

Country Report: France



2018
Update



Acknowledgements & Methodology

The 2018 update of this report was written by Laurent Delbos and Claire Tripier at Forum réfugiés – Cosi and edited by ECRE.

Forum réfugiés-Cosi wishes to thank all those individuals and organisations who shared their expertise to contribute or check the information gathered during the research. Particular thanks are owed to many Forum réfugiés-Cosi colleagues who have shared their practical experience on the right of asylum in France – which have been key to feed concrete reality-checks and observations into this report; to the two lawyers who have taken the time to share their views on the French system; to the staff of France terre d’asile, the Anafé and the UNHCR Paris office for their expert and constructive feedback provided for the initial report and finally to ECRE for its support throughout the drafting process. Forum réfugiés-Cosi would also like to thank the European Asylum, Migration and Integration Fund (AMIF) for co-financing its awareness-raising missions which allowed us to provide additional time to research and draft this report.

The findings presented in this report stem from background desk research, interviews with field practitioners and lawyers, as well as feedback from French NGOs and the Paris-based UNHCR office and finally statistics shared by the French authorities.

Caveat: *In France, asylum policies – including reception procedures – are largely under prefectural execution. This review of practice is mostly based on observations in the départements of Ile de France, Rhône, Puy-de-Dôme, Haute-Garonne and Alpes-Maritimes. However, the conclusions presented in this report on the concrete implementation of asylum policies have been cross-checked and triangulated with observations of these practices in other regions and are supported by findings presented in other reports – be they official or drafted by civil society organisations.*

The information in this report is up-to-date as of 31 December 2018, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 20 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



This report is part of the Asylum Information Database (AIDA), funded by the European Programme for Integration and Migration (EPIM), a collaborative initiative by the Network of European Foundations, and the European Union’s Asylum, Migration and Integration Fund (AMIF) and Horizon 2020 research and innovation programme (grant agreement No 770037). The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of EPIM or the European Commission.



Table of Contents

Glossary & List of Abbreviations	6
Statistics	9
Overview of the legal framework	12
Overview of the main changes since the previous report update	17
Asylum Procedure	18
A. General	18
1. Flow chart	18
3. List of the authorities intervening in each stage of the procedure	19
4. Number of staff and nature of the first instance authority	19
5. Short overview of the asylum procedure	20
B. Access to the procedure and registration	22
1. Access to the territory and push backs	22
2. Registration of the asylum application	25
C. Procedures	29
1. Regular procedure	29
2. Dublin	40
3. Admissibility procedure	50
4. Border procedure (border and transit zones)	51
5. Accelerated procedure	58
D. Guarantees for vulnerable groups	61
1. Identification	61
2. Special procedural guarantees	64
3. Use of medical reports	67
4. Legal representation of unaccompanied children	68
E. Subsequent applications	69
F. The safe country concepts	71
1. First country of asylum	72
2. Safe country of origin	72
G. Information for asylum seekers and access to NGOs and UNHCR	75
1. Provision of information on the procedure	75
2. Access to NGOs and UNHCR	76
H. Differential treatment of specific nationalities in the procedure	76

Reception Conditions	78
A. Access and forms of reception conditions	78
1. Criteria and restrictions to access reception conditions.....	78
2. Forms and levels of material reception conditions.....	79
3. Reduction or withdrawal of reception conditions.....	80
4. Freedom of movement.....	81
B. Housing	82
1. Types of accommodation.....	82
2. Conditions in reception facilities.....	86
C. Employment and education	87
1. Access to the labour market.....	87
2. Access to education	88
D. Health care	89
E. Special reception needs of vulnerable groups	90
F. Information for asylum seekers and access to reception centres	93
1. Provision of information on reception.....	93
2. Access to reception centres by third parties	93
Detention of Asylum Seekers	94
A. General	94
B. Legal framework of detention	96
1. Grounds for detention	96
2. Alternatives to detention.....	97
3. Detention of vulnerable applicants	99
4. Duration of detention.....	100
C. Detention conditions	101
1. Place of detention	101
2. Conditions in detention facilities.....	104
3. Access to detention facilities	111
D. Procedural safeguards	113
1. Judicial review of the detention order	113
2. Legal assistance for review of detention.....	115
Content of International Protection	117
A. Status and residence	117
1. Residence permit	117
2. Civil registration.....	118

3. Long-term residence	118
4. Naturalisation	119
5. Cessation and review of protection status	120
6. Withdrawal of protection status	122
B. Family reunification	123
1. Criteria and conditions	123
2. Status and rights of family members.....	123
C. Movement and mobility	124
1. Freedom of movement.....	124
2. Travel documents.....	124
D. Housing.....	124
E. Employment and education	126
1. Access to the labour market.....	126
2. Access to education	127
F. Social welfare	127
G. Health care	128
ANNEX I – Transposition of the CEAS in national legislation	129

Glossary & List of Abbreviations

Administrateur <i>ad hoc</i>	<i>Ad hoc</i> administrator i.e. legal representative appointed for unaccompanied children
Déclaration de domiciliation	Document thanks to which asylum seekers declare the address where they can be contacted throughout the asylum procedure
Domiciliation Guichet unique	Legal address where the asylum seeker is registered Single desk i.e. system set up to gather the Prefecture and OFII desks to register asylum claims and provide orientation to reception centres following a vulnerability assessment
Jour franc	Full day i.e. 24-hour period during which a person may not be removed
Non-lieu	No case to decide on
Pôle emploi	Employment Office
Ordonnance	Order, decision taken by a single judge without a hearing
Recours gracieux	Discretionary administrative appeal before the Prefect
ADA	Allowance for asylum seekers Allocation pour demandeurs d'asile
ADDE	Lawyers for the Protection of Rights of Foreigners Avocats pour la défense des droits des étrangers
AFP	Agence-France Presse
AME	State Medical Assistance Aide médicale d'Etat
Anafé	National Association of Border Assistance to Foreigners Association nationale d'assistance aux frontières pour les étrangers
ASSFAM	Association service social familial migrants
AT-SA	Temporary accommodation – asylum office Accueil temporaire – service de l'asile
CADA	Reception Centre for Asylum Seekers Centre d'accueil pour demandeurs d'asile
CAES	Reception and Administrative Situation Examination Centre Centre d'accueil et d'examen de situation administrative
CAO	Reception and Orientation Centre Centre d'accueil et d'orientation
CAOMIE	Reception and Orientation Centre for Unaccompanied Children Centre d'accueil et d'orientation pour mineurs isolés étrangers
CASNAV	Academic Centres for Schooling of Foreign-Speaking Children Centre académique pour la scolarisation des enfants allophones nouvellement arrivés et des enfants issus de familles itinérantes et de voyageurs
CDG	Charles de Gaulle Roissy Airport
Ceseda	Code on Entry and Residence of Foreigners and on Asylum Code de l'entrée et du séjour des étrangers et du droit d'asile
CFDA	French Coordination on Asylum Coordination française du droit d'asile
CGLPL	General Controller of Places of Detention Contrôleur Général des lieux de privations de libertés
CIO	Information and Orientation Centre Centre d'information et d'orientation
CJA	Code of Administrative Justice Code de justice administrative
CMU	Universal medical coverage Couverture maladie universelle

CNCDH	National Consultative Human Rights Commission Commission nationale consultative des droits de l'homme
CNDA	National Court of Asylum Cour nationale du droit d'asile
Comede	Medical Committee for Exiles Comité médical pour les exilés
CPAM	Caisse primaire d'assurance maladie
CPH	Temporary shelter Centre provisoire d'hébergement
CRA	Administrative Detention Centre Centre de rétention administrative
Ctrav	Labour Code Code du travail
DIRECCTE	Regional Directorates of Business, Competition, Consumers, Labour and Employment Directions régionales des entreprises, de la concurrence, de la consommation, du travail et de l'emploi
DNA	National Reception Scheme Dispositif national d'accueil
DRC	Democratic Republic of Congo
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FLE	French as a foreign language Français langue étrangère
FNARS	Federation of Solidarity Actors Fédération des Acteurs de la Solidarité
GAS	Reception and Solidarity Group Groupe accueil et solidarité
GISTI	Groupe d'information et de soutien des immigrés
GUDA	Single desk for asylum seekers Guichet unique pour demandeur d'asile
HCSP	High Council of Public Health Haut Conseil de la santé publique
HUDA	Emergency accommodation for asylum seekers Hébergement d'urgence dédié aux demandeurs d'asile
IOM	International Organisation for Migration
JLD	Judge of Freedom and Detention Juge des libertés et de la détention
LRA	Place of Administrative Detention Local de rétention administrative
MRAP	Mouvement contre le racisme et pour l'amitié entre les peuples
MSF	Médecins Sans Frontières
ODSE	Foreigners' Health Rights Observatory Observatoire du droit à la santé des étrangers
OEE	Observatory on the Detention of Foreigners Observatoire de l'enfermement des étrangers
OFII	French Office for Immigration and Integration Office français de l'immigration et de l'intégration
OFPRA	French Office for the Protection of Refugees and Stateless Persons Office français de protection des réfugiés et des apatrides
OQTF	Order to leave the French territory Ordre de quitter le territoire français
PASS	Permanent Access to Health Care Permanence d'accès aux soins de santé
PRAHDA	Programme for Reception and Accommodation of Asylum Seekers d'accueil et d'hébergement des demandeurs d'asile
PUMA	Permanent Access to Health Care Permanence d'accès aux soins de santé
UMCRA	Medical Units of Administrative Detention Centres Unités médicales des centres de rétention administrative
UNHCR	United Nations High Commissioner for Refugees

VTA

Transit Airport Visa | Visa de transit aéroportuaire

ZAPI

Waiting zone | Zone d'attente pour personnes en instance

Overview of statistical practice

In France, detailed statistics on asylum applications and first instance decisions are published annually by the Office of Protection of Refugees and Stateless Persons (OFPRA) in its activity reports. The next OFPRA Activity Report will be published in spring 2019, several months after the end of the reporting year.¹ Statistics on the second instance procedure are to be found in the National Court of Asylum (CNDA) annual reports, which are also published several months after the end of their reporting period.²

However, thanks to “SI Asile”, an information system established by the Ministry of Interior in 2016, some provisional data are made available by the Ministry each year, in January.³

Discrepancies in statistics

The various sources of statistics provide different figures on the number of persons seeking asylum in France:⁴

- ❖ OFPRA statistics only cover persons who have lodged an asylum application with OFPRA. As discussed in [Registration](#), those falling under a Dublin procedure are not allowed to lodge their claim. The Ministry of Interior admits that the statistics France provides to Eurostat are incomplete insofar as these are based on OFPRA figures;⁵
- ❖ Ministry of Interior statistics refer to persons registered at a “single desk” (*guichet unique de demande d’asile*, GUDA).
- ❖ Persons re-channelled from a Dublin procedure to a regular or accelerated procedure (*requalifiés*) in 2018 do not appear in Ministry of Interior statistics if their application has been registered at the GUDA in previous years. They do, however, appear in OFPRA statistics.

Applications registered by the GUDA in France are higher than the reported number of applications lodged with OFPRA. In 2018, 139,330 persons has been registered as asylum seekers by the Ministry of Interior, of which 128,890 first applicants and 10,440 subsequent applicants. For its part, OFPRA reported 122,743 lodged asylum applications. The latter include 17,030 *requalifiés* from previous Dublin procedures.

Finally, the Ministry of Interior figures indicate the number of persons seeking international protection in France but a detailed nationality breakdown is only provided for applications lodged with OFPRA.

¹ OFPRA, *Rapports d’activité*, available in French at: <https://goo.gl/zA8i7X>.

² CNDA, *Rapports annuels*, available in French at: <http://www.cnda.fr/La-CNDA/Donnees-chiffrees-et-bilans>.

³ Ministry of Interior, *Chiffres clés – Les demandes d’asile*, available in French at: <https://bit.ly/2TWQ76L>.

⁴ For a discussion, see La Cimade, ‘Premier bilan de la demande d’asile en France en 2018’, 16 February 2019, available in French at: <https://goo.gl/9oAYkV>.

⁵ Ministry of Interior, *Chiffres clés – Les demandes d’asile*, available in French at: <https://bit.ly/2TWQ76L>.

Applications and granting of protection status at first instance: 2018

	Applicants in 2018	Pending at end 2018	Refugee status	Subsidiary protection	Rejection	Refugee rate	Subs. Prot. rate	Rejection rate
Total	119,190	52,925	20,940	12,260	82,175	18.1%	10.6%	71.3%

Breakdown by countries of origin of the total numbers

Afghanistan	10,270	5,470	615	5,050	2,760	7.5%	59.9%	32.6%
Albania	9,690	3,280	175	945	8,285	1.9%	10%	88.1%
Georgia	6,960	2,895	125	150	4,985	2.4%	2.9%	94.7%
Guinea	6,880	3,850	1,235	250	4,055	22.3%	4.5%	73.2%
Côte d'Ivoire	5,375	2,575	820	165	4,150	16%	3.2%	80.8%
Bangladesh	4,820	2,170	275	165	3,555	6.9%	4.1%	88%
Sudan	4,360	2,010	2,435	520	1,745	51.8%	11.1%	37.1%
DRC	4,230	1,845	1,560	175	3,475	29.9%	3.4%	66.7%
Mali	3,170	1,590	410	30	1,950	17.2%	1.3%	81.5%
China	2,710	560	1,530	0	1,415	52%	0%	48%
Syria	2,930	1,985	1,265	1,570	480	38.2%	47.4%	14.4%
Iraq	2,100	1,085	1,225	205	525	62.6%	10.5%	26.9%
Eritrea	1,720	680	1,285	0	285	81.8%	0%	18.2%

Source: Eurostat.

Gender/age breakdown of the total number of applicants: 2018

	Number	Percentage
Total number of applicants	119,190	-
Men	77,880	65.3%
Women	41,310	34.7%
Children	23,215	19.5%
Unaccompanied children	:	:

Source: Eurostat

Comparison between first instance and appeal decision rates: 2018

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions	93,472	-	47,314	-
Positive decisions	24,663	26.4%	8,717	18.4%
• <i>Refugee status</i>	14,012	15%	6,014	12.7%
• <i>Subsidiary protection</i>	10,651	11.4%	2,703	5.7%
Negative decisions	68,809	73.6%	37,697	79.7%

Source: Ministry of Interior, Chiffres clés – Les demandes d’asile: <https://bit.ly/2TWQ76L>; CNDA, 2018 Activity report.
Appeal statistics percentages do not add up to 100% due to technical decisions.

Overview of the legal framework

Main legislative acts relevant to asylum procedures, reception conditions, detention and content of protection

Title in English	Original Title (FR)	Abbreviation	Web Link
Code of Entry and Residence of Foreigners and of the Right to Asylum <i>Amended by:</i> Law n. 2018-187 March 2019 allowing for sound application of the European asylum system <i>Amended by:</i> Law n. 2018-778 of 10 September 2018 for managed migration, effective asylum law and successful integration	Code de l'entrée et du séjour des étrangers et du droit d'asile <i>Modifié par :</i> Loi n° 2018-187 du 20 mars 2018 permettant une bonne application du régime d'asile européen <i>Modifié par :</i> Loi n° 2018-778 du 10 septembre 2018 pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie	Ceseda	http://bit.ly/1GQm3uQ (FR) https://bit.ly/2GyHHzw (FR) https://bit.ly/2QfUSat (FR)
Civil code	Code civil		https://bit.ly/2ggr7W4 (FR)
Code of Administrative Justice	Code de justice administrative	CJA	http://bit.ly/1F1WC9k (FR)
Code of Social Action and Families	Code de l'action sociale et des familles	CASF	http://bit.ly/1RTu2xE (FR)
Labour Code	Code du travail	Ctrav	http://bit.ly/1FUos6Z (FR)

Main implementing administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

Title in English	Original Title (FR)	Abbreviation	Web Link
Decision of 26 April 2018 fixing for the year 2018 the objectives of proportionate distribution of the reception of the minors deprived temporarily or definitively of the protection of their family	Décision du 26 avril 2018 fixant pour l'année 2018 les objectifs de répartition proportionnée des accueils des mineurs privés temporairement ou définitivement de la protection de leur famille		https://bit.ly/2ucwqgg (FR)
Information of 31 December 2018 about the evolution of the housing of asylum seekers and refugees (NOR : INTV1900071J)	Information du 31 décembre 2018 relative à l'évolution du parc d'hébergement des demandeurs d'asile et des réfugiés (NOR : INTV1900071J)		https://bit.ly/2Syc2E8 (FR)
OFPPA Decision of 30 July 2015 on organisational	Décision OFPPA du 30 juillet 2015 fixant les modalités		http://bit.ly/1M0s3J1 (FR)

modalities for the interview, implementing Article L.723-6 Ceseda	d'organisation de l'entretien en application de l'article L.723-6 du Ceseda		
Information on the implementation of the Law of 20 March 2018 on the proper application of European asylum system (NOR : INTV1808045N)	Information relative à l'application de la loi n° 2018-187 du 20 mars 2018 permettant une bonne application du régime d'asile européen (NOR : INTV1808045N)		https://bit.ly/2OI1iEN (FR)
OFPPRA Decision of 8 février 2019 setting the list of approved premises intended to receive asylum seekers, applicants for stateless persons, refugees or beneficiaries of subsidiary protection heard in a professional interview conducted by OFPPRA by an audiovisual communication procedure (NOR : INTV1904007S)	Décision OFPPRA du 8 février 2019 fixant la liste des locaux agréés destinés à recevoir des demandeurs d'asile, demandeurs du statut d'apatride, réfugiés ou bénéficiaires de la protection subsidiaire entendus dans le cadre d'un entretien professionnel mené par l'OFPPRA par un moyen de communication audiovisuelle (NOR : INTV1904007S)		https://bit.ly/2TM3ZVF (FR)
Bylaw of 23 October 2015 on the questionnaire for assessing vulnerabilities of asylum seekers (NOR: INTV1523959A)	Arrêté du 23 octobre 2015 relatif au questionnaire de détection des vulnérabilités des demandeurs d'asile (NOR : INTV1523959A)		http://bit.ly/1RaHNen (FR)
Bylaw of 2 May 2017 establishing the ceiling for deductions in case of undue payment of the asylum seeker allowance (NOR: INTV1709507A)	Arrêté du 2 mai 2017 fixant le plafond des retenues en cas de versement indu de l'allocation pour demandeur d'asile (NOR : INTV1709507A)		http://bit.ly/2En0Qj6 (FR)
Bylaw of 20 October 2015 on the form to declare the asylum seeker's address (NOR: INTV1524994A)	Arrêté NOR : INTV1524994A du 20 octobre 2015 fixant le modèle du formulaire de déclaration de domiciliation de demandeur d'asile		http://bit.ly/1MVoi49 (FR)
Bylaw of 9 October 2015 on the validity of the asylum claim certification (NOR: INTV1524094A)	Arrêté du 9 octobre 2015 fixant la durée de validité de l'attestation de demande d'asile (NOR : INTV1524094A)		http://bit.ly/1jnCZEL (FR)
Circular of 6 July 2012 on the implementation of alternatives to administrative detention of families (NOR : INTK1207283C)	Circulaire du 6 juillet 2012 sur la mise en œuvre de l'assignation à résidence prévue à l'article en alternative au placement des familles en rétention administrative (NOR : INTK1207283C)		http://bit.ly/1RTunjM (FR)
Bylaw of 30 december 2016 on the list of associations entitled to send representatives to access administrative detention facilities (NOR: INTV1638569A)	Arrêté du 30 décembre 2016 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder aux lieux de rétention (NOR: INTV1638569A)		https://bit.ly/2ugzVIX (FR)
Bylaw of 29 May 2018 on the list of associations	Arrêté du 29 mai 2018 fixant la liste des associations		https://bit.ly/2Fm1HUu (FR)

entitled to propose representatives for access to waiting areas (NOR: INTV1813160A)	humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente (NOR: INTV1813160A)		
Circular on the organisation of education for migrant children	Circulaire REDE1236614C n° 2012-143 du 2 octobre 2012 sur l'organisation des Centres Académiques pour la scolarisation des nouveaux arrivants et des enfants du voyage (Casnav)		http://bit.ly/1KuFVuE (FR)
Bylaw setting the technical characteristics of the communication means to be used at the CNDA (NOR : JUSE1314361A)	Arrêté du 12 juin 2013 pris pour l'application de l'article R. 733-20-3 du code de l'entrée et du séjour des étrangers et du droit d'asile et fixant les caractéristiques techniques des moyens de communication audiovisuelle susceptibles d'être utilisés par la Cour nationale du droit d'asile (NOR : JUSE1314361A)		http://bit.ly/1dA3rba (FR)
Instruction of 19 July 2016 relating to the application of the Dublin III Regulation – Resort to house arrest and administrative detention in the context of execution of transfer decisions (NOR: INTV1618837J)	Instruction du 19 juillet 2016 relative à l'application du règlement (UE) n°604/2013 dit Dublin III – Recours à l'assignation à résidence et à la rétention administrative dans le cadre de l'exécution des décisions de transfert (NOR : INTV1618837J)		http://bit.ly/2k3SdQ8 (FR)
Circular of 25 January 2016 relating to State resources mobilisation for minors temporarily or definitely deprived from their family protection (NOR : JUSF1602101C)	Circulaire interministérielle du 25 janvier 2016 relative à la mobilisation des services de l'Etat auprès des conseils départementaux concernant les mineurs privés temporairement ou définitivement de la protection de leur famille et les personnes se présentant comme tels NOR : JUSF1602101C		http://bit.ly/2jghM16 (FR)
Decision of 10 December 2018 establishing the list of organisations competent for proposing representatives to accompany asylum seekers or refugees or beneficiaries of subsidiary protection to a personal interview held by OFPRA (NOR : INTV1833858S)	Décision du 10 décembre 2018 fixant la liste des associations habilitées à proposer des représentants en vue d'accompagner le demandeur d'asile ou le réfugié ou le bénéficiaire de la protection subsidiaire à un entretien personnel mené par l'OFPRA (NOR : INTV1833858S)		https://bit.ly/2CsZfJR (FR)
Decision of 28 December 2018 establishing the list of languages in which asylum seekers, applicants for stateless status, refugees and beneficiaries of subsidiary protection can be heard in the context of	Décision de l'OFPRA du 28 décembre 2018 fixant la liste des langues dans lesquelles les demandeurs d'asile peuvent être entendus dans le cadre d'un entretien personnel mené par l'OFPRA (NOR : INTV1836064S)		https://goo.gl/S8bgaX (FR)

a personal interview (NOR: INTV1836064S)			
Decree n. 2016-253 of 2 March 2016 relating to temporary accommodation centres for refugees and beneficiaries of subsidiary protection	Décret n° 2016-253 du 2 mars 2016 relatif aux centres provisoires d'hébergement des réfugiés et des bénéficiaires de la protection subsidiaire		http://bit.ly/2jNt1xD (FR)
Decree n. 2015-316 of 19 March 2015 relating to instruction modalities of naturalisation claims, reintegration into French citizenship and citizenship declarations made in case of marriage	Décret n° 2015-316 du 19 mars 2015 modifiant les modalités d'instruction des demandes de naturalisation et de réintégration dans la nationalité française ainsi que des déclarations de nationalité souscrites à raison du mariage		http://bit.ly/2kKeuGq (FR)
CNDA Decision of 17 December 2018 on audience by videoconferencing	Décision de la Cour nationale du droit d'asile du 17 décembre 2018 sur la vidéo-audience		https://bit.ly/2JmI8za (FR)
Circular of 5 November 2018 on provisions of the Law of 10 September 2018 related to criminal law immediatly applicable	Circulaire du 5 novembre 2018 présentant les dispositions de droit pénal immédiatement applicables de la loi n°2018-778 du 10 septembre 2018 pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie		https://bit.ly/2Y3VXpE (FR)
OFPPA decision of 28 December 2018 fixing the list of languages in which the asylum seeker may be heard	Décision de l'OFPPA du 28 décembre 2018 fixant la liste des langues dans lesquelles les demandeurs d'asile peuvent être entendus dans le cadre d'un entretien personnel mené par l'OFPPA		https://bit.ly/2UJszZ (FR)
Instruction of 31 december 2018 on Law of 10 september 2018 – provisions applicable from 1 January 2019	Instruction du 31 décembre 2018 relative à l'application de la loi pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie – dispositions entrant en vigueur le 1 ^{er} janvier 2019		https://bit.ly/2CnZaak (FR)
Decree of 15 February 2019 on missions of emergency centres for asylum seekers	Arrêté du 15 février 2019 relatif au cahier des charges des lieux d'hébergement d'urgence pour demandeurs d'asile		https://bit.ly/2F52kAi (FR)
Decree of 15 February 2019 on missions of accomodation centers for asylum seekers	Arrêté du 15 février 2019 relatif au cahier des charges des centres d'accueil pour demandeurs d'asile		https://bit.ly/2Hv4dds (FR)
Instruction of 28 February 2019 on Law of 10 september 2018 – provisions applicable from 1	Instruction du 28 février 2018 relative à l'application de la loi pour une immigration maîtrisée, un droit d'asile		https://bit.ly/2TJRAS9 (FR)

March 2019	effectif et une intégration réussie - dispositions relatives au séjour et à l'intégration entrant en vigueur le 1er mars 2019		
------------	---	--	--

Overview of the main changes since the previous report update

The previous update of the report was published in **February 2018**.

- ❖ **Asylum reform:** Law n. 2018-778 of 10 September 2018 brought a significant number of changes to the Cesda.

Asylum procedure

- ❖ **Access to the territory:** The practice of systematic refusal of entry of persons arriving at the Italian land border continues, despite widespread criticism and condemnation by Administrative Courts. The Border Police has implemented similar measures of push backs on the Spanish land border in the course of 2018. Following the 2018 reform, the right to a “full day” (*jour franc*) protecting the person against removal can no longer be claimed at land borders.
- ❖ **Accelerated procedure:** If an applicant lodges an asylum claim more than 90 days after entering the French territory, his/her claim will be processed under accelerated procedure and reception conditions can be refused. Applicants under accelerated procedure on grounds of safe country of origin, subsequent application or threat to public order lose their right to remain on French territory from the moment of notification of a negative decision from OFPRA. They may nevertheless request suspensive effect before the Administrative Court for their appeal before the CNDA.
- ❖ **Appeal:** If an application for legal aid is lodged in view of introducing an appeal against the first instance decision, the time taken to lodge this application will be subtracted from the one-month deadline to lodge the appeal itself. The decision of the CNDA, when taken after a hearing, enters into force as soon as it is published.

Reception conditions

- ❖ **Freedom of movement:** Asylum seekers must report to and remain in the region allocated to them by OFII, even if no housing is granted to them. Asylum seekers will automatically lose their reception conditions in case they do not report to or remain in that region, or if they do not abide by the requests of the authorities.

Detention of asylum seekers

- ❖ **Grounds for detention:** Asylum seekers in Dublin procedure can be detained at any moment if there is a “significant risk of absconding”, as now defined by the law.
- ❖ **Duration of detention:** A person can remain in administrative detention for a maximum of 90 days, up from 45 days prior to the reform.

