



PRESS RELEASE

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Transfer of asylum seekers to EU countries requires PCR tests

Two asylum seekers could not be transferred to the EU countries responsible for examining their application because they had refused to undergo a PCR test. Given that they had opposed their transfer, the prefecture considered that it was not yet obliged to register their application in France. The French Ministry of the Interior appealed to the Conseil d'État to confirm this position. As the first applicant was not aware of the consequences of their refusal, the Conseil d'État ruled that their asylum application should be examined in France. On the other hand, as the second applicant intentionally avoided the test, their transfer deadline was extended and the prefecture was entitled to refuse registration.

In application of the Dublin Regulation, the time limit for transferring an asylum seeker (6 months) to the European Union State responsible for examining his or her asylum application can be extended to 18 months if the applicant intentionally opposes his or her transfer. At the end of this period, France must conduct its own examination of the asylum application.

Two prefectures refused to register the asylum applications of two foreigners who had refused to undergo the PCR test, a mandatory condition for entry into Sweden and Germany, where they were to be transferred for their asylum applications to be examined. The prefectures considered that they had opposed their transfer by refusing to undergo the test, and that the time limit of 18 months applied before France would be responsible for examining their applications.

Following two orders from the Paris Administrative Court ordering the registration of the two foreigners' asylum applications, the Ministry of the Interior appealed to the Conseil d'État to have them annulled.

The Conseil d'État noted that the first applicant had not been informed in a language they could understand that their refusal of the PCR test would prevent their transfer to Sweden. Therefore, they cannot be considered as having intentionally avoided their transfer, and the Conseil d'État rejected the Minister's appeal.

Conversely, the investigation showed that the second applicant was aware that opposition to the PCR test would prevent their transfer to Germany and that they gave no medical reason for refusing the test. They therefore intentionally evaded their transfer and the prefecture could legally refuse to register their asylum application.

Read French Ordinance Nos. 450928 and 450931

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