the Bar of Lawyers where the judge before whom the appeal is presented is located. With the admission to legal aid, the applicant is exempted from paying any expenses necessary for the procedure and the exercise of the right of defence, as well as from the payment of professional fees for the defender.

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 Italian legislation provides for different terms for lodging an appeal according to the type of procedure, ordinary or accelerated. In particular, in case of application under ordinary procedure, the term is 30 days (or 60 if the applicant resides abroad), while in case of refusal decision adopted in the accelerated procedure, the term is reduced to 15 days (or 30 if residing abroad).

The deadline for lodging an appeal against the decision declaring inadmissible the subsequent application presented by the applicant is also set at 15 days.

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

Asylum seekers can appeal a negative decision issued by the Territorial Commission within 30 days before the competent special section of the Court which is specialised on immigration and international protection. A shorter deadline of 15 days is foreseen for applications rejected as manifestly unfounded; for application lodged to delay or frustrate

controls, removal, or expulsion orders; inadmissibility decisions for people in detention or people who are following the accelerated procedure. The time limit is prolonged to 60 days if the applicant is residing in a foreign country in the moment of the notification, for the general cases. Following the entry into force of Decree-Law 13/2017, the possibility to appeal first appeal instance decisions on international protection before the Court of Appeal has been abolished but there is still the possibility to a subsequent instance to the Court of Cassation (Corte Suprema di Cassazione) – Civil section within 30 days from the communication of the decree of the specialised section of the tribunal. On one hand, the first instance implies a full examination of the merits and of the legality of the procedure and ex-nunc decision and, on the other hand, the instance before the Court of Cassation implies only the legality assessment.

The appeal must be presented in written form and it must indicate the judicial office, the parties, the object, the reasons for the request and the conclusions for the application.

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?

Yes, Italian legislation provides that, as a rule, the applicant is authorized to remain in the territory of the State until the decision of the Territorial Commission is taken but it also establishes some exceptions to this rule, which include the case in which the applicant must be extradited to another State by virtue of the obligations established by a European arrest warrant or must be delivered to an international Criminal Court or Tribunal. In such cases, compliance with the principle of non-refoulement has to be respected in any case.

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?

Italian legislation provides that, as a rule, the applicant is authorized to remain in the territory of the State until the decision of the Territorial Commission but it also establishes some exceptions to this rule, which include the case in which:

a) The applicant has presented a first subsequent application for the sole purpose of delaying or preventing the execution of a decision which would lead to his/her imminent expulsion from the national territory;

b) The applicant has expressed his intention to submit another subsequent application following a definitive decision which considers a first subsequent application inadmissible

or after a definitive decision which rejects the first subsequent application or declares it manifestly unfounded.