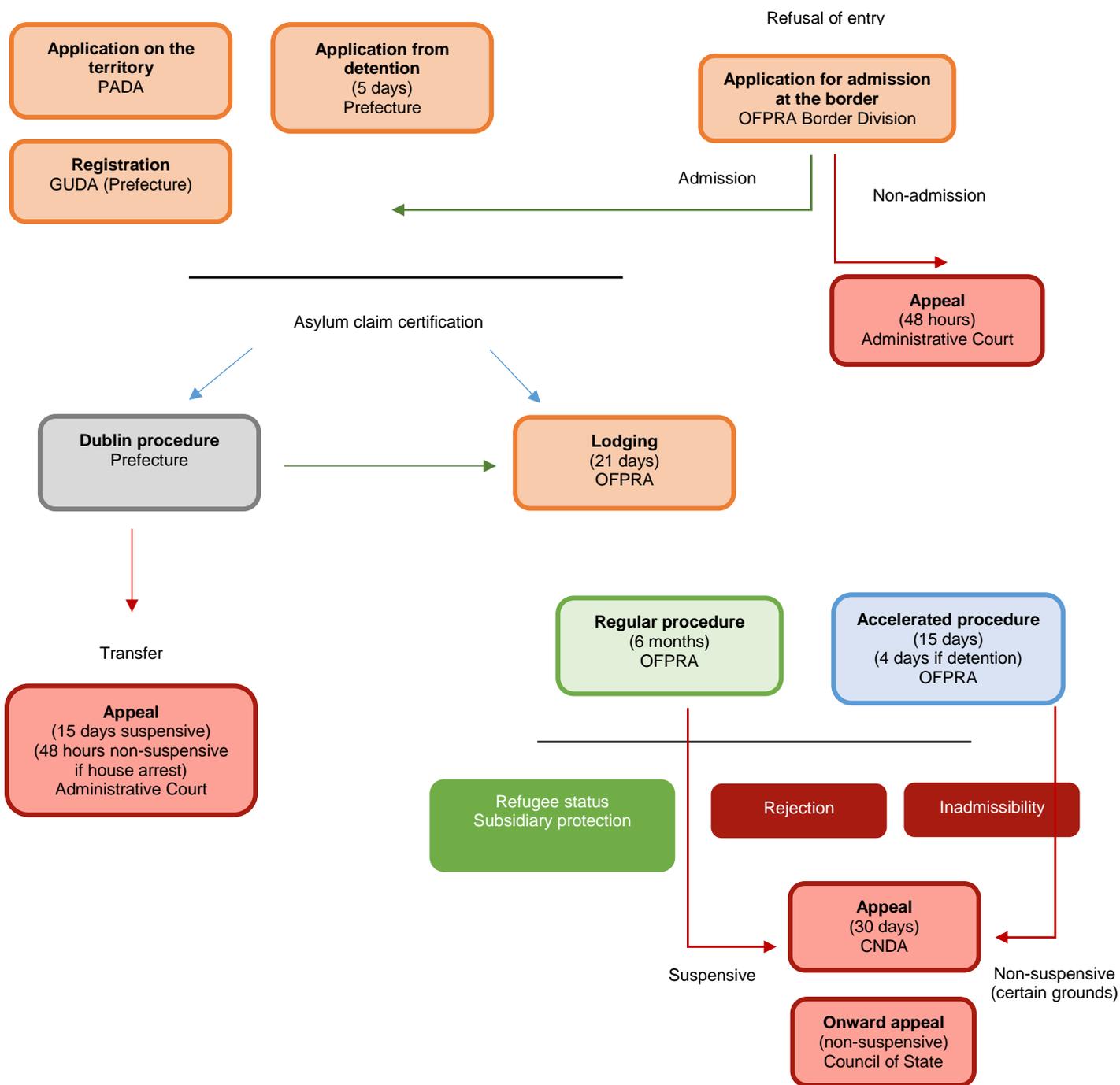
Content of international protection

- ❖ **Residence permit:** Beneficiaries of subsidiary protection and their family members will be granted a 4-year residence permit.
- ❖ **Family reunification:** Unaccompanied children granted international protection can be reunited with their brothers and sisters when coming with the parents.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|---|---|-----------------------------|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ⁶ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ⁷ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: ⁸ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | | |

Are any of the procedures that are foreseen in the law, not being applied in practice? Yes No

3. List of the authorities intervening in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (FR)
Application at the border	Border Unit, Office for the Protection of Refugees and Stateless Persons (OFPRA)	Division de l'asile à la frontière, Office Français de Protection des Réfugiés et Apatrides (OFPRA)
Application on the territory	Prefecture / French Office for Immigration and Integration (OFII)	Préfecture / Office Français de l'Immigration et l'Intégration (OFII)
Dublin procedure	Prefecture	Préfecture
Accelerated procedure	Office for the Protection of Refugees and Stateless Persons (OFPRA)	Office Français de Protection des Réfugiés et Apatrides (OFPRA)
Refugee status determination	Office for the Protection of Refugees and Stateless Persons (OFPRA)	Office Français de Protection des Réfugiés et Apatrides (OFPRA)
Appeal	National Court of Asylum (CNDA)	Cour nationale du droit d'asile (CNDA)
Onward appeal	Council of State	Conseil d'Etat
Subsequent application (admissibility)	Office for the Protection of Refugees and Stateless Persons (OFPRA)	Office Français de Protection des Réfugiés et Apatrides (OFPRA)

4. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
French Office for the Protection of Refugees and Stateless Persons (OFPRA)	795	Ministry of Interior	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: OFPRA.

⁶ For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive. This is now included in Article L.723-3 Ceseda.

⁷ Accelerating the processing of specific caseloads as part of the regular procedure.

⁸ Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

5. Short overview of the asylum procedure

An asylum application in France may be made:

- On the territory;
- At the border, in case the asylum seeker does not possess valid travel documents to enter the territory, including when he or she is placed in a waiting zone. In this case the person makes an application for admission to the territory on asylum grounds;
- From an administrative detention centre, in case the person is already being detained for the purpose of removal.

Registration: In order to lodge an asylum application on the territory, asylum seekers must first present themselves to the local competent orientation platform (*plateforme d'accueil de demandeurs d'asile*, PADA) whose task is to centralise the collection of intentions to lodge asylum claims and to give appointments to asylum seekers to the "single desk" (*guichet unique de demande d'asile*, GUDA) of the Prefecture. At the single desk their asylum claim is first registered and they are granted an asylum claim certification.⁹ The certification is equivalent to the temporary residence permit.

If it is granted, the person enters into the asylum procedure and has to complete his or her application form in French and send it to OFPRA within a 21 calendar day period, under both regular and accelerated procedures.

Asylum seekers under a Dublin procedure do receive an asylum claim certification but this specifies that they are under a Dublin transfer procedure. Asylum seekers are not allowed to lodge their application with OFPRA if another state accepts responsibility for their asylum claim. The certification does not allow travel to other Member States.

The certification is not delivered to asylum seekers having introduced a claim at the border or from a detention centre. In addition, the Prefecture may refuse to grant an asylum claim certification for 2 reasons, thus banning the foreign national from remaining on the French territory:

- (a) The foreign national introduces a subsequent application after the final rejection of his or her first subsequent application; or
- (b) The foreign national is subject to a final decision of extradition towards another country than his or her country of origin, or if he or she is subject to a European Arrest Warrant or an arrest warrant issued by the International Criminal Court.

Accelerated / regular procedure: The placement under an accelerated procedure does not imply a refusal to grant an asylum claim certification. There are different grounds for channelling a claim into an accelerated procedure. In particular, OFPRA has to process asylum claim under accelerated procedures where the applicant: (a) originates from a safe country of origin; or (b) lodges a subsequent application which is not inadmissible.

The Prefecture channels an asylum claim under accelerated procedures in the following cases:

- (a) The asylum seeker refuses to be fingerprinted;
- (b) When registering his or her claim, the asylum seeker has presented falsified identity or travel documents, or provided wrong information on his or her nationality or on his or her conditions of entry on the French territory or has introduced several asylum claims under different identities;
- (c) The claim has not been made within 90 days after the foreign national has entered the French territory or he or she has remained unlawfully on French territory after his or her arrival for 90 days before registering the claim;
- (d) The claim has only been made to prevent a notified or imminent removal order; or

⁹ Conditions for the certification to be delivered and renewed are described in the Decree n. 2015-1166 of 21 September 2015 of the Ministry of Interior.

- (e) The presence of the foreign national in France constitutes a serious threat to public order, public safety or state security.

In addition, OFPRA can decide by itself to process a claim under an accelerated procedure under three other grounds (see section on [Accelerated Procedure](#)).

In these cases, an accelerated procedure means that the person has 21 calendar days to lodge his or her application with OFPRA and that OFPRA has, in theory, 15 days to review and decide on the case. The deadlines are even more limited for both the asylum seeker and OFPRA if the person is held in administrative detention. The accelerated procedure does not entail lower social rights than under the regular procedure. Yet, following the 2018 reform, the law reform provides for the termination of reception conditions for certain categories of asylum seekers whose claims are rejected in the accelerated procedure.

The Prefectures as well as OFPRA are under the administrative supervision of the Ministry of Interior. OFPRA is an administrative authority specialised in asylum and responsible for examining and granting, refusing, or withdrawing refugee status or subsidiary protection. It is independent in taking individual decisions on asylum applications and does not take instructions from the Ministry of Interior. A single procedure applies. French legislation provides for systematic personal interviews of applicants at first instance; except if OFPRA is about to take a positive decision or if the asylum seeker's medical situation prevent him from attending the interview. All personal interviews are conducted by OFPRA. Asylum seekers can be accompanied to their interview by a third person (lawyer or member of an accredited NGO). This third person cannot intervene during the interview but may formulate remarks at the end of the interview. This provision also applies to claims introduced at the border and from detention. After the asylum seeker and potential third person have been heard, the protection officer writes an account and a draft decision, which is then, in most cases, submitted for validation to their section manager.

Appeal: The CNDA is the specialised Administrative Court handling appeals against all administrative decisions of the Director General of OFPRA related to an asylum application. This appeal must be lodged within 1 month after the notification of the OFPRA decision to the applicant. The appeal has automatic suspensive effect for all applicants in the regular procedure, and for those in the accelerated procedure who do not fall under the safe country of origin concept, subsequent application, or threat to public order. Appeals have no suspensive effect if they concern an inadmissibility decision or asylum claims introduced from detention (see [Registration](#)). The CNDA examines the appeal on facts and points of law. It can annul the first instance decision, and therefore grant subsidiary protection status or refugee status, or confirm the negative decision of OFPRA. In some special cases, if the procedural guarantees of the personal interview have not been respected by OFPRA, it can also send the case back to OFPRA for re-examination.

An onward appeal before the Council of State can be lodged within 2 months after the notification of the CNDA decision. The Council of State does not review all the facts of the case, but only points of law such as compliance with rules of procedure and the correct application of the law by the CNDA. If the Council of State annuls the decision, it refers it to the CNDA to decide again on the merits of the case, but it may also decide to rule itself for good on the granting or refusal of protection. The appeal before the Council of State has no suspensive effect on a removal order issued by the Prefecture following a negative decision of the CNDA.

Border procedure: A specific border procedure to request an admission to the territory on asylum grounds is provided by French legislation for persons arriving on French territory through airports or harbours. The Border Unit of OFPRA interviews the asylum seekers and formulates a binding opinion that is communicated to the Ministry of Interior. If OFPRA issues a positive opinion, the Ministry has no choice but to authorise the entry on the French territory, except on grounds of threat to national security. This interview is conducted to check whether the applicant's claim is not inadmissible manifestly

unfounded. The concept of “manifestly unfounded” claim is described in the law and concerns claims that are “irrelevant” or “lacking any credibility”.

If the asylum application is not considered to be manifestly unfounded, the foreign national is authorised to enter French territory and is given an 8-day temporary visa. Within this time frame, the asylum seeker has to report to a PADA with a view to obtaining an appointment at the single desk. The Prefecture will examine whether to grant the person an asylum claim certification and, if so, will channel the application into the appropriate procedure. OFPRA then processes the asylum application as any other asylum application lodged on the territory. If the asylum application is considered manifestly unfounded or inadmissible or is the responsibility of another Member State, the Ministry of Interior refuses to grant entry to the foreigner with a reasoned decision. The person can lodge an appeal against this decision before the Administrative Court within a 48-hour deadline. If this appeal fails, the foreigner can be expelled from the country.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? Yes No

Persons refused entry into the territory after arriving at the border have the possibility to ask for a “full day” (*jour franc*) that allows them to be protected for removal for 24 hours.¹⁰ In the case of adults, this right must be requested, whereas under the law unaccompanied children cannot be removed before the expiry of the *jour franc* unless they specifically waive it.

The *jour franc* does not apply to refusals of entry issued at land borders or in **Mayotte** since September 2018, in accordance with the modifications adopted by the 2018 reform.¹¹

1.1. Access at the Italian land border

Reports of people simply being refused entry without their protection needs being taken into account at the Italian border continue. Since 2015, the French police has implemented operations to close the border and to prevent asylum seekers coming from Italy from entering France. The closure of the border has been maintained and police operations have been reinforced in 2017, as France maintains controls at its Schengen borders for three consecutive years, and plans to prolong those after the end of April 2019.¹²

Illegal police operations at the border have been extended from the **Menton** and **Nice** areas since 2016, to the **Hautes-Alpes** since 2016. Such practices of mass arrest have had an effect on shifting migratory routes, leading migrants to take increasingly dangerous routes on the mountains.

According to the Prefect of Alpes-Maritimes, more than 50,000 migrants have been arrested at the border in 2017,¹³ of whom a striking 98% are pushed back to Italy.¹⁴ The Prefect reported 29,000

¹⁰ Article L.213-2 Ceseda.

¹¹ Article L.213-2 Ceseda, as amended by Article 18 Law n. 2018-778 of 10 September 2018. Note that in response to a report by the General Controller of Places of Detention (CGLPL), the Ministry of Interior stated in June 2018 that the *jour franc* does not apply in the context of reintroduction of Schengen border controls: Ministry of Interior, Response to the CGLPL, 18-019754-A/BDC-CARAC/JT, 7 June 2018, available in French at: <https://bit.ly/2SEfU7k>, 5.

¹² LCI, ‘Antiterrorisme : les contrôles aux frontières devraient être à nouveau prolongés’, 13 February 2019, available in French at: <https://bit.ly/2SZjR5X>.

¹³ 20 minutes, ‘Cote d’Azur : à la frontière italienne, un nombre record de passeurs interpellé’, 4 December 2017, available in French at: <http://bit.ly/2qMHySh>.

migrants apprehended at the Italian border in 2018.¹⁵ On the basis of instructions which have reportedly introduced a practice of racial profiling,¹⁶ the Border Police and other police forces deployed in the region board trains arriving from Italy and control passengers who appear to be of African origin. Persons who explicitly express the intention to seek asylum have been refused entry by the French authorities on the basis that Italy is responsible for their claim, without being placed under the formal procedure foreseen by the Dublin Regulation.

Border controls have also led to new forms of **Detention**, including *de facto* detention in areas such as the police station of **Menton**, which cannot be accessed by civil society.¹⁷ This has been upheld by the Council of State as lawful during the period necessary for the examination of the situation of persons crossing the border, subject to judicial control.¹⁸

Media reports have documented incidents of unaccompanied children refused entry by police authorities and directed towards the Italian border.¹⁹ The Italian Minister of Interior also accused France of such practices in October 2018.

Despite strong condemnation by monitoring bodies,²⁰ civil society organisations,²¹ as well as court rulings condemning Prefectures for failing to register the asylum applications of people entering through Italy,²² practice remains unchanged. In response to a report by the General Controller of Places of Detention (CGLPL), the Ministry of Interior stated in June 2018 that refusals of entry are not in contravention of the law, invoking Article 20(4) of the Dublin Regulation according to which “[w]here an application for international protection is lodged with the competent authorities of a Member State by an applicant who is on the territory of another Member State, the determination of the Member State responsible shall be made by the Member State in whose territory the applicant is present.” Through this statement, the Ministry implies that asylum applications are made before French officials on Italian soil.

A preliminary inquiry into unlawful police practices in **Menton** was launched in February 2019.²³

Local people have supported asylum seekers by rescuing them on the mountain, for example in **Nevache**, a small village in the Alps.²⁴ Others have helped some migrants to reach **Nice** in order to

¹⁴ *Ibid.*

¹⁵ Europe 1, ‘Le préfet des Alpes-maritimes annonce que le nombre de migrants est en baisse dans le département’, 23 January 2019, available in French at: <https://bit.ly/2CD511e>.

¹⁶ Politis, ‘Visite surprise d’élus à la police aux frontières de Menton’, 1 April 2018, available in French at: <http://bit.ly/2jdMOaV>.

¹⁷ ECRE, *Access to asylum and detention at France’s borders*, June 2018, available at: <https://bit.ly/2JaRrSu>, 18-19.

¹⁸ Council of State, Order No 411575, 5 July 2017.

¹⁹ News Deeply, ‘Dodging death along the Alpine passage’, 25 January 2018, available at: <http://bit.ly/2DEJrq9>; France Culture, ‘Quand les mineurs africains sont abandonnés dans la montagne’, 17 November 2017, available in French at: <http://bit.ly/2hOcU7m>.

²⁰ General Controller of Places of Detention (CGLPL), *Rapport de visite des locaux de la police aux frontières de Menton (Alpes-Maritimes) – Contrôle des personnes migrantes à la frontière franco-italienne*, June 2018, available in French at: <http://bit.ly/2JjUpzY>; National Consultative Commission for Human Rights (CNCDH), *Avis sur la situation des migrants à la frontière franco-italienne*, 18 June 2018, available in French at: <https://bit.ly/2sKHZdJ>.

²¹ See e.g. Anafé, *Persona non grata : Conséquences des politiques sécuritaires et migratoires à la frontière franco-italienne*, January 2019, available in French at: <https://bit.ly/2E2EJQ6>; ECRE, *Access to asylum and detention at France’s borders*, June 2018, available at: <https://bit.ly/2JaRrSu>; La Cimade, *Dedans, dehors: Une Europe qui s’enferme*, June 2018, available in French at: <https://bit.ly/2MrISQj>; Forum réfugiés-Cosi, *Pour une pleine application du droit d’asile à la frontière franco-italienne*, 24 April 2017, available in French at: <http://bit.ly/2mQY26t>.

²² See e.g. Administrative Court of Nice, Order No 1701211, 31 March 2017; Order No 1800195, 22 January 2018; Order No 1801843, 2 May 2018.

²³ Ligue des Droits de l’Homme, ‘Violences policières et administratives contre des migrants : une enquête préliminaire à Menton’, 5 February 2019, available in French at: <https://goo.gl/Ggknbg>.

²⁴ Le Figaro, ‘A la frontière italienne, les montagnards marchent pour les migrants’, 18 December 2017, available in French at: <http://bit.ly/2CU92Lg>.

apply asylum there.²⁵ The restrictions on access to the territory have been coupled with criminalisation of humanitarian assistance. Several of these people helping migrants have been prosecuted and ultimately convicted by French courts. For example, on 8 August 2017, Cedric Herrou received a four-month suspended sentence by the Court of Appeal of Aix-en-Provence for helping migrants.²⁶ The Constitutional Court held in July 2018 that this sentence was unconstitutional as it violated the fraternity principle,²⁷ and the Court of Cassation quashed the conviction.²⁸ Convictions continue to be delivered in other cases.²⁹

1.2. Access at the Spanish land border

Due to the increasing number of migrants arriving in Spain, the French-Spanish land border has become one of the main entry points to France in 2018. Spanish media have reported that migrants are pushed back from France to Spain without appropriate guarantees, in procedures lasting less than 20 minutes.³⁰ Reports have shown Border Police officials controlling groups of migrants in **Hendaye**, placing them on board a van and leaving them at the border instead of handing them over to their Spanish counterparts.³¹

Civil society organisations have denounced what appears to be a practice mirroring the methods of the Border Police on the Italian border.³² Médecins Sans Frontières (MSF) alerted in February 2019 that “[p]eople are denied the opportunity to apply for asylum in France, and minors are not considered as such; they are routinely turned away and sent back to Spain, instead of being protected by the French authorities as the law requires.”³³ Local authorities in **Bayonne** have also criticised current practice vis-à-vis migrants arriving from Spain.³⁴

On 12 November 2018, the French Minister of Interior declared that 10,500 refusal of entry decisions have been handed at the Spanish land border in the first 10 months of 2018.³⁵

1.3. Access at airports

Concerns also continue to be raised with regard to persons seeking to enter France by air. A worrying development has been witnessed in the waiting zone of **Beauvais**, near Paris. The Border Police in Beauvais refuses to receive asylum applications where it deems that the person falls within the scope of the Dublin Regulation. This is unlawful since the conduct of the Dublin procedure lies within the competence of the Prefecture rather than the Border Police. The organisation Anafé is aware of asylum seekers arriving from Bulgaria or Greece who repeatedly asked for asylum but were not registered and

²⁵ Nice Matin, ‘Un troisième convoi de migrants est entré en gare de Nice’, 7 June 2017, available in French at: <http://bit.ly/2mj6ITX>.

²⁶ Le Monde, ‘Coupable d’avoir aidé des migrants, Cédric Herrou « continuera à se battre »’, 8 August 2017, available in French at: <http://lemde.fr/2vhq7rs>.

²⁷ Constitutional Court, Decision 717-718, 6 July 2018.

²⁸ Court of Cassation, Decision 17-85.736, 12 December 2018.

²⁹ See e.g. Anafé et al., ‘Les 7 de Briançon lourdement condamné-e-s par le tribunal de Gap’, 13 December 2018, available in French at: <https://goo.gl/GxyvYy>.

³⁰ El País, ‘Francia usa una medida antiterrorista para devolver migrantes a España’, 1 September 2018, available in Spanish at: <https://bit.ly/2Cxr85Q>.

³¹ *Ibid.*

³² MSF, ‘Migrants trapped in relentless cycle of rejection on French-Spanish border’, 6 February 2019, available at: <https://goo.gl/CdT9gC>. See also Accem et al., ‘Augmentation des arrivées en Espagne : l’Europe doit sortir la réforme de Dublin de sa paralysie’, 4 December 2018, available in French at: <https://goo.gl/8ZCpAg>.

³³ MSF, ‘Migrants trapped in relentless cycle of rejection on French-Spanish border’, 6 February 2019, available at: <https://goo.gl/CdT9gC>.

³⁴ New York Times, ‘French Mayor Offers Shelter to Migrants, Despite the Government’s Objections’, 12 February 2019, available at: <https://goo.gl/VeSv1C>.

³⁵ Le Monde, ‘Paris et Madrid défendent leur coopération sur la question migratoire’, 13 November 2018, available in French at: <https://goo.gl/5gafGT>.

were removed without being granted the *jour franc*.³⁶ Since the Border Police in such cases immediately proceeds to return and does not register asylum claims, there is no way to ascertain the scale and number of people affected by this practice.³⁷

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for asylum seekers to lodge their application? Yes No
2. If so, what is the time limit for lodging an application? 21 days

Once he or she has entered the French territory in order to seek asylum in France, a person first has to be registered as asylum seeker by the French authority responsible for the right of residence: the Prefecture. Then, he or she can lodge an asylum application with OFPRA, the only administration competent to examine asylum applications. However, there is a specific procedure for people who seek asylum from an administrative detention centre, in case they are already detained for the purpose of removal.

2.1. Making and registering an application

French law does not lay down strict time limits for asylum seekers make an application to after entering the country.

However, the law specifies that one reason why OFPRA shall process an asylum claim in **Accelerated Procedure** is that “without legitimate reason, the applicant who irregularly entered the French territory or remained there irregularly did not introduce his or her asylum claim in a period of 90 days as from the date he or she has entered the French territory.”³⁸ Prior to the 2018 reform, this time limit was 120 days.

The registration of asylum claims in France is conducted by “single desks” (*guichet uniques de demande d’asile*, GUDA) introduced in order to register both the asylum claim and the need for material reception conditions. There are 34 GUDA across France.³⁹

In order to obtain an appointment at the GUDA, asylum seekers must present themselves to orientation platforms (*Plateformes d’accueil de demandeurs d’asile*, PADA). Local organisations are responsible for this pre-registration phase and make appointments at the Prefecture for the asylum seekers. According to the law, the appointment has to take place within 3 working days after asylum seekers have expressed their intention to lodge an asylum claim.⁴⁰ This deadline can be extended to 10 working days when a large number of foreign nationals wishing to introduce an asylum claim arrive at the same time.⁴¹

While the introduction of the “single desk” system in 2015 aimed at reducing delays relating to registration and avoid long lines of people presenting themselves in front of Prefectures, this additional step has led to more complexity and delays in accessing the procedure in practice. To restore the 3-day time limit, the Minister of Interior published a Circular on 12 January 2018 which plans to increase the staff in Prefectures and OFII and to reorganise services. This plan envisages fully operational GUDA every day of the week, as well as overbooking to compensate for ‘no show’ appointments.⁴²

³⁶ The *jour franc* allows persons refused entry to be protected for removal for one day. In the case of adults, this right must be requested, whereas under the law unaccompanied children cannot be removed before the expiry of the *jour franc* unless they specifically waive it: Article L.213-2 Ceseda.

³⁷ ECRE, *Access to asylum and detention at France’s borders*, June 2018, 17.

³⁸ Article L.723-2(III)(3) Ceseda, as amended by Article 6 Law n. 2018-778 of 10 September 2018.

³⁹ The list of GUDA is available at: <http://bit.ly/2Eq0pV6>.

⁴⁰ Article L.741-1 Ceseda.

⁴¹ *Ibid.*

⁴² Circulaire NOR INTV1800126N du 12 janvier 2018 Réduction des délais d’enregistrement des demandes d’asile aux guichets uniques, available in French at: <http://bit.ly/2EePKJQ>.

The average waiting time for appointments at the GUDA from the PADA has decreased in 2018 and ranges from 2 to 20 days depending on the region. However, asylum seekers have face difficulties in accessing the PADA. In the **Ile de France** region, as of May 2018, the French Office of Immigration and Integration (OFII) operates a telephone appointment system whereby applicants obtain an SMS appointment to appear before a PADA, which in turn books them an appointment with the GUDA to register their application.⁴³ The telephone appointment system therefore constitutes an additional administrative layer in the registration process.

NGOs have criticised the telephone platform as inefficient, referring to people unsuccessfully attempting to call several times, or waiting for over half an hour on the phone before speaking to OFII. In addition, despite initial announcements of free-of-charge access, calls to the telephone platform are charged 0.06 € per minute by phone operators. The cost can be exorbitant for asylum seekers given that they have no access to reception conditions before their claim is registered and are often destitute.⁴⁴

In February 2019, following an urgent action (*référé-liberté*) brought by several civil society organisations, the Administrative Court of Paris ordered OFII to deploy at least two more full-time staff members until the end of February 2019 so as to reinforce the capacity of its telephone platform.⁴⁵ For the asylum seekers directly concerned by the action, the Court ordered OFII to grant appointments within 48 hours. The Court acknowledged the efforts of OFII to overcome delays and avoid physical queues before the different PADA in Paris. However, it held that the technical and practical obstacles to access to the telephone platform have resulted in “virtual queues” of asylum seekers who do not manage to receive a response despite repeated attempts during several days.

Between 2 May 2018 and 15 March 2019, OFII had received 76,867 calls and granted 58,409 appointments to PADA via its telephone service. The majority of asylum seekers using the service came from Afghanistan, followed by Somalia and Côte d’Ivoire.

At the GUDA, it is not mandatory to provide an address (*domiciliation*) to register asylum seekers’ claims. However, as long as administrative notifications are still sent by mail, asylum seekers have to provide an address for the procedure to be smoothly conducted. An address certificate (*déclaration de domiciliation*) is also necessary to benefit from certain social benefits, in particular the Universal Medical Protection (PUMA). A specific form to declare asylum seekers’ address is available since 20 October 2015.

In order for their claim to be registered by the Prefecture, asylum seekers have to provide the following:⁴⁶

- Information relating to civil status;
- Travel documents, entry visa or any documentation giving information on the conditions of entry on the French territory and travel routes from the country of origin;
- 4 ID photos; and
- In case the asylum seeker is housed on his or her own means, his or her address.

⁴³ OFII, ‘Une plateforme téléphonique pour les demandeurs d’asile en Île-de-France’, 2 May 2018, available in French at: <https://goo.gl/LqUc7R>.

⁴⁴ Ligue des Droits de l’Homme et al., ‘Campements, loterie, service payant : le système d’asile ne répond plus’, 7 February 2019, available in French at: <https://goo.gl/U1yPaG>.

⁴⁵ Administrative Court of Paris, Order 1902037, 13 February 2019, available in French at: <https://goo.gl/Fv4vG4>.

⁴⁶ Article R.741-3 Ceseda.

The asylum claim certification

It is only once the asylum claim certification (*attestation de demande d'asile*) has been granted that a form to formally lodge the asylum application is handed to the applicant. Specific documentation is also handed to the asylum seeker in order to provide him or her information on:

- The asylum procedure;
- His or her rights and obligations throughout the procedure;
- The consequences that violations of these obligations might have;
- His or her rights and obligations in relation to reception conditions; and
- Organisations supporting asylum seekers.

The asylum claim certification is delivered for a specific period of time, renewable until the end of the procedure. Depending on the procedure, the period of validity varies:⁴⁷

- Under regular procedure, the asylum claim certification is valid for an initial period of time of 1 month, renewable for 9 months and 6 months afterwards (as many times as necessary);
- Under accelerated procedure, the asylum claim certification is valid for an initial period of time of 1 month, renewable for 6 months and 3 months (as many times as necessary);
- Under Dublin procedure, the asylum claim certification is valid for an initial period of time of 1 month, renewable for 4 months (as many times as necessary). However, persons under a Dublin procedure are not given a form to lodge their application with OFPRA.

The Prefecture may refuse to grant an asylum claim certification for 2 reasons:⁴⁸

- (a) The foreign national introduced a subsequent application after the final rejection of his or her first subsequent application; or
- (b) The foreign national is subject to a final decision of extradition towards another country than his country of origin, or if he is subject to a European Arrest Warrant or an arrest warrant issued by the International Criminal Court.

If foreign nationals are refused an asylum claim certification, they are refused the right to stay on the French territory and to introduce an asylum claim. They might be placed in an administrative detention centre in view of their removal.

In addition, the renewal of an asylum claim certification can be refused, or the asylum claim certification can be refused or removed when:⁴⁹

- (a) OFPRA has taken an inadmissibility decision because the asylum seeker has already been granted asylum in another EU Member State or third country, where the protection provided is effective; or the subsequent application is inadmissible;
- (b) The asylum seeker has withdrawn his or her asylum claim;
- (c) OFPRA has closed the asylum claim. OFPRA is entitled to close an asylum claim if it has not been lodged within 21 days; or if the asylum seeker did not present him or herself to the interview; or if the asylum seeker has consciously refused to provide fundamental information; or if the asylum seeker has not provided any address and cannot be contacted;⁵⁰
- (d) A first subsequent application has been introduced by the asylum seeker only to prevent a notified or imminent order of removal;
- (e) The foreign national introduced a subsequent application after the final rejection of his or her first subsequent application; or
- (f) The foreign national is subject to a final decision of extradition towards another country than his country of origin, or if he is subject to a European arrest warrant or an arrest warrant issued by the International Criminal Court. In case of a refusal, or refusal of a renewal, or removal of the

⁴⁷ Ministerial ruling on application of Article L.741-1 Ceseda, published on 9 October 2015.

⁴⁸ Article L.741-1 Ceseda.

⁴⁹ Article L.743-2 Ceseda, as amended by Article 12 Law n. 2018-778 of 10 September 2018.

⁵⁰ Article L.723-13 Ceseda.

asylum claim certification, the asylum seeker is not allowed to remain on the French territory and this decision can be accompanied by an order to leave the French territory (OQTF);

- (g) OFPRA has taken a negative decision on an application lodged by an asylum seeker subject to an expulsion order or entry ban.

In parallel to the registration of the claim at the Prefecture, the file of the asylum seeker is transferred to OFII that is responsible for the management of the national reception scheme.

2.2. Lodging an application

Following registration, if the Dublin Regulation does not apply, the asylum seeker has 21 calendar days to fill in the application form in French and send it by registered mail to OFPRA, the first instance protection authority in France.⁵¹ In order for the claim to be processed by OFPRA, the filled and signed application form as to be accompanied by a copy of the asylum claim certification, 2 ID photos and, if applicable, a travel document and the copy of the residence permit. The file must contain a short explanation of the grounds of the claim in French.

A specific procedure applies in **Guiana** since May 2018, whereby asylum seekers are required to lodge their applications with OFPRA in person, within 7 days of registration.⁵²

Upon receipt of the claim, OFPRA shall inform the asylum seeker as well as the competent Prefect and the OFII that the claim is complete and ready to be processed. In case the claim is incomplete the asylum seeker has to be asked to provide the necessary missing elements or information within 8 additional days; 3 days in **Guiana**.⁵³ When OFPRA receives a complete application within the required deadlines, it registers it and sends a confirmation letter to the applicant. If the information is not sent or filed in after the deadline, OFPRA refuses to lodge the application and takes a decision discontinuing the processing of the claim. If the case is not reopened within 9 months, a new claim is considered as a **Subsequent Application**.

Finally, the requirement to write the asylum application in French remains a serious constraint. For asylum seekers who do not benefit from any support through the procedures and who may face daily survival concerns, not least due to lack of accommodation, the imposed period of 21 days is very short.

2.3. Applications lodged in detention

In administrative detention centres, the notification of the individual's rights, read out upon arrival, indicates that he or she has 5 calendar days to claim asylum. This 5-day deadline is strictly applied. That said, the CNDA has shown some flexibility in the specific cases of persons transferred between detention centres. In one case decided in April 2018, the individual had been notified of the right to seek asylum within 5 days upon his arrival in a detention centre. Four days later – before the expiry of the deadline – he was transferred to another facility and was informed again of the right to make an asylum application within 5 days. The Court found that, since the former deadline had not expired upon the second notification of the right to claim asylum, the applicant could rely on the latter notification in good faith.⁵⁴

The 5-day deadline is not applicable if the person calls upon new facts occurring after the 5-day deadline has expired,⁵⁵ although this last condition does not apply to asylum seekers coming from a **Safe Country of Origin**.⁵⁶

⁵¹ Article R.723-1 Ceseda.

⁵² Decree 2018-385 of 23 May 2018 providing for experimental processing conditions of asylum applications in Guiana, available in French at: <https://goo.gl/MRZZv2>.

⁵³ Article R.723-1 Ceseda.

⁵⁴ CNDA, *M. D.*, Decision No 17024302, 6 April 2018, available in French at: <https://bit.ly/2BP0geZ>.

⁵⁵ Article L.551-3 Ceseda.

Asylum seekers in detention can benefit from legal and linguistic assistance with a view to applying.⁵⁷ According to the CNDA, which examines appeals against inadmissible asylum applications in detention centres, the 5-day deadline may not be contested on the ground that the asylum seeker did not benefit from effective legal and linguistic assistance in detention, or on the basis of facts occurring prior to the deadline which the person was not aware of at the time.⁵⁸

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: ⁵⁹ | 6 months |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2018: | Not available |

The first instance authority in France, OFPRA, is a specialised institution in the field of asylum, under the administrative supervision of the Ministry of Interior since November 2007. A time limit of 6 months is set for OFPRA to take a decision under the regular procedure.⁶⁰ When a decision cannot be taken within 6 months, OFPRA has to inform the applicant thereof within 15 calendar days prior to the expiration of that period.⁶¹ An additional 9-month period for OFPRA to take a decision starts and, under exceptional circumstances, it can even be extended for 3 more months.⁶² Nevertheless, the law provides no consequences to non-compliance with these time limits.

In 2017, the French Presidency set a target processing time of 2 months for asylum applications examined by OFPRA.⁶³ The average first-instance processing time for all procedures was 112 days in 2018,⁶⁴ down from 142 in 2017 and reflecting a continuing decrease in the length of the procedure. Applications pending for over a year represented 3.1% of pending cases at the end of 2018, down from 8% in mid-2017.⁶⁵

An action plan for the reform of OFPRA, adopted on 22 May 2013, has been implemented since September 2013. It includes a monitoring mechanism of the quality of the decisions taken through an assessment of several sample cases. In addition, a “harmonisation committee”, chaired by the Executive Director, was created to harmonise the *doctrine*, including monitoring the jurisprudence of the CNDA.⁶⁶

⁵⁶ *Ibid.* If the claim by a national of such a country is made within the 5-day period, however, it cannot be deemed inadmissible: Administrative Court of Versailles, Order No 1800897, 9 February 2018.

⁵⁷ Article L.551-3 Ceseda.

⁵⁸ CNDA, Decision No 16037938, 25 July 2017.

⁵⁹ Article R.723-2 Ceseda.

⁶⁰ Article R.723-2 Ceseda.

⁶¹ Article R 723-3 Ceseda.

⁶² Article R.723-2 Ceseda.

⁶³ Le Monde, ‘Le gouvernement fait de la réduction du délai de demande d’asile une des clés du plan migrants’, 12 July 2017, available in French at: <https://goo.gl/rz18KD>.

⁶⁴ OFPRA, ‘Données de l’asile 2018’, 15 January 2019, available in French at: <https://goo.gl/fw3hC7>.

⁶⁵ *Ibid.*

⁶⁶ See a description of the action plan for the reform of OFPRA, *2014 Activity report*, 10 April 2015, 54-55.

An agreement was signed between the OFPRA's Director General and the UNHCR Representative in France establishing quality controls and an evaluation grid with criteria on three main stages of the examination of asylum cases: interview, investigation and decision. The objective is to envisage useful measures for the improvement of the quality of the decisions.

In this context, two evaluations were carried out by OFPRA and UNHCR in 2014 and 2015, based on representative samples of asylum decisions taken in 2013 and 2014. The results of the quality control exercises were published in September 2014 and May 2016.⁶⁷ A third evaluation was undertaken in 2017, based on a representative sample of 340 decisions taken during the first half of 2016. The results of this third evaluation were published in November 2018.⁶⁸

This report contained mostly positive conclusions concerning interviews and decision-making at OFPRA. It confirmed diminishing disparities between OFPRA and UNHCR examiners' positions. As mentioned in the previous quality control reports, no major difference was noticed in OFPRA's treatment of asylum applications under the accelerated procedure and under the regular procedure.

However, important shortcomings were highlighted. In 12% of the case files under review, it was deemed that the interview report was difficult to read. Moreover, it was found that for as high as 13% of the cases, the way interviews were conducted showed that no complementary questions were asked by OFPRA when the statements of the asylum seeker were considered to be insufficiently consistent or credible. Also, in more than 30% of the cases, no question is mentioned in the interview report about the circumstances under which the asylum seeker had written his or her asylum narrative. In 12% of the cases reviewed, no mention was found in the interview report ensuring that the correct understanding of the interpreter by the asylum seeker had been checked. In about 10% of the cases reviewed, the examiners expressed a disagreement as to the relevance of the decision taken. In more than 20% of the cases reviewed, the legal reasoning applied was found to be insufficiently thorough. A lack of assessment of the probative value of the relevant documents of the case was also highlighted.

Taking into account the results of these quality controls, regular trainings are being provided to caseworkers, in particular regarding the interview, the assessment of proof and supportive documents and the reasoning of decisions taken.

1.2. Prioritised examination and fast-track processing

The law provides for the possibility for OFPRA to give priority to applications introduced by vulnerable persons having identified "specific needs in terms of reception conditions" or "specific procedural needs".⁶⁹ No information is available on the use of this provision in recent years.

Since 2013, OFPRA also conducts decentralised and external missions in order to accelerate the examination of claims from seekers with specific nationalities or having specific needs. This has resulted in 23 decentralised missions in the course of 2018, covering in **Lyon, Bordeaux, Nantes, Strasbourg** and **Mayotte**.⁷⁰

OFPRA also conducted 25 abroad missions with UNHCR to relocate asylum seekers living in Italy and to resettle refugees from Turkey, Lebanon, Jordan, Chad and Niger. It also took part in missions following search and rescue operations in Spain, Italy and Malta since the summer of 2018, as well as a

⁶⁷ OFPRA, *Contrôle qualité, Premier exercice d'évaluation (réalisé entre janvier et mai 2014 sur des décisions notifiées au cours du premier semestre 2013)*, 17 September 2014, available in French at: <http://bit.ly/1LLTKyU>; *Contrôle qualité, Deuxième exercice d'évaluation (réalisé entre juin et octobre 2015 sur des décisions de l'Ofpra notifiées au cours du 1er semestre 2014)*, 12 May 2016, available in French at: <http://bit.ly/2kgUqvO>.

⁶⁸ OFPRA, *Troisième exercice d'évaluation (réalisé entre février et octobre 2017 sur des décisions de l'Ofpra notifiées au cours du 1er semestre 2016)*, 19 November 2018, available in French at: <https://goo.gl/zAt1oC>.

⁶⁹ Article L.723-3 Ceseda.

⁷⁰ OFPRA, 'Données de l'asile 2018', 15 January 2019, available in French at: <https://goo.gl/fW3hC7>.

humanitarian mission concerning Yazidi women in Iraq.⁷¹ The 2018 reform has introduced the possibility for OFPRA to carry out resettlement missions in the law.⁷²

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? Yes No
 - ❖ If so, are interpreters available in practice, for interviews? Yes No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? Yes No
3. Are interviews conducted through video conferencing? Frequently Rarely Never
 - ❖ If so, under what circumstances? Physical inability of attending e.g. health; held in administrative detention; overseas

The Ceseda provides for systematic personal interviews of applicants. There are two legal grounds for omitting a personal interview:⁷³

- (a) OFPRA is about to take a positive decision on the basis of the evidence at its disposal; or
- (b) Medical reasons prohibit the conduct of the interview.

In practice, OFPRA rarely omits interviews. In 2017, 97.1% of all asylum seekers were summoned for an interview, compared to 94.1% in 2016 and 95.4% in 2015. The rate of interviews actually taking place was 77.6% in 2017, compared to 72.4% in 2016 and 76% in 2015.⁷⁴

All personal interviews are conducted by protection officers from OFPRA. Asylum seekers are interviewed individually without their family members. A minor child can also be interviewed alone if OFPRA has serious reasons to believe that he or she might have endured persecutions unknown to other family members.⁷⁵ After a primary interview, OFPRA can nevertheless conduct a complementary one and hear several members of a family at the same time if it is necessary for assessing the risks of persecution.⁷⁶

Videoconferencing

As a rule, interviews are conducted in the premises of OFPRA in **Fontenay-sous-Bois**, east of Paris. Interviews can be conducted through video conferencing in 3 cases:⁷⁷

- (a) The asylum seeker cannot physically come to OFPRA for medical or family reasons;
- (b) The asylum seeker is held in an administrative detention centre; or
- (c) The asylum seeker is overseas.

An OFPRA Decision of 14 December 2018 has established the list of approved premises intended to receive asylum seekers, applicants for stateless status, refugees or beneficiaries of subsidiary protection heard in a professional interview conducted by OFPRA by an audio-visual communication procedure.⁷⁸ This includes several administrative detention centres, as well as waiting zones (see [Border Procedure](#)). La Cimade noted in a 2018 report that videoconferencing has negative effects on the quality of interview in detention.⁷⁹

⁷¹ *Ibid.*

⁷² Article L.714-1 Ceseda, inserted by Article 7 Law n. 2018-778 of 10 September 2018.

⁷³ Article L.723-6 Ceseda.

⁷⁴ OFPRA, *2017 Activity report*, April 2018, available in French at: <https://goo.gl/ih5jkG>, 50.

⁷⁵ Article L.723-6 Ceseda.

⁷⁶ *Ibid.*

⁷⁷ Article R.723-9 Ceseda.

⁷⁸ OFPRA, Decision NOR: INTV1834807S, 14 December 2018, available in French at: <https://goo.gl/Jjxxo1>.

⁷⁹ La Cimade, *Le droit d'asile en rétention – Analyse d'une chimère*, June 2018, available in French at: <https://bit.ly/2EWkvls>, 29.

In 2017, 3.1% of all interviews were conducted through video conferencing, down from 4.2% in 2016. The percentage was much higher overseas (77%), with **Guiana** accounting for 41% of those.⁸⁰

Accompaniment by a third party

Asylum seekers have the possibility to be accompanied by a third person, either a lawyer or a representative of an accredited NGO.⁸¹ In a Decision of 30 July 2015, OFPRA's Director-General has detailed the conditions for the organisation of the interview. The third person has to inform OFPRA, to the extent possible, 7 days prior to the interview in the regular procedure and 4 days in the accelerated procedure of his or her intention to accompany an asylum seeker to the interview. The absence of a third person does not prevent OFPRA from conducting the interview. The third person is not allowed to intervene or to exchange information with the asylum seeker or the interpreter during the interview, but he or she can formulate remarks and observations at the end of the interview. These observations are translated if necessary and written down in the interview report. The interview is also fully recorded.⁸²

The asylum seeker or the third person can ask to read the interview report before a decision is taken on the case. At the end of the interview, the asylum seeker and the third person who accompanies him or her are informed of their right to have access to the copy of the interview. The latter is either immediately given to the asylum seeker or it is sent before a decision is taken.⁸³ However, neither the law nor the OFPRA Decision of 30 July 2015 allow for the possibility of further comments before the decision is taken.

According to an OFPRA Decision of 10 December 2018, 30 organisations are authorised to accompany asylum seekers in interviews.⁸⁴ These organisations are frequently requested to accompany asylum seekers, most of the time from applicants not accommodated in the centres they run. However, the lack of specific funding dedicated to this mission renders such assistance difficult in practice. Only 1.8% of asylum seekers interviewed in 2017 were accompanied by a third party.⁸⁵

Interpretation

The presence of an interpreter during the personal interview is provided if the request has been made in the application form. Following the 2018 asylum reform, the language declared by the asylum seeker upon registration at the GUDA is binding for the entire procedure and can only be challenged at the appeal stage.⁸⁶

Failure by OFPRA to provide interpretation may affect the validity of the first instance decision. The Council of State ruled in 2018 that where the asylum seeker has been unable to communicate and be understood during the interview, due to the absence of an interpreter for his or her language or a language he or she sufficiently comprehends, and the deficiency is imputable to OFPRA, the asylum decision shall be annulled by CNDA.⁸⁷

⁸⁰ OFPRA, *2017 Activity report*, 50.

⁸¹ Article L.723-6 Ceseda.

⁸² OFPRA, Decision of 30 July 2015 establishing organisational modalities for the interview according to the implementation of Article L.723-6 of the Ceseda.

⁸³ Article R.723-7 Ceseda.

⁸⁴ OFPRA, Decision NOR: INTV1833858S of 10 December 2018 establishing the list of organisations competent for proposing representatives to accompany asylum seekers or refugees or beneficiaries of subsidiary protection to a personal interview held by OFPRA. The list may be found at: <https://goo.gl/SzYNEd>.

⁸⁵ OFPRA, *2017 Activity report*, 51.

⁸⁶ Article L741-2-1 Ceseda, inserted by Article 10 Law n. 2018-778 of 10 September 2018.

⁸⁷ Council of State, Decision No 412514, 11 April 2018, EDAL, available at: <https://bit.ly/2NiyFrb>.

OFPPRA interviews can be conducted in 117 languages.⁸⁸ Interpreters are not OFPPRA staff but are recruited as service providers through public procurement contracts.

The law provides for a choice of interpreter according to gender considerations, in particular if the asylum seeker has been subjected to sexual violence.⁸⁹ This provision also applies to protection officers.

In 2017, 93% of interviews were held in the presence of an interpreter.⁹⁰

According to some stakeholders, the quality of interpretation can vary widely. Some asylum seekers have reported issues with translations that are too simplified (approximate translations or not in line with their answers) or with inappropriate behaviour (inattentive interpreters or interpreters taking the liberty to make personal reflections or laughing with the protection officer). Finally, sometimes the protection officers themselves act as interpreters and this can have a diverse impact. Some asylum seekers report difficulties to open up to a person who speaks the language of the country involved in the alleged persecution. Nevertheless, some advantages have also been reported, such as demonstrating a particular interest for the region of origin.

OFPPRA published a Code of Conduct for interpreters in November 2018.⁹¹ It has also conducted trainings for interpreters, specifically concerning certain vulnerabilities of asylum seekers.

Recording and report

An audio recording of the interview is also made. It cannot be listened to before a negative decision has been issued by OFPPRA, in view of an appeal of this decision.⁹² In case a technical issue prevents the audio recording from being put in place, additional comments can be added to the registration of the interview. If the asylum seeker refuses to confirm that the content of the interview registered is in compliance with what has effectively been said during the interview, the grounds for his or her refusal are written down. However, it cannot prevent OFPPRA to issue a decision on his or her claim.⁹³ The absence of an audio recording due to technical reasons does not in itself affect the validity of OFPPRA's decision, as it does not constitute an essential procedural guarantee according to the CNDA.⁹⁴

Access to the audio recording is quite difficult for asylum seekers. Indeed, before OFPPRA issues its decision, the recording can only be listened to in OFPPRA offices, in **Fontenay-sous-Bois**. This makes it impossible for asylum seekers accommodated outside Paris and its surroundings to get access to recordings. At CNDA stage, the audio recording can be obtained by asylum seekers' lawyers and transmitted to them. Even if most of lawyers pleading to the Court are based in Paris and its surroundings, it is much easier for asylum seekers to get access to the audio recording through them. The audio recording can be relied upon to substantiate the appeal.

A transcription of the interview is made by the protection officer in charge. The report is not a verbatim transcript of the interview as in practice the protection officer takes notes him or herself at the same time as he or she conducts the interview. The report is a summary of the questions asked by the protection officer, the answers provided by the asylum seeker and, since the adoption of the reform of the law on asylum, the observations formulated by the third person, if applicable. It also mentions the duration of the interview, the presence (or not) of the interpreter and the conditions in which the asylum seeker

⁸⁸ OFPPRA, Decision NOR: INTV1836064S of 28 December 2018 establishing the list of languages in which asylum seekers, applicants for stateless status, refugees and beneficiaries of subsidiary protection can be heard in the context of a personal interview, available in French at: <https://goo.gl/S8bgaX>.

⁸⁹ Article L.723-6 Ceseda.

⁹⁰ OFPPRA, *2017 Activity report*, 80.

⁹¹ OFPPRA, *Charte de l'interprétariat*, November 2018, available in French at: <https://goo.gl/vSEYFT>.

⁹² Article L.723-7 Ceseda.

⁹³ Article R.723-8 Ceseda.

⁹⁴ CNDA, *Mme N.*, Decision No 16040286, 29 October 2018, available in French at: <https://bit.ly/2GVpl5O>.

wrote his or her application. The report is sent to the asylum seeker together with any notification of a negative decision; in the regular procedure it can be sent before the notification, if the applicant so requests. The section on the opinion of the protection officer is included in the document received by the asylum seeker. The report is written in French and is not translated for the applicant. In practice, the quality of the interview report can vary, as highlighted in the OFPRA and UNHCR quality control reports (see [Regular Procedure: General](#)).

The interview report and the draft decision written by the protection officer are then submitted for the validation of the section manager. Since September 2013, a procedure of transfer of signature has been set up in order to accelerate the processing delays.

1.4. Appeal

Indicators: Regular Procedure: Appeal

- | | | |
|---|--|---|
| 1. Does the law provide for an appeal against the first instance decision in the regular procedure? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| ❖ If yes, is it suspensive | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Average processing time for the appeal body to make a decision: | 8 months and 4 days | |

1.4.1. Appeal before the National Court of Asylum (CNDA)

Following the rejection of their asylum application by the Director General of OFPRA, the applicant may challenge the decision to the National Court of Asylum (CNDA). The CNDA is an administrative court specialised in asylum. The CNDA is divided into 11 chambers. These chambers are divided into formations of courts each of them made up of 3 members:⁹⁵ a President (member of the Council of State, of an administrative court or appellate court, the Revenue Court or magistrate from the judiciary, in activity or honorary)⁹⁶ and 2 designated assessors, including one appointed by UNHCR. This presence of a judge appointed by UNHCR at the CNDA is a unique feature of the French asylum system.

The CNDA hears appeals against decisions granting or refusing refugee status or subsidiary protection, against decisions withdrawing refugee status or subsidiary protection and against decisions refusing subsequent applications. The CNDA may also hear “upgrade appeals” from applicants who have been granted subsidiary protection by OFPRA but who want to be recognised as refugees. In this case, the CNDA can grant refugee status. If not, the benefit of subsidiary protection remains.

The appeal must be filed by registered mail within 1 month from the notification of the negative decision by OFPRA. For asylum applications lodged in French overseas departments,⁹⁷ asylum seekers have 2 months to appeal the OFPRA decision.⁹⁸

There is a specific form to submit this appeal:⁹⁹

1. It has to be written in French:

⁹⁵ A plenary session (*Grande formation*) is organised to adjudicate important cases. Under these circumstances, there are 9 judges: the 3 judges from the section which heard the case initially and 2 professional judges, 2 representatives of the Council of State and 2 assessors from UNHCR.

⁹⁶ 10 judges acting as presidents are now working full time at the CNDA, in addition to part time judges on temporary contracts.

⁹⁷ Guadeloupe, Guiana, Martinique, Réunion, Saint-Barthélemy, Saint-Martin, Mayotte, Saint Pierre and Miquelon, French Polynesia, the Wallis and Futuna Islands, New Caledonia and the French Antarctic Lands.

⁹⁸ Article L.733-7 Ceseda.

⁹⁹ Article R.733-5 Ceseda.

2. It must contain the name, last name, nationality, date of birth and administrative address of the claimant;
3. It must be founded in law and facts;
4. The certification of asylum claim and the OFPRA decision must be attached;
5. It has to be signed by the claimant or his or her attorney;
6. It has to specify in which language in which the claimant wishes to be heard; and
7. In case the claim has been channelled to an accelerated procedure, the notice of information delivered by the Prefecture stating the reason for this must be attached.

This appeal has automatic suspensive effect for all asylum seekers in the regular procedure. The appeal is assessed on points of law and facts. Documents and evidence supporting the claim have to be translated into French to be considered by the CNDA. Identity papers, judicial and police documents must be translated by an officially certified translator. The clerk informs OFPRA of the existence of an appeal against its decision and asks for the case file to be transferred within 15 calendar days.

The CNDA sends a receipt of registration to the applicant which notifies the applicant of his or her right to consult his or her file, the right to be assisted by a lawyer, the fact that the information concerning his or her application is subject to automated processing, of the possibility that his or her appeal will be processed “by order” (*ordonnance*) namely by a single judge without a hearing. In case the appeal has been lodged after the deadline, and in case of dismissal (*non-lieu*) or withdrawal of the applicant, the president of the CNDA or the president of one of the sections can dismiss the appeal by order. If the appeal does not contain any serious elements enabling a questioning of the OFPRA decision, it can also be dismissed “by order” (“*ordonnance*”) but after a preliminary assessment of the case.¹⁰⁰

In 2018, the CNDA registered 58,671 appeals and took 47,314 decisions, compared to 53,581 appeals and 47,814 decisions in 2017.¹⁰¹ Activity therefore remained stable compared to 2017, bearing in mind strike actions by court staff (*rapporteurs*) to protest the 2018 asylum and immigration reform.¹⁰²

The appeal is processed by a Court panel in the regular procedure, while in the [Admissibility Procedure](#) and [Accelerated Procedure](#) only one single judge – either the President of the CNDA or the President of the section – rules on the appeal. In 2018, the CNDA took 20,771 decisions in collegial function and 26,543 single-judge decisions following a hearing or by order.¹⁰³

Processing times

The law sets a time limit for the CNDA to take a decision. The CNDA has to rule within 5 months under the regular procedure.

The average processing time for the CNDA to take a decision increased to 6.5 months in 2018 compared to 5 months and 6 days, due to a rise in the number of appeals registered and to strikes. For the regular procedure, the average processing time was 8 months and 4 days.¹⁰⁴

The deadline for closing the inquiry is 5 days minimum before the date set for the hearing in the regular procedure. This means that it is only possible to add further information to the appeal case until 5 days before the hearing.¹⁰⁵ After the hearing, it is nevertheless possible to produce further elements to the Court by submitting a “*note en délibéré*”. In the regular procedure, 21 days are taken by the Court

¹⁰⁰ The Council of State has ruled that when the CNDA takes an order, the absence of UNHCR does not contravene the 1951 Geneva Convention (in particular Article 35) or the Asylum Procedures Directive: Council of State, Decision 366578, 9 July 2014, available in French at: <http://bit.ly/1CfPye8>.

¹⁰¹ CNDA, *2018 Activity report*, 30 January 2019, available in French at: <https://goo.gl/g7QpUV>, 5.

¹⁰² Libération, ‘Fin de la grève à la Cour nationale du droit d’asile, malgré la déception des agents’, 13 May 2018, available in French at: <https://goo.gl/mJrGRQ>.

¹⁰³ *Ibid.*

¹⁰⁴ CNDA, *2018 Activity report*, 41.

¹⁰⁵ Article R.733-13 *Ceseda*.

before delivering its decision. This delay is named “*délibéré*”, during which the claimant can inform the Court of new elements or modify his or her declarations.

In case of an emergency hearing, taking place no less than 7 days after summons, the inquiry may be closed at the hearing.¹⁰⁶

Hearing and decision

Unless the appeal is rejected by order (*ordonnance*), the law provides for a hearing of the asylum seeker. The fact the CNDA may reject cases without hearing them has an effect on the duration of the procedure. If the court makes a decision “by order”, the duration of the procedure will be up to three months faster.

A summons for a hearing has to be communicated to the applicant at least 30 days before the hearing day,¹⁰⁷ at the address indicated to the CNDA.¹⁰⁸ These hearings are public, unless the President of the section decides that it will be held *in camera*. In most cases, hearings were held *in camera* following a specific request from the applicant. The hearing *in camera* is *ipso jure (de plein droit)* meaning that it is applied upon request of the applicant. The CNDA must specify in its decision whether the hearing is public or held *in camera*.¹⁰⁹

Asylum seekers who are not accommodated in reception centres have to organise and pay for their journey themselves, even if they live in distant regions.

The hearing begins by the presentation of the report by the *rapporteur*. The judges can then interview the applicant. If the applicant is assisted by a lawyer, he or she is invited to make oral submissions, the administrative procedure before the CNDA being mainly written. Following the hearing, the case is placed under deliberation.

A total of 4,182 hearings were ordered by the CNDA in 2018, to rule on 49,833 cases, of which 33,385 in collegial function and 16,448 in single-judge format. 19,001 of those cases were postponed to a later hearing.¹¹⁰

The hearing takes place at the CNDA headquarters in Montreuil, near **Paris**, but use of videoconferencing for the CNDA hearings is allowed. As of 1 January 2019, the CNDA may use videoconferencing even without the consent of the applicant, to ensure “a proper administration of justice”. The interpreter sits in a room together with the asylum seeker; if this is not possible, he or she is present from the side of the Court.¹¹¹ Where videoconferencing is used, the CNDA shall prepare two transcripts, one in the seat of the Court and one in the hearing room where the applicant is present.¹¹²

The CNDA held 153 video hearings in 2018, up from 121 in 2017.¹¹³ In practice, videoconferencing has only been applied to appeals lodged overseas, where it replaced mobile court hearings. It has not been applied to mainland France until 2019, although a recent CNDA decision provides that videoconferencing will be established in the premises of the Administrative Court of Appeal of **Lyon** and

¹⁰⁶ Article R.733-19 Ceseda, as amended by Article 14 Decree n. 2018-1159 of 14 December 2018.

¹⁰⁷ Article R.733-19 Ceseda. In case of “emergency” however, the period between the summons and the hearing can be reduced to 7 days.

¹⁰⁸ Council of State, Decision No 414389, 7 June 2018, available in French at: <https://bit.ly/2GABhQx>.

¹⁰⁹ Council of State, Decision No 418631, 7 December 2018, available in French at: <https://bit.ly/2VeC4Kt>.

¹¹⁰ CNDA, *2018 Activity report*, 20.

¹¹¹ Article L.733-1 Ceseda, as amended by Article 8 Law n. 2018-778 of 10 September 2018. This was also confirmed in CNDA, *M. N.*, Decision No 14024686, 12 September 2018, available in French at: <https://bit.ly/2BVTxjF>.

¹¹² Council of State, Decision No 408353, 7 March 2018, available in French at: <https://bit.ly/2NgixpW>.

¹¹³ CNDA, *2018 Activity report*, 20.

Nancy for all appeals lodged after 1 January 2019.¹¹⁴ The 2018 reform has been severely criticised in this regard, with practitioners referring to technical deficiencies in the videoconferencing system in Lyon which would prevent quality hearings.¹¹⁵

Decisions of the CNDA are published (posted on the walls of the court building) during a period of 21 days under regular procedure and one week under accelerated one.¹¹⁶ Negative decisions are transmitted to the Ministry of Interior, i.e. OFPRA and Prefectures.

In cases where it plans to reject the appeal by order due to the absence of serious elements enabling a questioning of the OFPRA decision, the CNDA has the obligation to inform the applicants about their rights to access their file.¹¹⁷ In practice, however, the applicant is not informed that his or her appeal will be rejected by order; the Court considers that the general information provided upon registration of the appeal, stating that the applicant has the right to access the file,¹¹⁸ discharges the duty to inform.

Applicants are heard in the language declared upon registration of the asylum application at the GUDA. If an asylum seeker cannot be heard in the language he or she has indicated, he or she is heard in a language she or she can reasonably be expected to understand.¹¹⁹

Asylum seekers face several obstacles to challenging a negative OFPRA decision. Although time limits and appeal modalities are translated at the back of the refusal notification, some asylum seekers sometimes do not understand them, in particular those who are not accommodated in reception centres. Applicants are not eligible for support for the preparation of their appeal within the PADA. They can only rely on volunteer assistance from NGOs, whose resources are already overstretched. In addition, reception centres do not officially offer legal assistance regarding the appeal. Their mission is circumscribed to a legal orientation to lawyers and to filling the legal aid request form. In practice, most accommodation centres keep on assisting asylum seekers in writing and challenging their claim to the CNDA.

1.4.2. Onward appeal before the Council of State

An onward appeal before the Council of State (*Conseil d'Etat*) is provided by law in case of a negative decision at CNDA level or in case OFPRA decides to appeal against a CNDA decision granting a protection status.¹²⁰ This appeal must be lodged within 2 months of notification of the CNDA decision.¹²¹ The Council of State does not review the facts of the case, but only allegations supported by the applicant on points of law such as compliance with rules of procedure and the correct application of the law by the CNDA. If the Council of State annuls the decision, it refers to the CNDA to decide again on the merits of the case, but it may also decide to rule itself on the granting or refusal of protection.

This appeal before the Council of State must be presented by a lawyer registered with the Council of State. If the asylum seeker's income is too low to initiate this action, he or she may request legal aid to the Office of legal aid of the Council of State. In practice, it is very difficult to obtain it.

The Council of State received the following appeals in 2018:

¹¹⁴ CNDA, Decision 2018.12.DK.01 of 17 December 2018, available in French at: <https://goo.gl/CksrSR>.

¹¹⁵ See e.g. Forum réfugiés – Cosi, 'Vidéo-audience à la CNDA : une mise en œuvre qui suscite l'inquiétude', 1 February 2019, available in French at: <https://goo.gl/n78xcp>.

¹¹⁶ CNDA decisions are however not accessible on the internet. Only a selection is published by the CNDA on its website: <http://bit.ly/2ki5O6G>. The CNDA also publishes a compilation of case law every year, available at: <https://goo.gl/GCQy4o>.

¹¹⁷ Article R.733-4(5) Ceseda.

¹¹⁸ Article R.733-8 Ceseda.

¹¹⁹ Article R.733-5 Ceseda, as amended by Article 14 Decree n. 2018-1159 of 14 December 2018.

¹²⁰ Article L.511-1 CJA.

¹²¹ See CNDA, *Appeals before the Council of State*, available in French at: <http://bit.ly/1dBgbhO>.

Appeals before the Council of State: 2015-2018				
	2015	2016	2017	2018
Total number of appeals	623	847	1,052	836
Admitted	22	21	26	24
Dismissed	665	767	1,043	812

Source: CNDA, 2018 Activity report, 41.

This appeal is not suspensive, the average processing time is around two years and the applicant may be returned to his or her country of origin during this period.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

- Do asylum seekers have access to free legal assistance at first instance in practice?
 - Yes With difficulty No
 - ❖ Does free legal assistance cover:
 - Representation in interview
 - Legal advice
- Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 - Yes With difficulty No
 - ❖ Does free legal assistance cover
 - Representation in courts
 - Legal advice

1.5.1. Legal assistance at first instance

The modalities and the degree of assistance provided to asylum seekers at first instance depend on the type of reception conditions they enjoy:

- If the applicant is accommodated in a reception centre (see [Types of Accommodation](#)), he or she can be supported in the writing of his or her application form by staff from the reception centres. According to the mission set out in their framework agreement,¹²² As regards Reception Centre for Asylum Seekers (*Centre d'accueil de demandeurs d'asile*, CADA) teams, most of the time, social workers, should also assist the applicant in the preparation of the interview at OFPRA. This consists of administrative rather than legal assistance.
- If the applicant cannot be accommodated in a reception centre, then the "reference framework" for asylum seekers' "orientation platforms" (PADA)¹²³ applies,¹²⁴ and he or she can obtain some basic information and assistance on the procedure. Some applicants can benefit from support and assistance provided in some emergency reception structures. In this case, asylum seekers are assisted in their paperwork, such as their application for legal aid and their residence permit renewal process. Asylum seekers may also be assisted in the drafting of their asylum application but the preparation for the interview is theoretically excluded.

These assistance services are funded by OFII, by the Ministry of Interior and/or by EU funding under the Asylum, Migration and Integration Fund (AMIF). Some local authorities sometimes contribute to this funding.

¹²² Annex 1 Circular on CADA Mission, 19 August 2011, available at: <http://bit.ly/1Kv5fiG>. This is expected to be amended soon.

¹²³ In France, these orientation platforms (*plateformes d'accueil*) can have several aims: they can receive asylum seekers to provide administrative, legal and social support and can also handle requests for housing and postal address (*domiciliation*). 23 of these platforms are managed by NGOs.

¹²⁴ Ministry of Interior, *Reference framework for first reception services for asylum seekers*, December 2011, available at: <http://bit.ly/1C5aQLg>, 10.

Access to legal assistance is therefore uneven depending on the type of reception conditions provided. Asylum seekers in the most precarious situations, those without reception conditions are offered much fewer services than those accommodated in CADA. This situation leads to unequal treatment between asylum seekers accommodated in reception centres (*a fortiori* CADA), who receive support and in-depth assistance, and asylum seekers housed in emergency facilities, who are without direct support and are sometimes located far away from the regional PADA. Furthermore, the limited resources allocated to these platforms greatly limit the services provided.

1.5.2. Legal assistance at the appeal stage

Legal support for the preparation of appeals to the CNDA is not funded within the “reference framework” of the PADA. Therefore, asylum seekers have to rely on legal support from lawyers.

The law foresees the granting of legal aid (“*aide juridictionnelle*”) for lawyers to file an appeal to the CNDA in case of an OFPRA negative decision.¹²⁵ Legal costs can therefore, upon certain conditions, be borne by the State.

The right to legal aid is considered as *ipso jure* (*de plein droit*). Legal aid before the CNDA is an automatic entitlement and is granted upon request if: (a) the appeal does not appear to be manifestly inadmissible; and (b) the legal aid application is submitted within 15 days after receiving the notification of the negative decision from OFPRA. The 2018 asylum reform has removed the possibility for the asylum seeker to apply for legal aid at any point before the expiry of the one-month deadline to appeal.¹²⁶

Following the reform, the law provides that the legal aid application suspends the deadline to appeal before the CNDA. Time continues to run from the point the applicant or his or her legal representative receives the notification of legal aid from the Legal Aid Office.¹²⁷ As a result, the time available to lodge an appeal will vary depending on how early a legal aid application is submitted e.g. if the legal aid application is submitted 2 days after receiving the negative OFPRA decision, the deadline to appeal will be 28 days after the decision of the Legal Aid Office.

The recipients of legal aid have the right to choose their lawyer freely or to have one appointed for them by the Legal Aid Office.¹²⁸ The refusal to grant legal aid may be challenged before the President of the CNDA within 8 days. This legal aid for asylum seekers is funded through the State budget for the general legal aid system.

¹²⁵ Article 93 Law n. 2006-911 of 24 July 2006 on immigration and integration.

¹²⁶ Article 9-4 Law n. 91-647 of 10 July 1991 on legal aid, as amended by Article 8 Law n. 2018-778 of 10 September 2018.

¹²⁷ *Ibid.*

¹²⁸ CNDA, *Legal Aid*, available in French at: <http://bit.ly/1FXqvw>.

In practice, legal aid is widely granted:

Applications for legal aid before the CNDA: 2015-2018				
	2015	2016	2017	2018
Total applications	29,181	30,193	42,749	48,620
Total decisions on applications	28,627	29,324	44,989	46,639
Granted	25,933	28,217	43,466	44,985
Refused	2,694	1,107	1,523	1,384
Acceptance rate	90.6%	96.2%	96.6%	96.4%

Source: CNDA, 2018 Activity report, 19.

Until 2013, lawyers working in the field of asylum were granted lower financial compensation (8 credits, or 182 € per file) than the fee allocated for ordinary cases before administrative courts. A Decree of 20 June 2013 doubles the unit value (16 credits, or 424 €) for appeals with a hearing and 4 credits (or 106 €) for appeals without a hearing before the CNDA.¹²⁹ Two Decrees of 12 January 2016 have increased the amount of the unit value.¹³⁰

In any event, the current level of compensation is still deemed insufficient by many asylum stakeholders in France and this prevents lawyers from doing serious and quality work for each case.¹³¹ In particular, it is not enough to cover the cost of an interpreter during the preparation of the case.¹³² Lawyers are often court-appointed by the CNDA,¹³³ and only have the address of their clients and no phone numbers for the parties to effectively get in touch. Moreover, most of these lawyers are based in **Paris** whereas asylum seekers can be living elsewhere in France. Therefore, they often do not meet their clients until the last moment. These lawyers sometimes refuse to assist asylum seekers in writing their appeal and only represent them in court. This makes it difficult for asylum seekers to properly prepare for the hearing. Asylum seekers who are not accommodated in reception centres are therefore on their own to write their appeal and face a high risk of seeing their appeal rejected by order due to insufficient arguments.

2. Dublin

2.1. General

Dublin statistics: 2018

Statistics on the application of the Dublin Regulation are not made available by the authorities prior to their publication on the Eurostat database. Provisional figures from the Ministry of Interior refer to an estimated 35,310 applications placed under the Dublin procedure in 2018.¹³⁴ However, figures for the first ten months of the year pointed to 38,652 outgoing requests and 2,930 transfers.¹³⁵

¹²⁹ Decree n. 2013-525 of 20 June 2013 on the compensation for the missions of Legal aid carried out by lawyers at the CNDA.

¹³⁰ Decree n. 2016-11 of 12 January 2016 on the compensation for the missions of Legal aid.

¹³¹ The CNDA is based in Paris and a return train ticket from other cities (such as Lyon) already takes a large part of the fee received.

¹³² Senate, *Information Report n°130*, prepared by Senators Jean-Yves Leconte and Christophe-André Frassa, 14 November 2012.

¹³³ Decree n. 2013-525 of 20 June 2013 on the compensation for the missions of Legal aid carried out by lawyers at the CNDA also extends the possibility to designate court-appointed lawyers to all lawyers registered in any Bar in France (it was previously restricted to the Bar Associations of Paris and Versailles).

¹³⁴ Ministry of Interior, *Chiffres clés – Les demandes d’asile*, 15 January 2019.

¹³⁵ La Cimade, ‘Dubliné.e, vous avez dit Dubliné.e ?’, 18 January 2019, available in French at: <https://goo.gl/Pdzjtaj>.

The Dublin procedure is implemented by Prefectures, therefore it can vary greatly from one Prefecture to another across France and, even within the same Prefecture, practice can vary over time and depending on the cases. For instance, even across the **Ile de France** region, several disparities are witnessed between different Prefectures.¹³⁶ That said, following a pilot tested in the regions of **Hauts de France** and **Provences-Alpes-Côte d’Azur**, the Ministry of Interior rolled out a regionalisation plan in 2018 whereby the Dublin procedure will be carried out by one Prefecture (*pôle régional*) per region, with a view to ensuring higher convergence across the French territory (see [Dublin: Procedure](#)).¹³⁷

Application of the Dublin criteria

The Dublin procedure is applied to all asylum seekers without exception, as per the Regulation. The Ministry of Interior issued an instruction on 19 July 2016, recalling to all Prefectures that “in the current migration context, no asylum application should be registered as France’s responsibility without prior verification whether France is in fact the responsible country.”¹³⁸ The need to strictly apply the Dublin Regulation in response to important secondary movements was recalled by the Ministry in a circular of 23 March 2018.¹³⁹

The official policy of the French Dublin Unit is that it does not transfer unaccompanied children under the Dublin Regulation. Unaccompanied children can however be placed under a Dublin procedure by Prefectures if their claim is not processed before they reach the age of 18 or if they are deemed as adults after age assessment.

In practice, the elements taken into account to determine the Member State responsible can vary from one Prefecture to another but it has been observed that the taking of fingerprints (and therefore the identification of another responsible State) always takes precedence over the application of the other criteria.¹⁴⁰ Practice was expected to evolve with the implementation of the 2015 reform of the law on asylum as the Circular of 2 November 2015 stated that “in case another Member State would be responsible for processing the asylum claim, the Prefecture conduct the interview with the asylum seeker in order to establish his or her conditions of entry, his or her itinerary and potential family ties in another Member State.”¹⁴¹ The instruction of 19 July 2016 also reiterates that the presence of family members must always be inquired, even in the case of a Eurodac ‘hit’.¹⁴² In practice, the taking of fingerprints still remains decisive in the determination of the State responsible for processing the asylum claim.

The dependent persons and discretionary clauses

It is difficult to know how the discretionary clauses are applied, although a 2017 order of the Council of State illustrates the use of the sovereignty clause in cases where a child with health conditions may

¹³⁶ La Cimade, ‘Dublin : état des lieux et conseils pratiques en Ile de France’, 1 December 2018, available in French at: <http://bit.ly/2iUiHaz>.

¹³⁷ Ministry of Interior, Note sur l’application du règlement Dublin III – régionalisation de la procédure Dublin, 30 July 2018, available in French at: <https://goo.gl/m3712j>.

¹³⁸ Ministry of Interior, Instruction NOR: INTV1618837J of 19 July 2016 relating to the application of the Dublin III Regulation – Resort to house arrest and administrative detention in the context of execution of transfer decisions, available in French at: <http://bit.ly/2jI7dEd>, 2. Unofficial translation by the author.

¹³⁹ Ministry of Interior, Information of 23 March 2018 on the application of Law n. 2018-187 of 20 March 2018 allowing for sound implementation of the European Asylum System, available in French at: <https://goo.gl/m8wNjB>.

¹⁴⁰ Circular of 1 April 2011 on the application of Council Regulation 343/2003, the so-called ‘Dublin Regulation’. Implementation of accelerated procedures of some asylum claims mentioned in art L741-4 Ceseda, available in French at: <http://bit.ly/1dBnfeg>.

¹⁴¹ Circular of 2 November 2015 on the implementation of the Law of 29 July 2015 on the reform of the asylum law, available in French at: <http://bit.ly/1RaHGpq>.

¹⁴² Ministry of Interior, Instruction NOR: INTV1618837J of 19 July 2016 relating to the application of the Dublin III Regulation – Resort to house arrest and administrative detention in the context of execution of transfer decisions, 3.

encounter risks upon transfer to another country.¹⁴³ The use of the clause was encouraged in the context of the **Calais** camp dismantlement in 2016 but has rarely been used since.

2.2. Procedure

Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? Not available

The procedure which is described in this section is mainly drawn from the current practice in the **Rhône** and **Ile de France** Prefectures.

The deadline of 3 months for Prefectures to issue an outgoing Dublin request starts running from the moment the applicant makes an application at the orientation platform (PADA) rather than the date of registration of the application at the “single desk”, as confirmed by the Administrative Court of Appeal of Bordeaux in application of the Court of the Justice of the European Union (CJEU) ruling in *Mengesteab*.¹⁴⁴

In practice, according to a sample analysed by La Cimade in 2018, a Dublin request is sent by the Prefectures to other countries within 21 days on average. This can range from requests sent on the day of registration of the claim at the GUDA, to requests sent after 91 days.¹⁴⁵

When they go to the Prefecture to register as asylum seekers at the GUDA, all applicants are given an information leaflet explaining, among others, the Dublin procedure; Leaflet A, produced by the EU and translated into several languages.¹⁴⁶ They also receive the general guide for asylum seekers, also translated into several languages, and a form to notify their intention to introduce an asylum claim (see section on [Registration](#)).

During the application process, the officers in Prefectures are requested to take fingerprints for each and every asylum seeker above 14 years old and they have a duty to check these fingerprints in the Eurodac database. An exception is made for asylum seekers whose fingerprints are unfit for identification i.e. unreadable. In this case, asylum seekers will be summoned again and then their claim will be channelled into the accelerated procedure if their fingerprints are still unfit for identification,¹⁴⁷ except very specific cases related to a proved illness. The asylum claim cannot be fully registered without the fingerprints have been taken and checked in Eurodac. Therefore, the asylum claim certification is only delivered once all information, including fingerprints, has been registered.¹⁴⁸

Asylum seekers receive an asylum claim certification specifying the procedure under which they have been placed, for instance the Dublin procedure.¹⁴⁹ This asylum claim certification allows asylum seekers placed under Dublin to remain legally on the French territory during the entire procedure for the determination of the responsible State.

¹⁴³ Council of State, Order 416192, 5 December 2017, available at: <http://bit.ly/2rpCZNM>.

¹⁴⁴ Administrative Court of Appeal of Bordeaux, Decision 17BX03212, 22 December 2017, available at: <http://bit.ly/2DtGBh>. See CJEU, Case C-670/16 *Mengesteab*, Judgment of 26 July 2017.

¹⁴⁵ La Cimade, ‘Dublin: Le Conseil d’Etat révisé sa jurisprudence sur le report du délai de transfert en cas de recours’, 26 September 2018, available in French at: <https://bit.ly/2GQNRub>.

¹⁴⁶ European Commission and Migrationsverket, *Leaflet A: “I have asked for asylum in the EU – Which country will handle my claim?”* 2014, available at: <http://bit.ly/1PSuhgz>.

¹⁴⁷ Article L.723-2 Ceseda.

¹⁴⁸ Circular of 2 November 2015 on the implementation of the Law of 29 July 2015.

¹⁴⁹ Articles L.741-1 and L.742-1 Ceseda.

Once a claim is channelled under the Dublin procedure, the applicant receives a second information leaflet on the Dublin procedure (Leaflet B, produced by the EU and translated into several languages)¹⁵⁰ and a Dublin notice document (*convocation Dublin*) issued by the Prefecture.

The presence of an interpreter at that stage is not guaranteed and practice varies widely depending on the Prefecture. In some departments, an interpreter is called to translate the written information when the applicant does not speak French. The applicant must go to the Prefecture every month with his or her Dublin notice document.

In the **Rhône** department, the applicant is informed that a take back or a take charge procedure has been initiated through the information written at the back of his Dublin notice document; the information being translated in the applicant's language. However, there is not necessarily information either about the country which was contacted or on the criteria leading to this referral.

The asylum seeker is not necessarily informed about the date when the country determined to be responsible for his or her application is contacted and sometimes does not know the date of the requested Member State's reply either. Asylum seekers under the Dublin procedure are formally informed about these dates through the notification of readmission order letter delivered to them once the decision to "take charge" or "take back" has been made.

Regionalisation

In 2018, the Ministry on Interior has implemented a regionalisation plan for the Dublin procedure.¹⁵¹ According to this plan, only one Prefecture per region is now responsible for the implementation of the Dublin procedure for the applications registered in its respective region. Following a pilot phase tested in the regions of **Hauts de France** and **Provences-Alpes-Côte d'Azur**, the following Prefectures have been designated as regional focal points (*pôles régionaux*):

Regional focal points for the Dublin procedure: 2018	
Region	Competent Prefecture
Auvergne-Rhône-Alpes	Lyon
Bourgogne-Franche-Comté	Besançon
Bretagne	Rennes
Centre-Val de Loire	Orleans
Corse	-
Grand Est	Strasbourg
Hauts-de-France	Lille
Île-de-France	-
Normandie	Rouen
Nouvelle-Aquitaine	Bordeaux
Occitanie	Toulouse
Pays de la Loire	Angers
Provence-Alpes-Côte d'Azur	Marseille

Whereas the registration of applications is still carried out by all GUDA, all administrative formalities related to the Dublin procedure are conducted by only one Prefecture in each region.

¹⁵⁰ European Commission and Migrationsverket, *Leaflet B: "I am in the Dublin procedure – What does this mean?"*, 2014, available at: <http://bit.ly/1dBoCd2>.

¹⁵¹ Ministry of Interior, *Note sur l'application du règlement Dublin III – régionalisation de la procédure Dublin*, 30 July 2018, available in French at: <https://goo.gl/m3712j>.

As a result of the regionalisation, the Ministry of Interior has advised that reception conditions should be provided close to the competent Prefecture: asylum seekers should be accommodated in places located close to that Prefecture or, if not yet accommodated, they should register with a PADA near the Prefecture.

The regionalisation plan had created difficulties for asylum seekers who had no means of travelling to the competent Prefecture after receiving a Dublin notice document, as missing an appointment led to reception conditions being withdrawn and applicants becoming exposed to destitution.¹⁵² The Council of State clarified, however, that where the applicant is required to travel from his or her place of residence to appear before the *pôle régional*, the transport costs have to be borne by the Prefecture.¹⁵³

Detention and house arrest during the procedure

The law provides the possibility of notifying a house arrest (*assignation à résidence*) to asylum seekers during the procedure of determination of the responsible Member State (see [Alternatives to Detention](#)). Since 20 March 2018, detention can also be ordered at that point (see [Grounds for Detention](#)).¹⁵⁴

In practice, the use of this possibility varies a lot depending on the Prefecture. The possibility to detain asylum seekers from the beginning of the Dublin procedure seems to have been used a few hundred times in 2018.

Individualised guarantees

Individualised guarantees are not checked by Prefectures prior to ordering a Dublin transfer, even though *Tarakhel v. Switzerland* foresees that States have to check what reception conditions and procedural provisions will be guaranteed to asylum seekers when returned to the determined responsible country. That should particularly be applied to vulnerable asylum seekers and families.

Transfers

Any transfer decision must be motivated and notified in writing to the applicant.¹⁵⁵ It shall mention deadlines to appeal and explain the appeal procedure. When the person is not assisted by a lawyer or an NGO, the main elements of the decision have to be communicated in a language he or she understands or is likely to understand.

The period between the response of the requested country and the notification of a transfer decision varies considerably among Prefectures. According to La Cimade, it takes an average of 73 days for a decision to be notified, with some Prefectures issuing a decision in one day and others (**Haute Garonne, Meurthe-et-Moselle, Val-d'Oise**) taking 4-5 months.¹⁵⁶

With regard to the time limit for carrying out the transfer, the Council of State clarified in 2018 that the 6-month deadline under Article 29 of the Dublin Regulation is suspended if the asylum seeker appeals the transfer decision, and continues to run from the delivery of the Administrative Court judgment, regardless of its outcome and only once. This means that even if the Administrative Court annuls the transfer and the Prefect lodges an onward appeal, the 6-month deadline is not renewed.¹⁵⁷

When a Member State agrees to take charge of an asylum seeker, 3 transfer modalities are available:

¹⁵² ECRE, *Access to asylum and detention at France's borders*, June 2018, 20.

¹⁵³ Council of State, Order 422159, 26 July 2018.

¹⁵⁴ Articles L.551-1 and L.561-2 *Ceseda*, as amended by Law n 2018-187 of 20 March 2018.

¹⁵⁵ Article L.742-3 *Ceseda*.

¹⁵⁶ La Cimade, 'Dublin: Le Conseil d'Etat révisé sa jurisprudence sur le report du délai de transfert en cas de recours', 26 September 2018, available in French at: <https://bit.ly/2GQNRub>.

¹⁵⁷ Council of State, Decision 420708, 24 September 2018.

- (a) Voluntary transfer initiated by the applicant him or herself: a *laissez-passer* is provided as well as a meeting point in the host country;
- (b) Enforced transfer: the applicant is accompanied by police forces up until the boarding of the plane; or
- (c) Transfer under escort: the applicant is accompanied by police forces up until the transfer to the authorities of the responsible State.

The modalities put in place to arrange transfers can vary from one Prefecture to another.

Asylum seekers under the Dublin procedure who do not benefit from stable housing receive a first letter from the Prefecture, informing them of the transfer. If they come to the Prefecture, they are placed under house arrest. If not, they receive a second letter from the Prefecture informing them that the transfer deadline may be extended to 18 months. It is therefore only after 2 refusals to come to the Prefecture that the asylum seeker is considered as absconding. In practice, refusing to come once to an OFII appointment and then once to the Prefecture implies the same consequences.

The law enables the Prefect to place under house arrest, systematically, any asylum seeker subject to a transfer decision (see [Alternatives to Detention](#)).¹⁵⁸ According to this measure, the asylum seeker has to respect the limitations defined by the house arrest order. In case the asylum seeker has not obeyed the house arrest, he or she may be placed in administrative detention.¹⁵⁹ The Prefect can also request the Judge of Freedoms and Detention (JLD) to make an order to require the assistance of the police to ensure of the presence of the asylum seekers at the place he or she is supposed to remain or to operate his or her transfer.¹⁶⁰ Since an instruction of the Ministry of Interior of 20 November 2017, the use of these provisions increased in every Prefecture.¹⁶¹

In practice, the notification of house arrest is not made under the same conditions if the asylum seekers are accommodated or not. When the asylum seekers placed under Dublin procedure are not accommodated, house arrest is notified in person at the Prefecture. Asylum seekers accommodated are notified by the Border Police at the place they are housed.

Finally, it should be noted that the rate of actual implementation of transfers remains low. As of the end of October 2018, France had implemented 38,652 outgoing requests and 2,930 transfers, thereby marking a 7.6% transfer rate.¹⁶²

In 2018, a total of 23,650 asylum seekers were allowed to lodge applications with OFPRA after their Dublin procedure in France came to an end (*requalifiés*). Of those, 8,810 had been placed in a Dublin procedure in 2018 and 14,840 in previous years.¹⁶³

¹⁵⁸ Article L.561-2 Ceseda.

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

¹⁶¹ Ministry of Interior, Instruction NOR: INT/V/17/30666/J of 20 November 2017 on the objectives and priorities in the fight against irregular immigration.

¹⁶² La Cimade, 'Dubliné.e, vous avez dit Dubliné.e?', 18 January 2019, available in French at: <https://goo.gl/Pdztaj>.

¹⁶³ La Cimade, 'Premier bilan de la demande d'asile en France en 2018', 16 February 2019, available in French at: <https://goo.gl/9oAYkV>.

2.3. Personal interview

Indicators: Dublin: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure? Yes No
❖ If so, are interpreters available in practice, for interviews? Yes No
2. Are interviews conducted through video conferencing? Frequently Rarely Never

Asylum seekers placed under the Dublin procedure do not benefit from an examination of their application for asylum by OFPRA and therefore they do not have a personal interview on the substance of their application for asylum in France in the framework of this procedure. The merit of their asylum claim will be examined if France is designated as the responsible State at the end of the process.

There is a specific interview in the Dublin procedure in France. Difficulties arise from the fact this interview is not always conducted in practice; however. The instruction of the Ministry of Interior of 19 July 2016 also recalls that interviews must be systematically conducted, not only limited to cases of a Eurodac 'hit'.

When the interviews are conducted, interpreters are not available in practice. In such cases, fellow asylum-seeking nationals as well can be asked for interpretation during the interview, violating then basic confidentiality rules.

Whether they are interviewed or not, all asylum seekers fill in a form during an appointment at the Prefecture to apply for the asylum claim certification.¹⁶⁴ The form includes a part entitled "personal interview" which contains information enabling the Prefecture to determine the Member State responsible for protection, in conformity with Annex I of the Commission Implementing Regulation No 118/2014.¹⁶⁵ During this appointment, which takes place at the GUDA in Prefectures (therefore not in offices guaranteeing confidentiality), questions are asked about civil status, family of the applicant, modes of entry into French territory, countries through which the applicant possibly travelled prior to his or her asylum application, etc. Applicants have the possibility to mention the presence of family members residing in another Member State. Some stakeholders have reported that no questions were asked about family members during the interview.

This part of the form is written in French and in English. It must be filled in by the applicant in French, during the appointment. Those appointments are not recorded. Most of the time, the asylum applicant receives a copy of the interview form.

¹⁶⁴ Scheduled in theory within 3 calendar days after the asylum seekers have expressed their request to be admitted on the territory on the ground of an asylum claim.

¹⁶⁵ Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ 2014 L 39/1.

2.4. Appeal

Indicators: Dublin: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?

- | | | |
|----------------------------|--|---|
| ❖ If yes, is it | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it suspensive | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Asylum seekers placed under the Dublin procedure can introduce an appeal before the Administrative Court to challenge the decision of transfer. The appeal has to be introduced within 15 days after the asylum seeker has been notified the decision of transfer. The appeal has suspensive effect. The designated judge has to rule within 15 days after the appeal has been lodged.¹⁶⁶

These time limits are shorter in case of detention or house arrest. In such cases, the appeal has to be introduced within 48 hours after the decision of transfer has been notified.¹⁶⁷ The judge has to rule within 72 hours after the appeal has been lodged.¹⁶⁸

In practice, the shorter time limit for introducing an appeal might prevent asylum seekers who are not accompanied or who are accompanied in orientation platforms from introducing their appeal on time. There is a practice in several Prefectures tending to notify the transfer with a house arrest measure on a Friday, to avoid the possibility for the asylum seeker to find legal assistance during the weekend, and transfer him or her 48 hours later. In these frequent cases, there is *de facto* no effective appeal for those people.

This method was also used by Prefectures to circumvent the prohibition by the Court of Cassation on placing asylum seekers in detention for the purposes of performing a Dublin transfer due to the lack of a definition of the “significant risk of absconding” in national legislation (see [Grounds for Detention](#)), until this was introduced in March 2018.¹⁶⁹

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

- | | | | |
|-------------------------------------|--|--|--|
| ❖ Does free legal assistance cover: | <input type="checkbox"/> Yes | <input type="checkbox"/> With difficulty | <input checked="" type="checkbox"/> No |
| | <input type="checkbox"/> Representation in interview | | |
| | <input type="checkbox"/> Legal advice | | |

2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

- | | | | |
|------------------------------------|--|---|-----------------------------|
| ❖ Does free legal assistance cover | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| | <input checked="" type="checkbox"/> Representation in courts | | |
| | <input checked="" type="checkbox"/> Legal advice | | |

Apart from cases where applicants under a Dublin procedure have access to reception facilities through the emergency scheme, usually they only have access to the legal assistance provided by the PADA.

Access to legal aid can be obtained upon conditions of low income. Applicants must request this allowance at the Legal Aid Office of the relevant Administrative Court. This office can ask for further information and a short account of the legal and *de facto* reasons why the asylum seeker thinks the

¹⁶⁶ Article L.742-4 Ceseda.

¹⁶⁷ *Ibid.*

¹⁶⁸ Article L.512-1(3) Ceseda.

¹⁶⁹ Court of Cassation, Decision No 17-15.160, 27 September 2017.

contested decision is unlawful or unfounded and may, for instance, lead to a violation of his or her fundamental rights. Access to legal aid can be refused if the arguments are deemed unfounded.

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? Yes No
- ❖ If yes, to which country or countries?

There is no current general policy of suspension of transfers. The official position of the Ministry of Interior consists of systematically applying the Dublin Regulation. In addition, the test applied by Administrative Courts and Administrative Courts of Appeal (erroneously) remains based on the notion of “systemic deficiencies”.

Hungary: On several occasions in 2016 and 2017, Administrative Courts have suspended the transfer of asylum seekers under the Dublin Regulation to Hungary.¹⁷⁰ Case law remains inconsistent as of 2018, however, with some courts arguing that the asylum procedure and reception conditions present no systemic deficiencies in Hungary.¹⁷¹

Italy: Some Administrative Courts have suspended transfers to Italy on account of systemic deficiencies due to pressure on the reception system and the absence of vulnerability identification.¹⁷² In the course of 2018, several judgments of Administrative Courts have annulled transfer decisions based *inter alia* on the government’s decisions to forbid search and rescue boats from disembarking in Italian ports, its plans to slash funding for asylum seekers, its hostile discourse on migrants, and the increase in incidents of racist violence.¹⁷³ Higher courts have expressed similar views in some cases.¹⁷⁴ Nevertheless, these rulings have had no effect on policy vis-à-vis Italy until now.

Bulgaria: There have been decisions suspending transfers in 2018, taking into account allegations of police violence against asylum seekers in Bulgaria among other factors.¹⁷⁵ In one case in July 2018, after the European Court of Human Rights granted interim measures under Rule 39 of the Rules of the Court to prevent a transfer to Bulgaria, the Administrative Court of Paris ruled against the transfer,¹⁷⁶ the Council of State found on appeal that the conditions in Bulgaria did not warrant a suspension of the transfer.¹⁷⁷ The Administrative Court of Appeal of Marseille has taken a similar line, arguing that there are no indications that Bulgaria would not offer treatment in compliance with asylum standards.¹⁷⁸

¹⁷⁰ Administrative Court of Appeal of Nancy, Decision No 15NC00961, 31 March 2016; Administrative Court of Appeal of Lyon, Decision No 15LY03569, 31 May 2016; Administrative Court of Lyon, Decision No 1605495, 29 July 2016; Administrative Court of Appeal of Bordeaux, Decision No 16BX00997, 27 September 2016. Contrast a decision considering that there are no systemic deficiencies in Hungary: Administrative Court of Versailles, Decision No 16VE02239, 28 June 2017.

¹⁷¹ See e.g. Administrative Court of Appeal of Versailles, Decision No 16VE02850, 20 February 2018.

¹⁷² Administrative Court of Rennes, Decision 1705747, 5 January 2018, EDAL, available at: <https://bit.ly/2NgRH0w>; Administrative Court of Nantes, Decision No 1601004, 12 February 2016. See also Administrative Court of Pau, Decision of 26 January 2018.

¹⁷³ Administrative Court of Paris, Decision No 1807362/8, 25 June 2018; No 1810819/8, 3 August 2018; Administrative Court of Bordeaux, Decision No 1803602, 29 August 2018; Administrative Court of Melun, Decisions No 1807266 and No 1807354, 18 September 2018; Administrative Court of Versailles, Decision No 1807048, 11 October 2018; Administrative Court of Pau, Decision No 1802323, 15 October 2018; Administrative Court of Toulouse, Decision No 1805185, 9 November 2018, EDAL, available at: <https://bit.ly/2V9Eg5W>.

¹⁷⁴ Administrative Court of Appeal of Lyon, Decision No 18LY00381, 2 October 2018; Administrative Court of Appeal of Nantes, Decision No 18NT00965, 5 October 2018.

¹⁷⁵ See e.g. Administrative Court of Paris, Order No 1811611/9, 6 July 2018, EDAL, available at: <https://bit.ly/2GCceN5>.

¹⁷⁶ Administrative Court of Paris, Order No 1813788/9, 31 July 2018.

¹⁷⁷ Council of State, Order No 423124, 27 August 2018.

¹⁷⁸ Administrative Court of Appeal of Marseille, Decision No 18MA01883, 19 September 2018.

In some individual cases, Administrative Courts have prevented transfers on the basis of risks of chain *refoulement* after asylum seekers' return to another Dublin State. This has notably been the case for Afghan nationals in particular, where courts have suspended Dublin transfers to different countries (**Austria, Belgium, Germany, Norway, Sweden and Finland**) on the ground that asylum seekers would face a risk of indirect *refoulement* on account of these countries' tendency to return such persons to their countries of origin.¹⁷⁹ In relation to **Italy** as well, the Administrative Court of Melun suspended the transfer of a Sudanese national in 2017 on the ground that he would face chain *refoulement* to Sudan if returned to Italy.¹⁸⁰

2.7. The situation of Dublin returnees

Concerning access to the asylum procedure upon return to France under the Dublin Regulation, these applications are treated in the same way as any other asylum applications. If the asylum seeker comes from a safe country of origin, then his or her application is examined under the accelerated procedure. If the asylum application has already received a final negative decision from the CNDA, the asylum seeker may apply to OFPRA for a re-examination only if he or she possesses new evidence (see section on [Subsequent Applications](#)).

The conditions of support and assistance of Dublin returnees are really complicated. The humanitarian emergency reception centre (*Permanence d'accueil d'urgence humanitaire*, PAUH) run by the Red Cross based next to **Roissy – Charles de Gaulle** airport aims to provide people released from the transit zone, after a court decision, with legal and social support. For many years, without any funding to implement this activity, the centre has received Dublin returnees at their arrival at the airport. The returnees are directed towards the centre by the police or the airport services.

Upon their arrival at the airport, the Border Police issues a "safe passage (*sauf-conduit*)" which mentions the Prefecture where the asylum seekers have to submit their claim. This Prefecture may be located far from Paris, in Bretagne for example. The returnees have to reach the Prefecture on their own; no organisation or official service meets them. The centre cannot afford their travel within the French territory due to its funding shortage.

When the relevant Prefectures are in the **Paris** surroundings, two situations may occur:

- (1) On one hand, some Prefectures do not register the asylum claims of Dublin returnees and channel them to the PADA. As it has already been mentioned in the [Registration](#) section, access to these platforms is really complicated and some returnees have to wait several weeks before getting an appointment with the organisations running them.
- (2) On the other hand, some Prefectures do immediately register the asylum claims of returnees and channel them to OFII in order to find them an accommodation place. The PAUH is the only entity receiving and supporting Dublin returnees upon their arrival in France by Charles de Gaulle airport. Considering the systemic difficulties encountered by the orientation platforms in Paris and its surroundings, several Dublin returnees, after registering their claim, are apt to turn to it in order to complete their asylum claim form or to find an accommodation.

In **Lyon**, the situation is similar upon arrival of returnees at **Saint-Exupéry** airport. The returnees are not received at their arrival and not supported. They are deemed to present themselves at the PADA

¹⁷⁹ Administrative Court of Lyon, Decision No 1702564, 3 April 2017 (Norway); Administrative Court of Lyon, Decision No 1705209, 28 July 2017 (Finland); Administrative Court of Toulouse, Decision of 27 November 2017 (Sweden); Administrative Court of Appeal of Lyon, Decision No 17LY02181, 13 March 2018 (Finland), EDAL, available at: <https://bit.ly/2SSwxMS>; Administrative Court of Rouen, Decision No 1801386, 31 May 2018 (Austria); Administrative Court of Appeal of Nantes, Decision No 17NT03167, 8 June 2018 (Belgium); Administrative Court of Bordeaux, Decision No 180412, 15 June 2018 (Germany).

¹⁸⁰ Administrative Court of Melun, Decision No 1708232, 6 November 2017.

run by Forum réfugiés – Cosi to be registered before submitting their claim. They encounter the same difficulties in terms of accommodation to the conditions in **Paris**.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The law provides OFPRA, as opposed to the Prefectures in **Dublin** cases, with the possibility to decide on the admissibility of asylum applications lodged before it.¹⁸¹

Claims are deemed inadmissible in the following cases:

- (a) The asylum seeker already benefits from an effective international protection status (refugee status or subsidiary protection) in another EU Member State;
- (b) The asylum seeker has already been granted refugee status and benefits from an effective protection in another third country and he or she can effectively be readmitted there; or
- (c) New facts and elements presented to introduce a subsequent application are deemed inadequate by OFPRA.

The applicability of these grounds may be discovered by OFPRA upon registration or later, during the interview or during investigations post-interview. However, there is a specific time limit in the case of **Subsequent Applications**: a preliminary examination of their admissibility has to be conducted within 8 days of registration.¹⁸²

The possibility to determine a claim inadmissible also applies to claims introduced at the border or in detention centres.

OFPRA never takes decision confirming admissibility; only inadmissibility decisions. Decisions have to be motivated and notified in writing to the asylum seeker within 1 month after the claim has been introduced or, if grounded on elements revealed during the interview, within 1 month after the interview. The notification of the decision includes procedural aspects and delays to introduce an appeal to the CNDA to challenge the inadmissibility decision.

In 2017, OFPRA took 214 inadmissibility decisions concerning asylum seekers who already enjoyed international protection in an EU Member State or refugee status in a third country.¹⁸³

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure?
 Yes No
❖ If so, are questions limited to identity, nationality, travel route? Yes No
❖ If so, are interpreters available in practice, for interviews? Yes No

2. Are interviews conducted through video conferencing? Frequently Rarely Never

Asylum seekers whose claim is deemed inadmissible are invited to the interview, except in the case of **Subsequent Applications** which represent the largest part of inadmissibility cases.

¹⁸¹ Article L.723-11 Ceseda.

¹⁸² Article R.723-16 Ceseda.

¹⁸³ OFPRA, *2017 Activity report*, 52.

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?
 Yes No
❖ If yes, is it Judicial Administrative
❖ If yes, is it automatically suspensive Yes No

There is a 1-month time limit for introducing an appeal before the CNDA. The appeal is not automatically suspensive.¹⁸⁴ Similar to the [Accelerated Procedure: Appeal](#), it is examined by a single judge at the CNDA within 5 weeks.

In cases of a negative decision in detention or at the border, specific procedures are applicable.

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in interview
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover
 Representation in courts
 Legal advice

The automatic right to legal aid at second instance (see [Regular Procedure: Legal Assistance](#)) is also applicable to inadmissible claims.

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? Yes No
2. Can an application made at the border be examined in substance during a border procedure? Yes No
3. Is there a maximum time limit for a first instance decision laid down in the law? Yes No
❖ If yes, what is the maximum time limit?¹⁸⁵ 2 working days

A specific border procedure to request an admission into the country on asylum grounds is provided by French legislation,¹⁸⁶ for persons arriving on French territory through airports, harbours or international train stations. This procedure is separate from the asylum procedure on French territory, insofar as it examines entry into the territory to seek asylum rather than the asylum application itself.¹⁸⁷

¹⁸⁴ Article L.743-2 Ceseda.

¹⁸⁵ Deadline for OFPRA to send an opinion to the Ministry of Interior.

¹⁸⁶ Article L.213-8 Ceseda.

¹⁸⁷ OFPRA, 'Demander l'asile à la frontière', 20 April 2016, available in French at: <http://bit.ly/2D1Rcpl>.

The border procedure is governed by Article R.213-2 Ceseda:

“When a foreign national who has arrived at the border applies for asylum, they are immediately informed, in a language they can reasonably be considered to understand, of the asylum application procedure, their rights and obligations over the course of this procedure, the potential consequences of any failure to meet these obligations or any refusal to cooperate with the authorities, and the measures available to help them present their request.”

Persons refused entry can benefit from a *jour franc*, i.e. protection from removal for 24 hours. The *jour franc* is no longer guaranteed in **Mayotte** and at land borders as of September 2018, however.¹⁸⁸

As soon as asylum seekers apply for asylum after being refused entry into the territory, they are directed to a waiting zone. Article L.221-4 Ceseda provides that:

“[F]oreign nationals held in waiting zones are informed, as soon as possible, that they may request the assistance of an interpreter and/or a doctor, talk to a counsel or any other person of their choice, and leave the waiting zone at any point for any destination outside of France. They are also informed of their rights pertaining to their asylum claim. This information is communicated in a language the person understands.”

The competent administrative authority for delimiting waiting zones is the Prefect of the *département* and in **Paris**, the Chief of Police (*Préfet de Police*). The decision to hold a foreign national in the waiting zone, which must be justified in writing, is taken by the Head of the National Police service or the Customs and Border Police, or by a civil servant designated by them. There are 32 waiting zones in mainland France. Most of the activities take place at the **Roissy Charles de Gaulle** (CDG) airport.

Moreover, waiting zones can be extended to within 10km from a border crossing point, when it is found that a group of at least 10 foreigners just crossed the border. The group of 10 can have been identified at the same location or various locations within the 10km area. This exceptional extended waiting zone can be maintained for a maximum of 26 days.¹⁸⁹

Waiting zones are located between the arrival and departure points and passport control. The law provides that they may include, within or close to the station, port or airport, or next to an arrival area, one or several places for accommodation, offering hotel-type facilities to the foreign nationals concerned. In some areas such as **Roissy** or **Marseille**, the waiting zone is a facility separate from the airport, meaning that the asylum seeker is transported there to follow the procedure (see section on [Place of Detention](#)).

There is no strict deadline to apply for asylum when applicants are waiting for their admission at the border, the person may apply for asylum at any time during the time he or she is held in the waiting zone, meaning during an initial period of 4 days which can reach a maximum of 20 days.¹⁹⁰ Exceptionally, if a person held in a waiting zone makes an asylum application after the 14th day, the law foresees the possibility of a further extension of detention for six more days following the submission of the asylum application, with a view to allowing the authorities to conduct the asylum procedure.¹⁹¹ Therefore detention in the waiting zone can reach 26 days if the person applies for asylum on the 20th day of detention.

It is imperative that the asylum application be taken into account and the Border Police has to make a statement detailing the request for admission on the basis of an asylum claim. As mentioned in [Access](#)

¹⁸⁸ Article L.213-2 Ceseda, as amended by Article 18 Law n. 2018-778 of 10 September 2018.

¹⁸⁹ Article L.221-2 Ceseda.

¹⁹⁰ Articles L.221-3 and L.222-2 Ceseda.

¹⁹¹ Article L.222-2 Ceseda.

to the Territory, however, cases documented in waiting zones such as **Beauvais** suggest that the Border Police does not always comply with this obligation.

The main nationalities applying at the border in 2017 and the first quarter of 2018 were as follows:

Asylum applicants at the border by nationality			
1 Jan – 31 Dec 2017		1 Jan – 31 Mar 2018	
Sri Lanka	120	Morocco	35
Algeria	103	DRC	23
Turkey	99	Algeria	21
DRC	70	Turkey	21
Albania	63	Cuba	18
Others	725	Others	170
Total	1,180	Total	288

Source: OFPRA, 22 May 2018.

The majority of applications are submitted in **Roissy**, far ahead of other waiting zones:

Asylum applicants at the border by waiting zone		
Waiting zone	1 Jan – 31 Dec 2017	1 Jan – 31 Mar 2018
Roissy	981	247
Orly	106	23
Marseille Airport	20	5
Lyon – Saint Exupéry	16	5
Toulouse	15	1
Bâle-Mulhouse	14	0
Marseille Port	7	2
Bordeaux	6	1
Beauvais	5	3
La Réunion	4	1
Nantes	3	0
Nice	2	0
Strasbourg	1	0
Total	1,180	288

Source: OFPRA, 22 May 2018.

Elements examined in the border procedure

In the border procedure, the authorities assess whether:

- (1) France is the responsible State to examine the claim;
- (2) The asylum request is not manifestly unfounded; and
- (3) The asylum claim is not inadmissible.¹⁹²

Whereas the assessment of admissibility and manifest unfoundedness are within the remit of the Border Unit of OFPRA, the application of the Dublin Regulation is examined by the Ministry of Interior.

¹⁹² Article L.213-8-1 Ceseda.

The law defines “manifestly unfounded” claims as follows: “A claim is manifestly unfounded when considering the foreign national’s statements and documentation it is manifestly irrelevant (*manifestement dénuée de pertinence*) as far as asylum criterion or manifestly lacking credibility (*manifestement dépourvu de toute crédibilité*) regarding the risk of persecutions or severe violations.”¹⁹³

The law provides a deadline of 2 working days for OFPRA to give its opinion to the Ministry of the Interior as of the moment the intention of the foreign national to claim asylum has been written down by the Border Police.¹⁹⁴ Within these 2 days, OFPRA has to conduct an interview with the asylum seeker.

This opinion is communicated to the Ministry of Interior. OFPRA’s opinion is binding, except in case the asylum seeker represents a threat to national security.¹⁹⁵ There are no known cases where the Ministry of Interior has refused to follow its opinion on national security grounds.

In theory, this interview is conducted to check whether the given facts are manifestly irrelevant or not. This review could look like a kind of admissibility procedure. It should only be a superficial review of the asylum application. In practice, the assessment usually covers the verification of the credibility of the account; interview reports contain comments on stereotypical, imprecise or incoherent accounts on matters such as the sexual orientation of the applicant, with a lack of written proof. This practice of *de facto* examining the request on the merits is extremely problematic.

A deadline for the decision of the Ministry of Interior is not provided for in legislation. In practice, in 2017, 72% of the OFPRA opinions were delivered in less than 96 hours (3.39 days on average), compared to an average of 2.43 days in 2016.

If the asylum application is not considered to be manifestly unfounded or inadmissible, the foreign national is authorised to enter French territory and is given an 8-day temporary visa (safe passage). Within this time frame, upon the request from the asylum seeker, the competent Prefectures grant the person an asylum application certification to allow him or her to introduce its asylum claim. OFPRA then processes the asylum application as any other asylum application lodged directly on the territory.

If the asylum application is considered as manifestly unfounded or inadmissible, the Ministry of Interior refuses to grant entry to the foreigner with a reasoned decision. The person can lodge an appeal against this decision before the Administrative Court within a 48-hour deadline. If this appeal fails, the foreigner can be expelled to his or her country of origin (in application of Annex 9 of the Chicago Convention).

The opinions issued by OFPRA in 2017 and the first quarter of 2018 were as follows:

OFPRA opinions on admission to the territory on grounds of asylum				
Waiting zone	1 Jan – 31 Dec 2017		1 Jan – 31 Mar 2018	
	Positive	Negative	Positive	Negative
Roissy	262	708	50	195
Orly	25	79	9	13
Marseille Airport	5	15	0	5
Lyon	4	12	2	3
Toulouse	4	11	0	1
Bâle-Mulhouse	4	10	0	0
Marseille Port	2	5	1	1

¹⁹³ Article L.213-8-1 Ceseda.

¹⁹⁴ Article R.213-5 Ceseda.

¹⁹⁵ Article L.213-8-1 Ceseda.

Bordeaux	3	3	0	1
Beauvais	0	5	0	3
La Réunion	0	4	0	1
Nantes	1	2	0	0
Nice	1	1	0	0
Strasbourg	0	1	0	0
Total	311	856	62	223

Source: OFPRA, 22 May 2018.

In 2017, 26.6% of asylum seekers received a positive opinion and a right to enter the French territory to register an application, compared to 20.4% in 2016.

So far, OFPRA has not issued opinions opposing admission to the territory on grounds of inadmissibility. The number of refusals of admission based on the Dublin Regulation are very limited.

4.2. Personal interview

Indicators: Border Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the border procedure?

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If so, are questions limited to nationality, identity, travel route?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ If so, are interpreters available in practice, for interviews?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

2. Are interviews conducted through video conferencing?

<input type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input checked="" type="checkbox"/> Never
-------------------------------------	---------------------------------	---

The border procedure is very different from the asylum procedure on the territory. All asylum seekers subject to a border procedure are interviewed by the Border Unit of OFPRA which provides the Ministry of Interior with a binding opinion on whether their application is well-founded or not. OFPRA delivers its opinion to the Ministry within 2 working days after the intention to apply for asylum has been recorded. In order to substantiate its decision, OFPRA conducts an interview with the person.

The law provides the same provisions on interviews in the border procedure as in the regular procedure:¹⁹⁶

- If the interview of the asylum seeker requires the assistance of an interpreter, it is paid for by the State;
- An asylum seeker introducing a claim at the border can be accompanied by a third person during his or her interview with OFPRA;
- At the end of the interview, the asylum seeker and the third person, if applicable, are informed of their right to have access to a copy of the interview;
- An audio recording of the interview is also conducted; and
- There is a possibility for the interview to be conducted by video conferencing.

Remote interviews

Roissy CDG airport, where the majority of border procedures take place, is the only waiting zone where the OFPRA Border Unit interviews the asylum seeker in person.

The interviews in **Orly** and **Marseille** are conducted by videoconference and interviews all other border procedures are done by phone. Difficulties have been reported for asylum seekers in **Marseille** – where

¹⁹⁶ Article R.213-4 Ceseda.

the waiting zone is located in the premises of the administrative detention centre of Canet – as they have to be escorted to the videoconference room within the detention centre section of the building and the videoconferencing system often runs into technical problems. Where technical problems arise, the interview is conducted by phone.¹⁹⁷ However, the Administrative Court of Marseille has invoked procedural irregularities and annulled decisions refusing admission to the territory for the purpose of seeking asylum where the interview with OFPRA has been conducted by phone rather than videoconference.¹⁹⁸

In remote interviews, interpretation is ensured by an interpreter who is included in the phone call. Overall, an interpreter was used in 77.8% of the interviews in 2017, while the rest of the interviews concerned French-speaking asylum seekers.

According to organisations assisting asylum seekers, remote interview and interpretation prove particularly challenging for the individual as he or she is often interrupted by the protection officer, who is typing notes at the same time. In **Nice**, the interview report is read out to the applicant without being translated and does not mention whether the applicant was interrupted in the course of the interview.¹⁹⁹

Accompaniment by a third party

The possibility for the applicant to be accompanied by a third party in the interview with OFPRA is rarely used at the border. Out of 837 interviews conducted in Roissy in 2017, only in 5 was the asylum seeker accompanied by an NGO and in 31 by a lawyer. This means that over 95% of interviews were carried out without a third party being present. The limited use of this guarantee could be due to a lack of awareness on the part of asylum seekers, despite the fact that information sheets to that effect are available in the waiting zones, as well as the shortage in capacity of NGOs such as Anafé which have no permanent presence in the zones.²⁰⁰

4.3. Appeal

Indicators: Border Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the border procedure?

❖ If yes, is it

❖ If yes, is it suspensive

Yes

Judicial

Yes

No

Administrative

No

When the request for entry for reasons of asylum made at the border is rejected, the person is refused admission into French territory. The asylum seeker can introduce an appeal to challenge this decision before the Administrative Court.

Before the Administrative Court, the applicant can contest the refusal of admission into the French territory within 48 hours. The appeal has suspensive effect. The Administrative Court must decide within 72 hours.²⁰¹

The decision of this Administrative Court can be challenged within 15 days before the President of the competent Administrative Court of Appeal, but this appeal does not have suspensive effect.

¹⁹⁷ ECRE, *Access to asylum and detention at France's borders*, June 2018, 21.

¹⁹⁸ See e.g. Administrative Court of Marseille, Decision No 1704059, 7 June 2017; No 1704319, 16 June 2017. Contrast with Decision No 1706792, 3 October 2017, where the Court found no procedural irregularities.

¹⁹⁹ ECRE, *Access to asylum and detention at France's borders*, June 2018, 21.

²⁰⁰ *Ibid*, 22.

²⁰¹ Article L.213-9 Ceseda.

Based on “considerations of the proper application of justice”, the Council of State assigns the case to the Administrative Court that is closest to the concerned waiting zone,²⁰² and no longer to the Administrative Court of **Paris** only, as was previously the case.

There are many practical obstacles to lodging appeals effectively at the border.

Anafé has denounced the illusory nature of the effectiveness of this suspensive appeal in recent reports.

4.4. Legal assistance

Indicators: Border Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

Yes With difficulty No

❖ Does free legal assistance cover:

Representation in interview

Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?

Yes With difficulty No

❖ Does free legal assistance cover:

Representation in interview

Legal advice

There is no permanent legal adviser or NGO presence in the waiting zones; only Anafé is occasionally present in **Roissy CDG Airport**. Asylum seekers must therefore try to get hold of an adviser by phone from the waiting zone. Many concerns have been raised about effective access to a telephone, as well as outdated lists of lawyers available in different waiting zones.

A third person (lawyer or representative of an accredited NGO) can be present during the OFPRA interview;²⁰³ and legal representatives shall be present for unaccompanied children. As stated in [Border Procedure: Personal Interview](#), however, this possibility is rarely used in the border procedure.

Contrary to appeal procedures before the CNDA (see [Regular Procedure: Legal Assistance](#)) where the asylum seeker can request *ipso jure* legal aid, before the Administrative Court, asylum seekers can be assisted by an appointed lawyer on the basis of “genuine right to legal aid”. They can ask for this support at any stage of the procedure including on the day of the hearing before the Administrative Court.

Asylum seekers can request to be assisted by a court appointed lawyer during their hearing before the JLD who is competent to rule on the extension of their stay in the waiting zone (see [Judicial Review of the Detention Order](#)). In theory, the asylum seeker should have hired one previously at his or her own expense, or prepared a sufficiently well-argued request in French by him or herself, in terms of facts and points of law. This is another illusory measure that does not guarantee the asylum seeker access to an effective remedy, even though they have access to court-appointed lawyers if necessary.²⁰⁴

Anafé denounces the fact that these cases are handled in haste by the court-appointed lawyers. Indeed, due to the urgency of the appeal and to the functioning of the administrative courts, the court-appointed lawyers in reality only have access to all the elements of the case once they meet the asylum seeker at the court, meaning in the best case scenario one hour before the start of the hearing. Under these

²⁰² Article R.351-8 CJA.

²⁰³ Article L.213-8-1 Ceseda.

²⁰⁴ See also OEE, *Rapport d'observation « Une procédure en trompe l'oeil » Les entraves à l'accès au recours effectif pour les étrangers privés de liberté en France*, May 2014.

conditions, it is difficult for the lawyer to know the story of the person held in the waiting zone and to provide a good appeal.²⁰⁵

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, time limits)

The reasons for channelling an asylum seeker into an accelerated procedure are outlined in Article L.723-2 Ceseda which lists 10 grounds.

The accelerated procedure is automatically applied where:

- a. The applicant originates from a [Safe Country of Origin](#); or
- b. The applicant's [Subsequent Application](#) is not inadmissible.

The asylum claim will be channelled under the accelerated procedure, where the Prefecture has reported that:

- c. The asylum seeker refuses to be fingerprinted;
- d. When registering his or her claim, the asylum seeker has presented falsified identity or travel documents, or provided with wrong information on his or her nationality or on his or her conditions of entry on the French territory or has introduced several asylum claims under different identities;
- e. The claim has not been registered within 90 days after the foreign national has entered the French territory;²⁰⁶
- f. The claim has only been made to prevent a notified or imminent removal order; or
- g. The presence of the foreign national in France constitutes a serious threat to public order, public safety or national security.

In the abovementioned cases, it is the Prefecture that decides to channel related claims under the accelerated procedure. In that case, the asylum claim certification specifically mentions that the asylum seeker is placed under accelerated procedure. The ground for applying the accelerated procedure is specified in an additional document given to the applicant together with the certification. Asylum seekers under accelerated procedure have to send the asylum claim form to OFPRA within 21 days to lodge their applications, as is the case with asylum seekers under the regular procedure.

While processing an asylum claim, OFPRA also has the competence to channel a claim under an accelerated procedure where:

- a. The asylum seeker has provided falsified identity or travel documents, or wrong information on his or her nationality or on his or her conditions of entry on the French territory or has introduced several asylum claims under different identities;
- b. The asylum seeker has supported his or her claim only with irrelevant questions regarding his or her claim; or
- c. The asylum seeker has given manifestly contradictory and incoherent or manifestly wrong or less likely statements that are contradictory to country of origin information.

In any of the abovementioned cases, OFPRA can decide not to process a claim under accelerated procedure when this is deemed necessary, in particular when an asylum seeker originating from a country listed on the safe country of origin list calls upon serious grounds to believe that his or her country of origin might not be safe considering his or her particular situation.²⁰⁷ In addition, OFPRA may decide not to process under the accelerated procedure claims of vulnerable applicants. In 2017, OFPRA rechannelled 63 cases into the regular procedure out of a total of 31,561 cases processed in the

²⁰⁵ Anafé, *Voyage au centre des zones d'attente*, November 2016, 53.

²⁰⁶ Prior to the 2018 reform, this time limit was 120 days.

²⁰⁷ Article L.723-2(5) Ceseda.

accelerated procedure, as compared to 51 cases in 2016. On the other hand, OFPRA rechannelled 598 cases from the regular to the accelerated procedure in 2017.²⁰⁸

As in the regular procedure, OFPRA is the authority responsible for the decision at first instance in accelerated procedures. Its decisions should in theory be made within 15 calendar days.²⁰⁹ This period is reduced to 96 hours if the asylum seeker is held in administrative detention.²¹⁰ There is no specific consequence if the Office does not comply with these time limits. In practice, some stakeholders assisting asylum seekers have reported that some of them under the accelerated procedure have waited more than 15 days before receiving the decision from OFPRA.²¹¹

In 2016, the average period for the examination of first asylum requests in the accelerated procedure was 98 days; due to some files taking particularly long times to be processed.²¹² No statistics were made available for 2017 or 2018.

According to Ministry of Interior statistics, an approximate 45,170 asylum applications were channelled into the accelerated procedure in 2018, representing over 30% of all caseloads.²¹³

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure?
 Yes No
❖ If so, are questions limited to nationality, identity, travel route? Yes No
❖ If so, are interpreters available in practice, for interviews? Yes No
2. Are interviews conducted through video conferencing? Frequently Rarely Never

Interviews of asylum seekers channelled into an accelerated procedure take place under the same conditions as interviews in a regular procedure (see [Regular Procedure: Personal Interview](#)).

All personal interviews are conducted by OFPRA.

The same grounds for omission apply, except for asylum seekers channelled into an accelerated procedure for reasons of a [Subsequent Application](#). No specific statistics are available for the rate of interviews conducted in the accelerated procedure.

²⁰⁸ OFPRA, *2017 Activity report*, 22, 114.

²⁰⁹ Article R.723-3 Ceseda. Delays are even shorter (96 hours) for persons held in administrative detention centres and in waiting zone.

²¹⁰ Article R.723-4 Ceseda.

²¹¹ This information has been collected by Forum réfugiés – Cosi social workers in **Lyon, Clermont-Ferrand and Marseille** but also by other NGOs in **Paris** and its surroundings, **Bretagne, Charentes-Maritimes, Somme or Lorraine**.

²¹² OFPRA, *2016 Activity report*, 41.

²¹³ La Cimade, 'Premier bilan de la demande d'asile en France en 2018', 16 February 2019, available in French at: <https://goo.gl/9oAYkV>.

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
- ❖ If yes, is it Yes No
- ❖ If yes, is it suspensive Judicial Administrative
Depending on ground

Persons channelled into an accelerated procedure must appeal within the same time period: 1 month after the negative decision. The main difference is that in accelerated procedure the decision has to be given by a single judge within 5 weeks.

As the preparation of these appeals is hardly supported by NGOs, since assistance to draft the appeal is no longer in the mandate of the orientation platforms, asylum seekers may not be aware of these deadlines and face serious difficulties in drafting a well-argued appeal. They can nonetheless lodge a request to benefit from legal aid (*aide juridictionnelle*).

Appeals in the accelerated procedure have automatic suspensive effect, except for those based on: (a) safe country of origin; (b) subsequent application; and (c) threat to public order.²¹⁴ These exceptions were added by the 2018 asylum reform and entail a loss of the right to remain on the territory upon notification of the negative decision. Asylum seekers can, however, appeal before the Administrative Court within 15 days – or 48 hours in case of detention – to request that the CNDA appeal be given suspensive effect. The request to the Administrative Court has suspensive effect.²¹⁵

The decision of OFPRA or of the Prefectures to channel an application under the accelerated procedure cannot be challenged separately from the final negative decision on the asylum claim but it is possible for the applicant to request so to in the appeal against the negative decision.²¹⁶

In any case of placement under the accelerated procedure, including safe country of origin cases or subsequent applications, it is always possible for the CNDA to channel an asylum seeker into the regular procedure.²¹⁷ In 2017, 207 cases under single-judge procedure were thus rechannelled into collegial hearing by the CNDA.²¹⁸ Figures are not available in the 2018 report of the CNDA.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
- ❖ Does free legal assistance cover: Yes With difficulty No
- Representation in interview
- Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
- ❖ Does free legal assistance cover Yes With difficulty No
- Representation in courts
- Legal advice

²¹⁴ Article L.743-2 Ceseda.

²¹⁵ Article L.743-3 Ceseda.

²¹⁶ Article L.723-2(6) Ceseda.

²¹⁷ Article L.731-2 Ceseda.

²¹⁸ CNDA, 2017 Activity report, 20.

Asylum seekers channelled into an accelerated procedure have the same rights with regard to access to assistance as those in a regular procedure. As they are entitled to the same reception conditions as asylum seekers under the regular procedure, the assistance they can hope for depends of their conditions of reception.

However, asylum seekers whose claims are refused on the basis of safe country of origin, subsequent application or threat to public order grounds may lose their right to reception conditions, and thus the possibility of assistance, if suspensive effect is not granted for their appeal before the CNDA.²¹⁹

The right to legal assistance at the appeal stage before the CNDA is the same for asylum seekers under regular procedure and under accelerated procedure. However, the CNDA has to process appeals of negative decisions of claims under accelerated procedures within 5 weeks. This short timeframe might prevent asylum seekers under accelerated procedure to prepare the case with the lawyers.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?
 Yes For certain categories No
❖ If for certain categories, specify which: Objective vulnerabilities e.g. age, pregnancy, Disability
2. Does the law provide for an identification mechanism for unaccompanied children?
 Yes No

Article L.744-6 Ceseda refers to the identification of vulnerability, in particular, of children, unaccompanied children, disabled persons, the elderly, pregnant women, single parents with minor children, victims of trafficking, persons with serious illness, persons with mental disorders, and victims of torture, rape and other forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

The law does not refer to vulnerability on account of sexual orientation or gender identity, therefore this is not taken into account by OFII either.

1.1. Screening of vulnerability

OFII is responsible for identifying vulnerabilities and special needs of asylum seekers.²²⁰ In order to do so, OFII has to proceed, within a “reasonable” timeframe, to an evaluation of vulnerability. This evaluation, that concerns all asylum seekers, takes the form of an interview based on a questionnaire.²²¹ The interview follows the registration of their claim in the Prefectures. The objective is thus to determine whether the person has special reception and procedural needs. Any needs emerging or being revealed later on during the asylum procedure are to be taken into account.

The assessment of vulnerability particularly concerns the categories listed in Article L. 744-6 Ceseda.

The assessment is carried out by OFII officers specifically trained on vulnerability assessment and identification of special needs. However, the publication of the questionnaire designed for the

²¹⁹ Article L.744-9-1(2) Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.

²²⁰ Article L.744-6 Ceseda.

²²¹ A copy of the questionnaire may be found at: <http://goo.gl/o2CiuS>.

vulnerability assessment²²² reveals that only objective vulnerability will be assessed during the interview with OFII upon registration of the application at the GUDA. At that stage, no vulnerability linked to the asylum claim shall be discussed. Therefore, the vulnerability assessment has had a limited impact on the early identification of vulnerable persons such as victims of torture and of physical, mental or sexual violence as well as victims of human trafficking.

During the interview with OFII, the asylum seeker is informed that he or she can benefit from a free medical examination. Any information collected by OFII on the vulnerability of an applicant is sent to OFPRA, if the applicant so agrees.

In practice, it has been reported on several occasions that such interviews are not always conducted by OFII. It may happen that OFII indeed receives the asylum seekers but does not interview them properly, or conducts short interviews lasting 10-15 minutes, thus not allowing for an in-depth assessment of special needs.²²³ The assessment of their vulnerability is, in most cases, based on a vulnerability assessment form used by OFII officers. This situation has been widely reported by stakeholders regardless the region where they are present. Many of them have also reported the fact that the interview is not conducted with an interpreter. Indeed, the Prefectures do not have a pool of interpreters *in situ*. Many local NGOs ask volunteering interpreters or fellow nationals for being present at the interview with the asylum seekers.

This lack of interview is really problematic. This interview is meant to propose reception conditions adapted to asylum seekers' vulnerability. It may lead some asylum seekers to be accommodated into centres that do not correspond to their specific needs. For example, it has been reported that some female asylum seekers, victims of human trafficking or sexual violence, have been housed in centres mainly occupied by single men.

In addition, it is possible to notify OFII of any vulnerability element identified after the "interview" whether it has been conducted or not. When the asylum seekers benefit from legal and social assistance, from orientation platforms for example, it is possible for them to address OFII with a medical certificate. However, for asylum seekers living in camps or on the streets, it is particularly difficult for them to have their vulnerability taken into account.

For asylum applications made at the border or in detention, OFPRA has developed a system for the signalling of vulnerabilities in places of detention. Any person authorised to be present in waiting zones, including the NGOs accredited to that effect, can alert OFPRA of the existence of vulnerabilities through a functional email address. This possibility seems marginally used in practice, as only one referral was made in 2017 and none in the first quarter of 2018.²²⁴

1.2. Age assessment of unaccompanied children

Age assessment is not conducted in the framework of the asylum procedure in France but as a prerequisite to benefitting from the Childcare Protection system. The age assessment procedure and criteria are detailed in a legal framework of 2016,²²⁵ which establishes the elements to be taken into account to determine the applicant's minority:

- The minor has to be informed of the objectives of the evaluation and its potential effects;

²²² Decree of 23 October 2015 on the questionnaire for vulnerability assessment of asylum seekers; Decree of 17 November 2016 implementing Decree n. 2016-840 of 24 June 2016 on the evaluation of minors temporarily or permanently deprived of family care, available in French at: <http://bit.ly/2msmNXw>.

²²³ Haut-Conseil à l'Égalité, *Situation des femmes demandeuses d'asile en France après l'adoption de la loi portant réforme du droit d'asile*, 18 December 2017, available in French at: <http://bit.ly/2mWvoBM>, 18.

²²⁴ ECRE, *Access to asylum and detention at France's borders*, June 2018, 22.

²²⁵ Law n. 2016-297 of 14 March 2016 relating to child protection, available in French at: <http://bit.ly/2jd6t9b>; Decree n. 2016-840 relating to reception and minority assessment conditions of minors temporarily or definitely deprived from the protection of their family, 24 June 2016, available in French at: <http://bit.ly/2j01GrO>.

- This assessment has to be conducted in a multidisciplinary approach;
- The assessor must have strong knowledge of migratory routes, the situation in the country of origin, childhood psychology and children rights;
- Particular attention must be paid to potential cases of human trafficking;
- The interview must be conducted in a language spoken by the interviewee; and
- The outcome of the interview must be held in a written decision notified to the interviewee, and mention the legal remedies against it.

Methods for assessing age

In practice, bone examinations continue to be implemented even when unaccompanied children possessed civil status documents. According to some stakeholders, some young people, in particular those above 16, are subjected to several medical examinations until it can be established that they are 18. In 2016, the Children's Ombudsman (*Défenseur des enfants*) introduced recommendations in order to avoid bone examinations and recommended that unaccompanied children shall benefit from all procedural safeguards when the authenticity of the documents proving their minority is questioned.²²⁶ The Ombudsman has recalled this position many times in 2016, holding that the social evaluation had to prevail over the bone examination, in particular when the lack of authenticity of the identity documentation has not been proved.²²⁷

In his 2017 report, the Ombudsman pointed out that the difficulties persisted: bone examinations are maintained, some unaccompanied children are denied care and evaluation without justification, regardless of whether they have identity documents or not, as refusals are often based on racial profiling. At the same time, other children have to wait without accommodation or in really bad emergency housing during the really long examination of their situations.²²⁸

The priority given to the bone examination, in case of producing identity papers whose authenticity is not properly denied, has been considered as unlawful. If there is no legitimate element to deny the authenticity of such documents, the bone examination must not prevail. The Court of Appeal in Lyon has recalled this principle in 2017 based on a loyal application of the legal instruments adopted in 2016.²²⁹

On 21 December 2018, the Court of Cassation referred a preliminary question to the Constitutional Court on the constitutionality of bone examinations for age assessment. The hearing took place on 19 March 2019.²³⁰

Benefit of the doubt

Young people should get the benefit of the doubt in the event that an evaluation cannot establish their exact age, not least as recalled by Article 25(5) of the recast Asylum Procedures Directive. Once again, practice is not uniform across the country.

However, young people are rarely given the benefit of the doubt in practice. The State Prosecutor is the authority that decides on an age assessment dispute. In fact, the Prosecutor is responsible for issuing the order to place the child in care (temporarily or not) and may therefore request additional tests if there is a doubt about their age. Sometimes, the Prosecutor also closes the file with "no further action" without considering other investigations which may in certain cases confirm the person's minority.

²²⁶ Children's Ombudsman, *Conférence France terre d'asile "Unaccompanied minors: third country nationals or children"*, 30 October 2015.

²²⁷ Ombudsman, Decision MDE-2016-052, 26 February 2016, available in French at: <http://bit.ly/2jghszL>; Ombudsman, Decision MDE 2016-113, 20 April 2016, available in French at: <http://bit.ly/2DnKCHb>.

²²⁸ Ombudsman, *Children's rights in 2017*, November 2017, available in French at: <http://bit.ly/2AEpuJA>.

²²⁹ Court of Appeal of Lyon, Decisions Nos 16/0043, 16/00602 and 16/00770, 11 January 2017.

²³⁰ Constitutional Court, 2018-768 QPC, available in French at: <https://bit.ly/2EjEYb8>.

In any case, having been determined to be above 18 as a result of an age assessment procedure has a dramatic impact on the young asylum seeker's ability to benefit from fundamental guarantees. The age assessment procedure does not entail the granting of new documentation. This means that the person might be considered alternatively as an adult or a child by various institutions. If Childcare Protection considers the asylum seeker is above 18, it will not provide for any legal representative for the person, whereas such representation is required for the registration of an asylum application. This may hinder the young person from submitting an asylum claim; in case a minor without legal representative presents him or herself in Prefecture to register an asylum claim, the Prefecture has to refer the case to the Prosecutor in order that for an *ad hoc* administrator to be appointed (see [Legal Representation of Unaccompanied Children](#)). Yet such a legal representative is sometimes not appointed, if the Prosecutor relies on the result of the age assessment procedure. In such cases, the person cannot lodge his or her claim before turning 18 or OFPRA suspends the processing of the asylum claim until he or she turns 18.

Conversely, in other situations, the child manages to register his or her asylum application with an *ad hoc* administrator, with minority being recognised by the Prosecutor at that stage, but is then recognised as adult after the evaluation. In this case, he or she can proceed with the asylum claim as a child but cannot benefit from any specific reception conditions either as an unaccompanied child or as an adult.

No statistics are available on the use of age assessment nationwide. A total of 14,908 young persons reported as unaccompanied minors were integrated in the national mechanism for childcare protection in 2017, a 85% increase from 8,054 in 2016.²³¹ A report published by two Senators in June 2017 mentioned that 49% of age assessments have resulted in acknowledging the person as a minor.²³² However, this figure is based on incomplete statistics and cannot be considered as reliable.

The 2018 asylum and immigration reform provided for the creation of an automated data processing system for unaccompanied children, aiming at "better guaranteeing child protection and at the prevention of illegal entry and stay of foreigners in France".²³³ A Decree of 30 January 2019 has further detailed this database and the evaluation process for unaccompanied children.²³⁴ As a result, all young persons applying for support as unaccompanied children are from now on required to register at Prefectures their personal data, including fingerprints, photograph and documents, while Childcare Protection may ask the Prefecture for help in the evaluation process as regards the identity of a young person.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

- ❖ If for certain categories, specify which: Yes For certain categories No
Unaccompanied children, victims of torture, Violence or trafficking, LGBTI persons

Throughout the asylum procedure, OFPRA is competent for adopting specific procedural safeguards pertaining to an asylum seeker's specific needs or vulnerability.²³⁵

²³¹ Ministry of Justice, *Mission mineurs non accompagnés: Annual report*, March 2017, available in French at: <http://bit.ly/2xxxuyV>, 5.

²³² Elisabeth Doineau and Jean-Pierre Godefroy, *Rapport d'information au nom de la commission des affaires sociales sur la prise en charge sociale des mineurs non accompagnés*, French Senate, 28 June 2017, available in French at: <http://bit.ly/2wZnDPr>, 54.

²³³ Article L.611-6-1 Ceseda, inserted by Article 51 Law n. 2018-778 of 10 September 2018.

²³⁴ Decree n. 2019-57 of 30 January 2019 on methods of evaluation of persons reporting as unaccompanied minors and authorising the creation of a personal information data-file concerning those persons.

²³⁵ Article L.723-3 Ceseda.

2.1. Adequate support during the interview

The Ceseda does not define the notion of “adequate support” contained in Article 24(3) of the recast Asylum Procedures Directive. However, specific procedural safeguards relating to the interview include:²³⁶

- a. The presence of a third person during the interview with the OFPRA protection officer. Even though this provision does not specifically concern vulnerable applicants, it can be particularly relevant and useful for these categories of asylum seekers;
- b. The possibility for an asylum seeker to ask that the interview is conducted by a protection officer and with an interpreter from a specific gender. This request has to be motivated and manifestly founded by the difficulty to express the grounds for his or her claim in presence of people from a certain gender (especially in situations of sexual violence);
- c. The presence of a mental health professional for asylum seekers suffering from severe mental disease or disorder.

The law maintains the possibility for the asylum seeker to request a closed-door audience with the CNDA. This decision can also be taken by the President of the court session if circumstances so require.²³⁷

OFPRA has set up 5 thematic groups (*groupes de référents thématiques*) of about 20-30 staff each, covering the following elements: sexual orientation and gender identity; unaccompanied children; torture; trafficking in human beings; and violence against women.²³⁸ The thematic groups follow internal guidelines developed by the *référents* and revised every year. OFPRA has also established a position of Head of Mission – Vulnerability as of 2016.

These officials follow specialised training on the specific issues they deal with:

- Officers dealing with claims from unaccompanied children must be specifically trained on this matter. They are trained on the particularities of asylum claims lodged by youngsters and also have to attend a mandatory training on techniques for collecting personal stories, using the EASO training module on Interviewing Children;
- A protection officer may interview an applicant presenting other vulnerabilities. There, officers are trained based on internal training packs which refer to external sources e.g. TRACKS project or GRETA report for victims of trafficking.
- Since October 2013, Forum réfugiés – Cosi and the Belgian NGO Ulysse have conducted several 2-day trainings for OFPRA protection officers on victims of torture with two main objectives: helping them to take into account the difficulties asylum seekers may face when they have to share their story after traumatic events and providing tools to protection officers for handling these situations. OFPRA had announced its goal to train all 170 protection officers by the end of 2015.²³⁹ In 2018, Forum réfugiés-Cosi has trained 46 protection officers on these issues.

In addition, OFPRA staff is trained on issues related to dealing with testimonies recounting painful events during the interview process. It is particularly important as the lack of sensitive approaches to vulnerable applicants has had further negative consequences. For instance, it means that no special precautions are taken in the formulation of a negative answer. According to a social worker from Forum réfugiés – Cosi, for instance, some negative decisions mention the fact that the claimant had shown no emotion when recalling the rape she had been subjected to or that the claimant seemed distant from the recollection of the abuses she was describing. Asylum seekers can be extremely hurt when they see such comments in the summary of their interviews.

²³⁶ Article L.723-6 Ceseda.

²³⁷ Article L.733-1-1 Ceseda.

²³⁸ OFPRA, *2016 Activity report*, 28.

²³⁹ OFPRA, *2013 Activity report*, 35.

According to a recent report by the Equality Council, OFPRA has marked notable improvements in terms of sensitivity and professionalism vis-à-vis claims by women.²⁴⁰ In addition, by the end of 2018, 7,550 girls were under OFPRA protection on grounds of risk of female genital mutilation (FGM).²⁴¹

2.2. Prioritisation and exemption from special procedures

OFPRA can decide to prioritise the processing of a claim from a vulnerable applicant having special reception or procedural needs.

Similarly, OFPRA can decide regarding not to process the claim under the **Accelerated Procedure** on the basis of vulnerability or the specific needs of the applicant. Yet, no more than 63 claims (0.2%) were exempted from the accelerated procedure out of a total of 31,561 claims accelerated in 2017.²⁴²

In addition, three grounds for placing an asylum seeker under the accelerated procedure may not be applied to unaccompanied children: (a) use of false identity or travel documents or false information; (b) reasons unrelated to international protection; and (c) manifestly contradictory or incoherent information, or statements that are clearly contradicted by country of origin information.²⁴³

Similarly in the **Border Procedure**, OFPRA can consider that an asylum seeker in a waiting zone requires specific procedural safeguards and thus terminate the detention.²⁴⁴ However, the law does not completely forbid the examination of vulnerable asylum seekers' claims under border procedures.

Unaccompanied children are also subject to the border procedure in waiting zones,²⁴⁵ albeit in a more restrictive way than adults. According to the law, an unaccompanied child can be held in a waiting zone only under exceptional circumstances listed in the law:²⁴⁶

- (1) The unaccompanied child originates from a **Safe Country of Origin**;
- (2) The unaccompanied child introduces a subsequent application deemed inadmissible;
- (3) The asylum claim is based on falsified identity or travel documents; or
- (4) The presence of the unaccompanied minor in France constitutes a serious threat to public order, public safety or national security.

In practice, since the majority of unaccompanied children arriving at the border hold false documents, the criterion of falsified identity or travel documents is widely applied as ground to conduct a border procedure for this category of asylum seekers.

As regards the border procedure, OFPRA ordered an exemption on grounds of vulnerability only in 5 out of 902 cases (0.5%) in 2016.²⁴⁷ No data was made available for 2017 or 2018.

²⁴⁰ Haut-Conseil à l'Égalité, *Situation des femmes demandeuses d'asile en France après l'adoption de la loi portant réforme du droit d'asile*, 18 December 2017, available in French at: <http://bit.ly/2mWvoBM>, 25.

²⁴¹ OFPRA, 'Les données de l'asile', 15 January 2019.

²⁴² OFPRA, *2017 Activity report*, 22, 114.

²⁴³ Article L.723-2(4) *Ceseda*.

²⁴⁴ Article L.213-9 *Ceseda*.

²⁴⁵ For detailed additional information on the risks for children at borders, see Anafé, *Brève 2016 - Mineurs isolés en zone d'attente : droits en péril aux frontières françaises*, 2 May 2017, available in French at: <http://bit.ly/2CZGtLP>; UNICEF, 'Enfants non accompagnés : la protection de l'enfance doit s'exercer aussi à la frontière franco-italienne', 13 December 2017, available in French at: <http://bit.ly/2pXsgoG>.

²⁴⁶ Article L.221-2 *Ceseda*.

²⁴⁷ OFPRA, *2016 Activity report*, 42.

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?
 Yes In some cases No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?
 Yes In some cases No

The Ceseda mentions that medical reports may be taken into account by OFPRA along with other elements of the asylum claim.²⁴⁸ In practice, such reports are considered in the light of the applicant's statements. Applicants often present medical certificates from specialised centres. According to some doctors, all too often, their certificates are not taken into account, as OFPRA often dismisses them as evidence, without seeking a second opinion. The medical report is paid for by asylum seekers via the state supported medical insurance: the "*protection universelle maladie*" (PUMA) or "*aide médicale d'Etat*" (AME).

A medical certificate to confirm the absence of female genital mutilation (FGM) is requested during the examination of an asylum request presented by a young woman or girl based on that risk in her country of origin.²⁴⁹ During the OFPRA interview, the woman applying for asylum in her own name will be asked to demonstrate that she has not been subjected to FGM if this is the reason she fears persecution or serious threats in case of return to her country of origin. If the asylum claim is made on behalf of a child, both parents will have to bring such evidence. Once protection has been granted, the requirement of a medical certificate remains. For the renewal of protection and the right to remain, OFPRA requires that a medical certificate be sent to it each year, proving that the person has still not undergone FGM.²⁵⁰ A Decree of 23 August 2017 specifies the terms of this obligation, the list of authorised doctors, and consequences of refusal for parents.²⁵¹

The consideration of medical certificates at the CNDA can vary a lot. A poorly argued dismissal of a medical certificate by the CNDA was criticised by the European Court of Human Rights (ECtHR) in September 2013.²⁵² The applicant, of Tamil ethnic origin, had provided a medical certificate from the doctor of the waiting zone in the Paris CDG airport describing several burn injuries. The Court found that the CNDA had failed to effectively rebut the strong presumption raised by the medical certificate of treatment contrary to Article 3 ECHR and therefore that the forced return of the applicant to Sri Lanka would place him at risk of torture or inhuman or degrading treatment.

On 10 April 2015, the Council of State applied the position of the ECtHR for the first time ever since its condemnation in September 2013. It cancelled the CNDA decision, considering it should have duly taken into account the medical report presented by the asylum seeker as it was supporting his story and explaining his fears in case he would be deported back to his country of origin. As from this judgment, the CNDA has to take into consideration documents, such as medical reports, presenting elements relating to alleged risks and fears. The Court also has to justify why it would not consider these elements as serious.²⁵³ This significantly strengthens the consideration for psychological and physical

²⁴⁸ Article L.723-5 Ceseda.

²⁴⁹ Articles L.723-5 and L.752-3 of Ceseda.

²⁵⁰ French Coordination for Asylum (CFDA), *De la protection à la suspicion : l'exigence annuelle du certificat de non-excision*, October 2012, available in French at: <http://bit.ly/1lyDdCX>.

²⁵¹ Decree NOR: INTV1721843A of 23 August 2017, available in French at: <http://bit.ly/2CTyzAm>.

²⁵² ECtHR, *RJ v France*, Application No 10466/11, Judgment of 19 September 2013, available at: <http://bit.ly/1HBYxIE>.

²⁵³ Council of State, Decision No 372864, 10 April 2015, available in French at: <http://bit.ly/1hjmyZ2>.

wounds of asylum seekers and balances the power of the CNDA compared to the asylum seeker.²⁵⁴ Through a decision of 17 October 2016, the Council of State reiterated and reinforced this position.²⁵⁵

In November 2016, the organisation Primo Levi published a study on the way medical certificates, stating physical or psychological wounds, are taken into account by asylum decision-makers in France. The report of this organisation highlights several elements, mainly that:²⁵⁶

- Physical and psychological wounds are not equally considered by the protection officers or by the judges. The first category seems to have more credibility to them;
- Even when such a certificate is produced to the decision makers, they do not seem to draw the conclusions of the impact of the established wound on the capacity of the asylum seekers to tell their story in a convincing way.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?
 Yes No

In 2017, 591 asylum claims from unaccompanied children were registered by OFPRA. This represents an increase of 24.7% compared to 474 in 2016.²⁵⁷ After keeping on decreasing since 2011, the number of claims introduced by unaccompanied children has slightly increased in line with the overall number of asylum seekers in Europe. Yet, it remains very low compared to the overall number of unaccompanied children reported to Childcare Protection.

In 2017, the unaccompanied children seeking asylum in France mainly came from Afghanistan (30.1%), Sudan (12.4%), DRC (9.3%) and Guinea (6.4%). The socio-demographic characteristics of these asylum seekers show that 76,1% were boys, mostly aged 16 and 17. In 2017, the recognition rate was 73.8%, almost 40 percentage points above the recognition rate for adults.²⁵⁸

OFPRA has sought to improve the protection of unaccompanied children seeking asylum (see also [Special Procedural Guarantees](#)). According to the Chair of the working group on unaccompanied minors at OFPRA, a number of actions and objectives have been set up:

- ❖ Training protection officers throughout all geographic sections on vulnerabilities, in particular on assessing an asylum claim introduced by an unaccompanied minor and conducting an interview with this category of asylum seekers.
- ❖ Assessing unaccompanied minors' claim in a shortened period of time: the objective is to have their claim processed within 4 months maximum.
- ❖ Raising awareness on the possibility for unaccompanied minors to apply for asylum;
- ❖ Conducting interviews of unaccompanied minors by specially trained protection officers;
- ❖ Interviewing unaccompanied minors three months after registering their claim at OFPRA to give them time to get properly prepared;
- ❖ Proceedings have been harmonised and online thematic folders on this topic have been created for protection officers.²⁵⁹

As unaccompanied children do not have any legal capacity as minors, they must be represented for any act under all asylum procedures, including Dublin. When they are deprived of legal representation (i.e. if no guardian has been appointed by the guardianship judge before placement in care), the Public

²⁵⁴ Nicolas Klausser, "Vers un renforcement du « droit » à une procédure équitable des demandeurs d'asile et une meilleure prise en compte de leurs traumatismes ?", La revue des droits de l'homme, May 2015.

²⁵⁵ Council of State, Decision No 393852, 17 October 2016.

²⁵⁶ Association Primo Lévi, *Persécutés au pays, déboutés en France : Rapport sur les failles de notre procédure d'asile*, November 2016, available in French at: <http://bit.ly/2iV4Tg0>.

²⁵⁷ OFPRA, 2017 Activity report, 44.

²⁵⁸ *Ibid.*

²⁵⁹ OFPRA, 2016 Activity report, 31.

Prosecutor, notified by the Prefecture, should appoint an *ad hoc* administrator (legal representative) who will represent them throughout the asylum procedure.²⁶⁰ This legal representative is appointed to represent the child only in administrative and judicial procedures related to the asylum claim. This person is not tasked to ensure the child's welfare the way a guardian would be. Every 4 years, within the jurisdiction of each Appeal Court, a list of *ad hoc* administrators is drawn up. They represent children held in waiting zones at the border or children who have applied for asylum. These *ad hoc* administrators receive a flat allowance to cover their expenditure. No specific training or at minimum awareness of asylum procedures is required for their selection.²⁶¹

As soon as possible after the unaccompanied child has introduced his or her asylum claim, the Prefecture shall engage in investigating to find the minor's family members, while protecting his or her best interests.²⁶²

At the border, an *ad hoc* administrator should be appointed "without delay" for any unaccompanied child held in a waiting zone.²⁶³

In practice, the appointment of an *ad hoc* administrator can take between 1 to 3 months. However, there are jurisdictions where the lack of *ad hoc* administrators or their insufficient number does not enable the prosecutor to appoint any. These children are therefore forced to wait until they turn 18 to be able to lodge their asylum application at OFPRA.

At OFPRA level, the *ad hoc* administrator is the only person authorised to sign the asylum application form. The CNDA has annulled an OFPRA decision rejecting an asylum claim of an unaccompanied child, after an interview conducted without the presence of the *ad hoc* administrator. In this decision, the Court held the conduct of an interview in such circumstances as a violation of the fundamental guarantees applicable to asylum seekers.²⁶⁴

E. Subsequent applications

Indicators: Subsequent Applications		
1. Does the law provide for a specific procedure for subsequent applications?	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No
2. Is a removal order suspended during the examination of a first subsequent application?		
❖ At first instance	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No
❖ At the appeal stage	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No
3. Is a removal order suspended during the examination of a second, third, subsequent application?		
❖ At first instance	<input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No
❖ At the appeal stage	<input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No

An application is deemed as "subsequent" where it is made after:²⁶⁵

- The rejection of an asylum application by the CNDA or by OFPRA without appeal;
- The asylum seeker had previously withdrawn his or her asylum claim and did not ask for a reopening within 9 months;

²⁶⁰ As provided by Article 17 Law of 4 March 2002 on parental authority and by Article L.741-3 Ceseda.

²⁶¹ Article R.111-14 Ceseda provides that, in order to be included in the list, any individual person must meet the following criteria: 1. Be aged between 30 and 70; 2. Demonstrate an interest on youth related issues for an adequate time and relevant skills; 3. Reside within the jurisdiction of the Appeal Court 4. Never have been subject to criminal convictions, or to administrative or disciplinary sanctions contrary to honour, probity, or good morals; 5. Have not experienced personal bankruptcy or been subject to other sanctions in application of book VI of the commercial code with regard to commercial difficulties.

²⁶² Article L.741-4 Ceseda.

²⁶³ Article L.221-5 Ceseda.

²⁶⁴ CNDA, *Mme Y*, Decision No 14012645, 5 October 2016.

²⁶⁵ Article L.723-15 Ceseda.

- OFPRA has taken a decision to discontinue the processing of the claim and a 9-month period has elapsed;²⁶⁶
- The asylum seeker has left the French territory, including to go back to his or her country of origin.

There are no limits on the number of subsequent applications that can be introduced.

In order for the asylum seeker to introduce a subsequent application he or she must, as all asylum seekers, present him or herself to the Prefecture to register his or her claim and obtain an asylum claim certification.²⁶⁷ Since March 2017, the person has to go back to the orientation platform (PADA) to obtain an appointment at the GUDA like all asylum seekers.

The Prefecture can refuse to grant the asylum seeker with this certification when a first subsequent application has already been rejected by OFPRA or when a first subsequent application is submitted in order to prevent a compulsory removal order.²⁶⁸ In case of a subsequent application, the authorised period to send the completed asylum claim is shorter than in case of a first application: instead of 21 days, the asylum seeker has 8 days to introduce his or her subsequent claim before OFPRA.²⁶⁹ In case the claim is incomplete, the asylum seeker has 4 days, instead of 8 in case of a first application, to send missing elements.

If a removal order has been issued following the rejection of the first asylum application, it will be suspended during the examination of the subsequent application.²⁷⁰

Assessment of new facts or circumstances

When OFPRA receives the subsequent application it proceeds to a preliminary examination within 8 days in order to determine whether the subsequent application is admissible or not.²⁷¹ The assessment of admissibility has been further interpreted by case law. The Council of State has upheld the CNDA position stating that the preliminary assessment of the admissibility of a claim must fulfil two cumulative conditions: (a) the alleged facts or circumstances must be “new”; and (b) their probative value must be such as to warrant a modification of the assessment of the well-foundedness of the claim.²⁷²

With regard to the first limb, the Council of State ruled later in 2018 that a final judgment by the ECtHR finding that a removal measure to the country of origin would constitute a violation of Article 3 ECHR constitutes new evidence, warranting admissibility of the subsequent application.²⁷³

To support his or her subsequent application, the asylum seeker must provide in writing “new evidence” or facts subsequent to the date of the CNDA decision, or evidence occurring prior to this date if he or she was informed thereof only subsequently.²⁷⁴ In practice, an ancient fact could also be considered as “new”, if the asylum seeker had not referred to it during the first application due to his or her being “under coercion”. This mainly concerns women who have escaped a prostitution rings; they have to prove this escape.

²⁶⁶ Article L.723-13 Ceseda. Note that this decision is appealed not before the CNDA but before the Administrative Court: Council of State, Decision No 412292, 17 January 2018.

²⁶⁷ Article R.723-15 Ceseda.

²⁶⁸ Article L.741-1 Ceseda.

²⁶⁹ Article R.723-15 Ceseda.

²⁷⁰ Article L.743-4 Ceseda.

²⁷¹ Article R. 723-16 Ceseda.

²⁷² Council of State, Decision No 3979611, 26 January 2018; CNDA, Decision Nos 15025487 and 1502488, 7 January 2016.

²⁷³ Council of State, Decision No 406222, 3 October 2018.

²⁷⁴ Article L.723-16 Ceseda.

In practice, it might be quite difficult to provide evidence of new information and to prove its authenticity to substantiate subsequent claims. Asylum seekers often have difficulties in accessing the documents needed to prove new information e.g. difficulty in contacting their country of origin to obtain the evidence.

Preliminary admissibility procedure

During the preliminary examination of the subsequent application, OFPRA is not compelled to interview the asylum seeker.

If, after the preliminary examination OFPRA considers that this “new evidence” or facts do not significantly increase the risk of serious threats or of personal fears of persecution in case of return, it can declare the subsequent application inadmissible. The decision of OFPRA must be notified to the asylum seeker and specify the procedure and deadlines for lodging an appeal.²⁷⁵ On the contrary, if the subsequent application is admissible, OFPRA has to channel it under the accelerated procedure and summon the asylum seeker to an interview. So far, the practice has demonstrated that asylum seekers who lodge a subsequent application often do not get an interview.

An appeal can be lodged before the CNDA within a time period of 1 month. However, following the 2018 reform, this appeal has no suspensive effect.²⁷⁶ The CNDA will then have 5 weeks to issue a decision on the appeal.²⁷⁷ Negative decisions “by order” (*ordonnance*) continue to be common practice.

OFPRA received 9,421 subsequent applications in 2018, representing 7.7% of the total number of applications registered.²⁷⁸

As from the second subsequent application introduced, the Prefecture can refuse to deliver or renew the asylum claim certification and can issue an order to leave the French territory (OQTF).²⁷⁹

F. The safe country concepts

Indicators: Safe Country Concepts		
1. Does national legislation allow for the use of “safe country of origin” concept?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Is there a national list of safe countries of origin?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Is the safe country of origin concept used in practice?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Does national legislation allow for the use of “safe third country” concept?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ Is the safe third country concept used in practice?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
3. Does national legislation allow for the use of “first country of asylum” concept?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

The safe country concepts were heavily debated in the context of the 2018 asylum reform. While the government had announced preliminary plans to codify the concept of “safe third country” in French law, this was later abandoned in the bill.²⁸⁰

²⁷⁵ Article L.723-11(3) Ceseda.

²⁷⁶ Article L.743-2 Ceseda, as amended by Article 12 Law n. 2018-778 of 10 September 2018.

²⁷⁷ Article L.731-2 Ceseda.

²⁷⁸ Ministry of Interior, *Chiffres clés – Les demandes d’asile*, 15 January 2019.

²⁷⁹ Circular of 2 November 2015 on the implementation of the Law of 29 July 2015.

²⁸⁰ Libération, ‘Les candidats à l’asile ne seront finalement pas renvoyés vers des «pays tiers sûrs»’, 20 December 2017, available in French at: <http://bit.ly/2DR597b>.

1. First country of asylum

The “first country of asylum” concept, requiring that a person has obtained international protection in a third country, is a ground for inadmissibility.²⁸¹ The possibility of enjoying “sufficient protection” is not enough to justify inadmissibility. Inadmissibility is declared when the asylum seeker is entitled to enjoy “effective protection”. Considering the effective protection an EU Member State has to provide, the Council of State has defined this protection as follows:

- The State respects the rule of law;
- The State is not targeted by any mechanism of Article 7 of the founding Treaty; and
- The State does not violate any fundamental right out of those prescribed in Article 15 ECHR.²⁸²

Regarding the effective protection granted in a non-EU Member State, the Council of State only refers to the effective protection without detailing what it is made of.²⁸³

In 2017, OFPRA took 214 inadmissibility decisions on this ground.²⁸⁴ No further details are provided.

2. Safe country of origin

2.1. Definition and procedural consequences

The notion of safe countries of origin was introduced in French legislation by the Law of 10 December 2003.²⁸⁵ The definition is completed by the reference to the definition provided in Annex 1 of the recast Asylum Procedures Directive that provides that:

“A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.”

By law, a country is considered safe “if it ensures respect for the principles of freedom, democracy and the rule of law, as well as human rights and fundamental freedoms”. The definition has been complemented with the 2018 reform, and now states that the absence of persecution has to be considered for men and women, regardless of their sexual orientation.²⁸⁶

Applications from safe countries of origin are to be systematically processed by OFPRA within an [Accelerated Procedure](#),²⁸⁷ except under special circumstances relating to vulnerability and specific needs of the asylum seeker or if the asylum seeker calls upon serious reasons to believe that his or her country is not be safe given his or her personal situation and the grounds of his or her claim.²⁸⁸

2.2. List of safe countries of origin

The first list of safe countries of origin was established in June 2005 by the OFPRA Management Board. Every time a country is removed from or added to the list, the deliberations of the Management Board

²⁸¹ Article L.723-11 Ceseda.

²⁸² Council of State, *Cimade et M.O.*, Decisions Nos 349735 and 349736, 13 November 2013.

²⁸³ Council of State, *OFPRA v. M.S.*, Decision No 369021, 17 June 2015.

²⁸⁴ OFPRA, *2017 Activity report*, 52.

²⁸⁵ Law n. 2003-1176 of 10 December 2003 on the right to asylum.

²⁸⁶ Article L.722-1(4) Ceseda, as amended by Article 6 Law n. 2018-778 of 10 September 2018.

²⁸⁷ Article L.723-2(1)(1) Ceseda.

²⁸⁸ Article L.723-2(5) Ceseda.

are published in the Official Journal. This list can be reviewed in OFPRA Board meetings. However, the composition of the Management Board has been modified, partly to strengthen the amending procedure of the list. In addition, qualified personalities (*personnalités qualifiées*) can vote on the constitution of the list of safe countries of origin.

The board is constituted by 16 members:²⁸⁹

- 2 personalities (one male, one female) nominated by the Prime Minister;
- 1 representative of the Ministry of Interior;
- 1 representative of the Ministry in charge of Asylum;
- The Secretary General of the Ministry for Foreign Affairs;
- The Director for Civil Affairs and Seal of the Ministry of Justice;
- 1 representative of the Ministry of Social Affairs;
- 1 representative of the Ministry in charge of Women's Rights;
- 1 representative of the Ministry for overseas territories;
- The Director of the Budget for the Ministry in charge of the Budget;
- 2 Members of Parliament (one male, one female);
- 2 Senators (one male, one female); and
- 2 Members of the European Parliament (one male, one female).

Not only can the Management Board decide on its own initiative to amend the list but also the reform of the law on asylum provides that presidents of the Committee of Foreign Affairs and the Committee of the Laws of both houses (Parliament and Senate) or civil society organisations promoting asylum right, third country nationals' rights, or women and/or children's rights can refer to the Management Board that one country should be registered or crossed off the list of safe countries of origin.²⁹⁰

The list has to be regularly re-examined by the Management Board in order to make sure that the inscription of a country is still relevant considering the situation in the country. "In case of quick and uncertain developments in one country, it can suspend its registration."

The sources used by the Management Board of OFPRA to substantiate its decisions are not officially published. OFPRA has an internal resources service working on country of origin information and a UNHCR representative sits in the management board meetings, but the process lacks transparency as to the sources of information used to decide on the safety of a country.

The list of countries considered to be safe countries of origin is public. At the end of 2018, it included the following 16 countries:²⁹¹

- Albania;
- Armenia;
- Benin;
- Bosnia-Herzegovina;
- Cape Verde;
- Georgia;
- Ghana;
- India;
- Kosovo;
- North Macedonia;
- Mauritius;
- Moldova;
- Mongolia;
- Montenegro;

²⁸⁹ Article L.722-1 Ceseda.

²⁹⁰ Article L.722-1(2) Ceseda.

²⁹¹ OFPRA, *List of Safe Countries of Origin*, 9 October 2015, available at: <http://bit.ly/1YLOFBc>.

- Senegal;
- Serbia.

Several countries have been removed from the list by the Management Board of OFPRA (but can sometimes also be reintroduced in the list at a later stage):

<i>Country</i>	<i>Withdrawal by OFPRA Management Board</i>
Tanzania	October 2015
Croatia	June 2013
Georgia	November 2009 (currently on the list)
Mali	December 2012
Ukraine	March 2014

Moreover, decisions to add a country to the list can be challenged before the Council of State by third parties. The Council of State has removed several countries from the list:

<i>Country</i>	<i>Removal by Council of State</i>
Albania	February 2008; March 2012 (currently on the list)
Armenia	July 2010
Bangladesh	March 2013
Kosovo	March 2012; October 2014 (currently on the list)
Madagascar	July 2010
Mali	July 2010 (for women only)
Turkey	July 2010

In a decision of 16 December 2013, the Management Board of OFPRA added **Albania**, **Georgia** and **Kosovo**.²⁹² In a decision of 10 October 2014,²⁹³ the Council of State removed Kosovo from the list of safe countries of origin but maintained Albania and Georgia. The Ministry of Interior sent an instruction to the Prefects on 17 October 2014 calling them to generally channel the asylum seekers from Kosovo into the regular procedure and to deliver them a temporary residence permit enabling them to be accommodated in reception centres for asylum seekers.²⁹⁴ However, on 9 October 2015, the Management Board of OFPRA met to update the list of safe countries of origin and has decided to reintroduce Kosovo to the list.

The reintroduction of **Kosovo** has been challenged to the Council of State by several French NGOs, including Forum réfugiés – Cosi, Cimade, Dom'Asile, GISTI, Elena France and JRS France among others. They also wanted the withdrawal from this list of **Senegal**, **Albania**, **Armenia** and **Georgia**. It has to be mentioned these countries are the five main safe countries of origin of asylum seekers in 2015.²⁹⁵ On 30 December 2016, the Council rejected the applications and upheld the list in its current form.²⁹⁶ When upholding the legality of the inclusion of Kosovo in the list, the Council of State took into account the fact that the country has been inserted in the European Commission proposal for an EU list of safe countries of origin.²⁹⁷

²⁹² Decision of 16 December 2013 modifying the list of safe countries of origin (*Décision du 16 décembre 2013 modifiant la liste des pays d'origine sûrs*), JORF n°0301 of 28 December 2013, available at: <http://bit.ly/1LI8R1H>, 26152.

²⁹³ Council of State, *Forum réfugiés-Cosi and Others v OFPRA*, Decision No 375474 and 375920, 10 October 2014, available at: <http://bit.ly/1JCEIS5>.

²⁹⁴ Ministry of Interior, Information Note INTV1424567N of 17 October 2014.

²⁹⁵ OFPRA, *2016 Activity report*, 39.

²⁹⁶ Council of State, Decisions Nos 395058, 395075, 395133 and 395383, 30 December 2016.

²⁹⁷ Forum réfugiés – Cosi, 'Pays d'origine sûrs : le Conseil d'Etat valide la nouvelle liste', 30 December 2016, available in French at: <http://bit.ly/2j4JpIS>.

In 2017, 16,052 first asylum applications (excluding minors) came from such countries. In 2018, applicants from **Albania** and **Georgia** were among the top five countries of origin of asylum seekers in France.

G. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? Yes With difficulty No
- ❖ Is tailored information provided to unaccompanied children? Yes No

The provision of information is codified in Article R.751-2 Ceseda:

“The competent service of the Prefecture must inform the foreign national who would like to request refugee or subsidiary protection, of the asylum procedure, their rights and obligations over the course of this procedure, the potential consequences of failure to meet these obligations or any refusal to cooperate with the authorities and the measures available to them to help them present their request. This information should be provided in a language they can reasonably be expected to understand.”

Information is provided in a language that the asylum seeker understands or is likely to understand.²⁹⁸ This information has been compiled under a general “Guide for asylum seekers in France” (*guide du demandeur d’asile en France*).²⁹⁹ The guide is supposed to be provided by the Prefecture. The 2015 Asylum Seeker’s Guide is available in French and, at the time of writing, in 18 other languages on the Ministry of the Interior website. The guide has not yet been updated to reflect the 2018 reform.

Practices used to vary from one Prefecture to another, and many fail to provide the guide. From the point of view of stakeholders supporting asylum seekers, even though this guide is a good initiative, it appears that most of asylum seekers cannot read or do not understand the meaning of the guide.

In April 2014, OFPRA published a guide on the right of asylum for unaccompanied minors in France, which was updated in 2018.³⁰⁰ The guide is quite comprehensive, describing the steps of the asylum procedure, the appeals and the procedure at the border. OFPRA has stated its intention to share this guide as widely as possible in Prefectures, in waiting zones at the border and with stakeholders working in children’s care. In practice, this guide is not available in all prefectures. In many regions, the prefecture agents recommend asylum seekers to download it on OFPRA’s website.

Information on the Dublin procedure

The information provided about the Dublin procedure varies greatly from one Prefecture to another. When they go to the prefecture to apply for asylum, all applicants are handed, at the desks, an information leaflet on the Dublin procedure (Leaflet A)³⁰¹ together with the Asylum Seeker’s Guide. If the Prefecture decides at a later stage to channel the applicant into the Dublin procedure, the applicant

²⁹⁸ Article R.741-4 Ceseda.

²⁹⁹ Ministry of Interior, *Guide du demandeur d’asile en France*, November 2015, available at: <http://bit.ly/2jRKjum>.

³⁰⁰ OFPRA, *Guide de l’asile pour les mineurs isolés étrangers en France*, November 2018, available in French at: <https://bit.ly/1ZnHT8e>.

³⁰¹ European Commission and Migrationsverket, *Leaflet A: “I have asked for asylum in the EU – Which country will handle my claim?”* 2014, available at: <http://bit.ly/1PSuhgz>.

receives a second information leaflet on the Dublin procedure (Leaflet B).³⁰² The Prefecture asks the applicant to sign a letter written in French and listing all the information they have been given, as requested under Article 4 of the Dublin III Regulation, and the language in which it is given.

The asylum seeker knows when a take charge or a take back procedure has been initiated, due to information provided on the back of their Dublin notice, which is translated into the language of the asylum seeker. Translation is an obligation recently recalled by the Administrative Court of Appeal of Bordeaux. According to the court, the absence of translation is a violation of the fundamental guarantees which much prevail in the framework of the Dublin procedure.³⁰³ There is, however, no information about the country to which a request has been sent, nor on the criteria that have led to this decision.

Information at the border

In the waiting zones at the border, Forum réfugiés – Cosi notes a serious lack of information on the possibility of requesting admission to French territory on asylum grounds (see section on [Border Procedure](#)). When a person is arrested at the border, he or she is notified of an entry refusal, in theory with the presence of an interpreter if necessary.³⁰⁴ However, many stakeholders doubt that the information provided and the rights listed therein are effectively understood. For example, it is very surprising to note that those intercepted nearly always agree to renounce their right to a “full day” notice period (*jour franc*) i.e. 24 hours during which the person cannot be returned, and tick the box confirming their request to leave as soon as possible.

In addition, as the telephone in certain waiting zones is not free of charge, contact with NGOs or even UNHCR is not easy. Several decisions by the Courts of Appeal have highlighted the irregularity of the procedure for administrative detention in a waiting zone, due to the restrictions placed on exercising the right to communicate with a lawyer or any person of one's choice.³⁰⁵ The fact that asylum seekers may have no financial means of purchasing a phone card is therefore a restriction on this fundamental right.

2. Access to NGOs and UNHCR

Access of NGOs to asylum seekers is described in the section on [Access to Detention Facilities](#).

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? Yes No
❖ If yes, specify which:
2. Are applications from specific nationalities considered manifestly unfounded?³⁰⁶ Yes No
❖ If yes, specify which: Albania, Armenia, Benin, Bosnia-Herzegovina, Cape Verde, Georgia, Ghana, India, North Macedonia, Kosovo, Mauritius, Moldova, Mongolia, Montenegro, Senegal, Serbia

There is no explicit policy of considering specific nationalities as manifestly well-founded. At most, we observe that some nationalities obtain higher rates of protection than the average rate e.g. **Syria**, **Iraq** or **Afghanistan**. These countries had first instance recognition rates of 95.2%, 84.2% and 83.1%

³⁰² European Commission and Migrationsverket, *Leaflet B: “I am in the Dublin procedure – What does this mean?”*, 2014, available at: <http://bit.ly/1dBoCd2>.

³⁰³ Administrative Court of Appeal of Bordeaux, Decision No 16BX01854, 2 November 2016.

³⁰⁴ Article L.213-2 Ceseda.

³⁰⁵ Article L.221-4 Ceseda.

³⁰⁶ Whether under the “safe country of origin” concept or otherwise.

respectively in 2017.³⁰⁷ In 2018, rates for Afghanistan dropped to 67.4%, for Syria to 85.6% and for Iraq to 73.1% according to Eurostat.

Since a CNDA judgment of March 2018, Afghan nationals widely benefit from protection. The CNDA held that the situation of indiscriminate violence in Kabul is of such degree for Article 15(c) to be triggered by a person's mere presence.³⁰⁸ In addition, several rulings have prevented Dublin transfers of Afghan nationals to countries where their asylum applications have been rejected (see [Dublin: Suspension of Transfers](#)).

Furthermore, differential treatment of specific nationalities seems to be applied in the framework of *ad hoc* relocation schemes implemented since June 2018. Following "boat-by-boat" agreements following disembarkation in Italy, Malta and Spain, over 280 persons have been relocated to France.³⁰⁹ All relocated persons have previously undergone interviews with OFPRA, for the Office to assess their need for protection and potential threats to public order. No official data are available about this mechanism or the nationality of selected persons. However, it appears through communication on arrival in France from OFII and the Ministry of Interior that relocated persons are mainly from **Sudan**, **Eritrea** and **Somalia**. Following their arrival, these persons have been quickly received by OFII and granted refugee status by OFPRA.

Asylum seekers that are nationals of countries listed as safe are dealt with most of the time under an accelerated procedure (see [Safe Country of Origin](#)). Their access to asylum from detention is also more circumscribed compared to other nationalities (see [Registration](#)). The average protection rate for such nationalities was 13.2% in 2017, at first and second instance combined, but there are important variations from one country to another. For example, in 2017, **Kosovo** had a general rate of 21.3%, **Senegal** had a rate of 20.2%, while **Albania** had 11.2%.

³⁰⁷ OFPRA, 'Les données de l'asile 2017 à l'OFPRA, 8 January 2018, available at: <http://bit.ly/2EVQB5y>.

³⁰⁸ CNDA, *M. H.*, Decision No 17045561, 9 March 2018.

³⁰⁹ Senate, Reply to written question n. 05842, 24 January 2019, available in French at: <https://bit.ly/2GRdMII>.

Reception Conditions

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?
- | | | | |
|--------------------------|---|---|--|
| ❖ Regular procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Dublin procedure | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Border procedure | <input type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Appeal | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Subsequent application | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? Yes No

The law establishes a national reception scheme, managed by the French Office on Immigration and Integration (OFII).³¹⁰ This scheme ensures the distribution of accommodation places for asylum seekers throughout the national territory, and their allocation thereto. In parallel and in compliance with the national reception scheme, regional schemes are defined and implemented by Prefects in each region.

All asylum seekers are offered material reception conditions under Article L.744-1 Ceseda. This provision applies to all asylum seekers even if their claim is channelled under the accelerated or Dublin procedure. The only exception is that asylum seekers under the Dublin procedure do not have access to reception centres for asylum seekers (CADA). Subsequent applicants are entitled to material reception conditions only if their claim has been deemed admissible.

After having registered their claim at the Prefecture, asylum seekers receive the asylum claim certification that allows them to remain legally on the French territory until:

- The end of the asylum procedure;
- A negative first instance decision for inadmissible claims and certain categories of claims rejected in an accelerated procedure – safe country of origin, subsequent application, threat to public order or national security;
- Their transfer to another Member State under the Dublin Regulation.

Meanwhile, they are entitled to material reception conditions, adapted if needed to their specific needs. The GUDA has been set up in order to better articulate the registration of asylum claims by the Prefecture and provision of reception conditions by OFII.

1.1. Asylum seekers' financial contribution

Accommodation fees for asylum seekers are assumed by the State.

However, accommodated asylum seekers whose monthly resources are above the monthly rate of the Active Solidarity Income (*Revenu de Solidarité Active*, RSA), 550.93 € for a single adult, pay a financial contribution for their accommodation.

In addition, organisations managing reception facilities are entitled to require a deposit for the accommodation provided under certain conditions. The deposit is refunded, totally or partially, to the seeker when he or she leaves the reception facility. A Decree of 15 November 2016 states the deposit

³¹⁰ Article L.744-2 Ceseda.

will not be paid back if the asylum seekers stay longer than allowed in accommodation centres, that is 1 month if their claim is rejected and 6 months if protection is granted.³¹¹

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to single adults asylum seekers as of 31 December 2018:

❖ Asylum seekers in accommodation	204 €
❖ Asylum seekers without accommodation	426 €

Different forms of material reception conditions exist in the law. They include accommodation in reception centres and a financial allowance. This section will refer to the forms and levels of financial assistance available to asylum seekers.

The law excludes asylum seekers from the granting of all family-related welfare benefits as the asylum claim certification provided to asylum seekers is not listed in the permits that give eligibility to these benefits.³¹² Asylum seekers are also not eligible for receiving the social welfare allowance, the so-called Active Solidarity Income (RSA), granted to individuals over 25 years old who do not have resources or have very low incomes.

The allowance for asylum seekers (*allocation pour demandeur d'asile*, ADA)³¹³ is granted to asylum seekers above 18 years old,³¹⁴ who accept material conditions proposed by OFII and remain eligible for reception conditions. Only one allowance per household is allowed.³¹⁵ The payment of the allocation ends at the end of the month of the decision ending the right to remain on the territory.³¹⁶

The amount of ADA is calculated on the basis of resources, type of accommodation provided and age criteria. Family composition, in particular the number of children, is taken into account in the calculation of ADA.³¹⁷ The total amount of ADA is re-evaluated once a year, if needed, to take into account the inflation rate.

The daily amount of ADA is defined upon application of the following scale:³¹⁸

ADA rate by household composition	
Persons	Daily rate
1	6.80 €
2	10.20 €
3	13.60 €
4	17 €
5	20.40 €
6	23.80 €
7	27.20 €
8	30.60 €

³¹¹ Decree NOR: INTV1630817A of 15 November 2016 on the application of Article L.744-5 Ceseda, available in French at: <http://bit.ly/2jGFPbS>.

³¹² Article 512-2 Social Security Code.

³¹³ Article L.744-9 Ceseda.

³¹⁴ Article D.740-18 Ceseda.

³¹⁵ Article D.744-25 Ceseda.

³¹⁶ Article L.744-9 Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.

³¹⁷ *Ibid.*

³¹⁸ Annex 7-1 Ceseda.

9	34 €
10	37.40 €

An additional daily rate is paid to adult asylum seekers who have accepted to be accommodated but who cannot be accommodated through the national reception scheme. Following successive rulings of the Council of State annulling the previous provisions due to the inadequacy of the set amount (4.20 € and 5.40 € respectively),³¹⁹ the current amount granted is 7.40 € per day.³²⁰ This amount remains really low and renders the access to accommodation on the private market almost impossible.

ADA is paid to asylum seekers on a monthly basis directly by OFII on a card, similar to a debit card that can be used by asylum seekers. It is not necessary for asylum seekers to open a bank account to benefit from ADA (except in some cases where asylum seekers are overseas) and use the card.³²¹ Many problems have been raised by local stakeholders in the field relating to ADA. On many occasions, the allowance has been paid late. In addition, some asylum seekers are not familiar with using a bank card or a cash machine. In some accommodation centres, asylum seekers do not receive the same amount even if they are in similar situation; same date of arrival and registration, same family composition or same duration of accommodation in the centre. These issues can create tensions between asylum seekers and may expose social workers to a lot of pressure and complicate their work. Moreover, it is really difficult to interact with OFII, according to local NGOs, to resolve such problems. Indeed, even where there are some local representations of OFII in regions, they do not intervene at the level of the allowance distribution.

The starting point of the calculation of the allowance is the date of signature of acceptance of material conditions offered by OFII, which may occur normally when applicants go to the GUDA for registration. The effective payment usually starts when the asylum seeker produces the proof of his or her asylum claim being lodged with OFPRA. The payment is supposed to retroactively take into account the time spent between the registration at Prefecture and the sending of the asylum claim to OFPRA. In practice, many issues have been reported. The amounts do not correspond to the aforementioned period or the first payments intervene really late. In addition, OFII sometimes requests late repayment of undue payments, and consequently puts asylum seekers in real financial difficulties.

In case of a subsequent application or if the asylum claim has not been introduced within 90 days, ADA can be refused.³²²

As of the end of December 2018, a total of 100,199 households benefitted from ADA.³²³

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions? Yes No
2. Does the legislation provide for the possibility to withdraw material reception conditions? Yes No

The law describes the procedure to be followed by the management of reception centres and by the Prefect once a decision on the asylum claim which ends the right to remain has been taken.³²⁴ OFII informs the management of the reception centre where the asylum seeker is accommodated that the right to reception conditions has ended and that the provision of accommodation will be terminated upon

³¹⁹ Council of State, Decision No 394819, 23 December 2016; Decision No 410280, 17 January 2018.

³²⁰ Decree n. 2018-426 of 31 May 2018 bringing various provisions relating to the asylum seeker allowance.

³²¹ Article D.744-33 Ceseda.

³²² Article D.744-37 Ceseda.

³²³ OFII, *Les chiffres clés de l'Ofii en 2018*, 12 February 2019, available in French at: <https://bit.ly/2TXyOmg>.

³²⁴ Article R.744-12 Ceseda.

a specific date, unless the beneficiary of international protection or the rejected asylum seeker formulates a demand to remain respectively 3 months, renewable once for 3 more months, or 1 month in order to have time to plan the exit of the centre.

Apart from the withdrawal of reception conditions by the end of the right to remain, specific conditions are defined allowing for the reduction or withdrawal of material reception conditions, concerning both accommodation and ADA.

According to Articles L.744-7 and L.744-8 Ceseda, as amended in 2018, material reception conditions can be refused or withdrawn where the applicant:

1. Without legitimate reason, has not presented him or herself to relevant authorities when required, has not responded to an information request or has not attended interviews related to the asylum application;³²⁵
2. Has provided false statements concerning his identity or personal situation, in particular his or her financial situation;³²⁶
3. Has made a subsequent application or, without legitimate reason, has not made an application within 90 days of entry into the French territory;³²⁷
4. Exhibits violent behaviour or serious disrespect of the house rules of the centre.³²⁸

OFII is competent to decide on the suspension, withdrawal or refusal of material reception conditions. The decision of denial of reception conditions must be written and motivated. Asylum seekers have 15 days to challenge this decision through an informal appeal. All decisions of refusal or withdrawal of reception conditions can be appealed before the Administrative Court under the common rules of administrative law.

In cases of subsequent applications, some Prefectures systematically reduce reception conditions to the asylum seekers. In **Lyon, Marseille, Paris** and its surroundings, no subsequent claimants can benefit from reception conditions. In a few cases, subsequent claimants can benefit from these conditions after demonstrating their particular vulnerability and their specific needs in terms of accommodation.³²⁹ It is also possible after these 15 days to lodge an appeal before the administrative court.

The management of reception centres has to inform OFII and the Prefect of the *Département* in case of a prolonged and not motivated absence from the reception centre of an asylum seeker, as well as any violent behaviour or serious disrespect of the community life rules.³³⁰

In French law, there is no official possibility to limit the reception conditions on the basis of a large number of arrivals.

4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?
 Yes No
2. Does the law provide for restrictions on freedom of movement?
 Yes No

Asylum seekers benefit from freedom of movement in France; except for persons who introduce an asylum application in an administrative detention centre or who are under house arrest, for instance asylum seekers under Dublin procedure (see Chapter on [Detention of Asylum Seekers](#)).

³²⁵ Article L.744-7 Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.

³²⁶ Article L.744-8(1) Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.

³²⁷ Article L.744-8(2) Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.

³²⁸ Article L.744-8(1) Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.

³²⁹ Article L.744-8 Ceseda.

³³⁰ Article R.744-11 Ceseda.

However, reception conditions are offered by OFII in a specific region where the asylum seeker is required to reside. Following the 2018 reform, allocation to a specific region is conducted even if the applicant is not offered an accommodation place.³³¹ Non-compliance with the requirement to reside in the assigned region entails a termination of reception conditions. Freedom of movement is therefore restricted to a region defined by OFII.

The national reception scheme assigns a reception centre or a region to asylum seekers, taking into account as much as possible the vulnerability assessment made by OFII and the general situation of the asylum seeker. The assignment to a reception centre is an informal decision, meaning that no administrative act is issued to asylum seeker. Therefore it cannot be appealed.

In practice, most asylum seekers are concentrated in the regions with the largest numbers of reception centres: **Grand-Est, Auvergne-Rhône Alpes, Ile de France.**

Persons may have to move from emergency facilities, possibly to a transit centre to finally settle in a regular reception centre (gradually progressing to more stable housing).

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of reception centres:	Not available
2. Total number of places in the reception centres:	86,592
❖ CADA	42,452
❖ HUDA	41,154
❖ CAES	2,986
3. Total number of places in private accommodation:	Not available
4. Type of accommodation most frequently used in a regular procedure:	
<input checked="" type="checkbox"/> Reception centre	<input type="checkbox"/> Hotel or hostel
<input checked="" type="checkbox"/> Emergency shelter	<input checked="" type="checkbox"/> Private housing
<input type="checkbox"/> Other	
5. Type of accommodation most frequently used in an accelerated procedure:	
<input checked="" type="checkbox"/> Reception centre	<input checked="" type="checkbox"/> Hotel or hostel
<input checked="" type="checkbox"/> Emergency shelter	<input type="checkbox"/> Private housing
<input type="checkbox"/> Other	

Decisions for admission in accommodation places for asylum seekers, as well as for exit from or modification of the place of residence, are taken by OFII after it has consulted with the Director of the place of accommodation. The specific situation of the asylum seeker is to be taken into account.

Accommodation facilities for asylum seekers under the national reception scheme (*dispositif national d'accueil*, DNA) are:

- (a) Accommodation centres for asylum seekers (CADA);
- (b) Emergency accommodation for asylum seekers (HUDA, AT-SA, PRAHDA, CAO);
- (c) Reception and administrative situation examination centres (CAES).

Asylum seekers accommodated in these facilities receive a certification of address (*attestation de domiciliation*).³³² This certification is valid for one year and can be renewed if necessary. It allows the asylum seeker to open a bank account and to receive mail.

³³¹ Article L.744-2 Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.

³³² Article R.744-1 to R.744-4 Ceseda.

According to the national reception scheme principle, an asylum seeker who has registered his or her claim in a specific Prefecture might not necessarily be accommodated in the same region. The asylum seeker has to present him or herself to the accommodation place proposed or the region assigned by OFII within 5 days. If not, the offer is considered to be refused and the asylum seeker will not be entitled to any other material reception conditions.

The management of reception centres is subcontracted to the semi-public company Adoma or to NGOs that have been selected through a public call for tenders, such as Forum réfugiés – Cosi, France terre d’asile, l’Ordre de Malte, Coallia, French Red Cross etc. These centres fall under the French social initiatives (*action sociale*) and are funded by the State. Their financial management is entrusted to the Prefect of the *Département*.

As of the end of 2018 the national reception scheme had the following capacity across the different regions:

Capacity of the national reception scheme: 31 December 2018				
Region	CADA	Emergency	CAES	Total
Auvergne Rhône-Alpes	5,718	6,189	204	12,111
Bourgogne Franche-Comté	3,119	2,352	60	5,531
Bretagne	2,131	1,915	110	4,156
Centre	2,139	1,499	76	3,714
Grand Est	5,074	8,015	370	13,459
Hauts de France	2,678	2,618	420	6,016
Ile de France	5,571	4,304	744	10,619
Normandie	2,280	2,568	200	5,048
Nouvelle Aquitaine	4,422	3,249	202	7,873
Occitanie	4,125	2,697	200	7,022
Provence Alpes Côte d’Azur	2,514	2,722	200	5,436
Pays de la Loire	2,681	3,026	200	5,907
Total	42,452	41,154	2,986	86,592

Source: Ministry of Interior, Circular NOR: INTV1900071J, 31 December 2018: <https://bit.ly/2Syc2E8>.

In 2018, the number of asylum seekers accommodated remained far below the number of persons registering an application. Whereas 128 890 first-time applicants registered in Prefectures (see Statistics), only 56,399 persons were placed in accommodation in the course of the year.³³³ This number reflects severe and persisting shortages in reception capacity, with only 44% of asylum seekers registered by Prefectures in 2018 effectively obtaining accommodation.

In practice, it remains the case that many reception centres have been organised to receive families or couples, thereby making it difficult for single men or women, to be accommodated. Moreover, if the asylum seeker has not succeeded in getting access to a reception centre before lodging his or her appeal, the chances of benefitting from one at the appeal stage are very slim. In case of a shortage of places, asylum seekers may have no other solutions than relying on night shelters or living on the street. The implementation of the national reception scheme intends to avoid as much as possible cases where asylum seekers are homeless or have to resort to emergency accommodation in the long run, yet gaps in capacity persist.

³³³ OFII, *Les chiffres clés de l’Ofii en 2018*, 12 February 2019, available in French at: <https://bit.ly/2TXyOmg>.

For 2019, the Ministry of Interior has announced a target of a further 1,000 places in CADA and 2,500 in emergency reception centres.³³⁴

1.1. Reception centres for asylum seekers (CADA)

Asylum seekers having registered a claim are eligible to stay in reception centres. Asylum seekers under a Dublin procedure are excluded from accessing these centres. CADA can be either collective or individualised housing, within the same building or scattered in several locations. Reception centres can be either collective or individualised housing, within the same building or scattered in several locations. A place in the centres for asylum seekers is offered by OFII once the application has been made.

At the end of 2017, out of a total 37,633 people accommodated in CADA, 11% were beneficiaries of international protection or were rejected asylum seekers.³³⁵

1.2. Emergency reception centres

Given the lack of places in regular reception centres for asylum seekers, the State authorities have developed emergency schemes. Different systems exist:

1. Temporary reception – asylum office (*accueil temporaire – service de l’asile*, AT-SA), counting 5,776 places at the end of 2018, managed at national level.
2. Reception and accommodation programme for asylum seekers (*programme regional d’accueil et d’hébergement des demandeurs d’asile*, PRAHDA), managed at national level. It consists of housing, in most cases in former hotels, for 5,351 persons who have applied for asylum or who wish to do so and who have not been registered.
3. Reception and orientation centres (*centres d’accueil et d’orientation*, CAO), initially created to accommodate asylum seekers evacuated from **Calais**. The mission of these centres consists in sheltering migrants, supporting them in submitting an asylum claim and providing them with material, administrative and social support.³³⁶ Asylum seekers are not supposed to be provided with legal assistance. Indeed, since they are identified as willing to submit an asylum claim, they have to be directed towards the regular procedure and the corresponding accommodation centres. In the vast majority of CAO, asylum seekers must be provided with legal assistance since there is a shortage of places in the regular accommodation facilities. This assistance is provided in some CAO, depending on the terms negotiated between the managing organization and the State.
4. A decentralised emergency reception scheme: emergency accommodation for asylum seekers (*hébergement d’urgence dédié aux demandeurs d’asile*, HUDA), counting 20,9853 emergency accommodation places at the end of 2018. Capacities provided by this scheme evolve quickly depending on the number of asylum claims and capacities of regular reception centres.

Asylum seekers who fall under the Dublin procedure in France can in theory benefit from emergency accommodation up until the notification of the decision of transfer, while Dublin returnees are treated as regular asylum seekers and therefore benefit from the same reception conditions granted to asylum seekers under the regular or the accelerated procedure. In practice, however, many persons subject to Dublin procedures live on the streets or in squats.

³³⁴ Ministry of Interior, Circular NOR: INTV1900071J, 31 December 2018, available in French at: <https://bit.ly/2Syc2E8>, Annex 1.2.

³³⁵ OFII, *2017 Activity report*, 92.

³³⁶ Circular NORINTK15201955, 20 November 2015, available in French at: <http://bit.ly/2iPDGHv>.

1.3. Reception and administrative situation examination centres (CAES)

A new form of accommodation has emerged in 2017 Reception and Administrative Situation Examination Centres (*centres d'accueil et d'examen de situation administrative*, CAES) combine accommodation with an examination of the person's administrative situation, in order to direct the individual to other accommodation depending on whether he or she falls within an asylum procedure, a Dublin procedure or a return procedure. Almost 3,000 places in such shelters have been created in 2018. In some regions, CAES are designed for people coming from camps, while in others they serve vulnerable asylum seekers whose application has been registered, pending referral to CADA or emergency reception.

1.4. Asylum seekers left without accommodation

Despite the increase in reception capacity and creation of new forms of centres, a number of regions continue to face severe difficulties in terms of providing housing to asylum seekers. As stated above, only about 44% of asylum seekers registered in 2018 received an accommodation place.

In **Paris**, there are still several informal camps as of early 2019, despite many dismantlement operations by the authorities. In January 2019, France terre d'asile identified 2,230 migrants in **Paris**, mainly from Sudan, Afghanistan and Eritrea.³³⁷ Among foreign nationals living in these camps there were irregular migrants but also asylum seekers, many of them in a Dublin procedure. According to the Prefecture, 15,640 migrants have been accommodated in emergency centres in 2018, including 5,400 identified in operations led by NGOs and OFII.³³⁸

In **Calais**, after the steps taken by the French government in 2015 and 2016,³³⁹ the makeshift camps have been dismantled and people have been directed to CAO. The dismantlement of the Calais camps has been operated in several stages. A first operation took place by the end of 2015, during which 700 people were sheltered.³⁴⁰ In the steps of this initiative, the French government has defined the modalities of accommodation required for the CAO.³⁴¹ The southern part of the camp was destroyed in February 2016, in a context heavy of tensions.³⁴² In October 2016 the government finalised the operation of evacuation and channelled the people living in the slums to CAO.³⁴³ 5,243 migrants had been directed to 197 CAO at that time. In July 2017, the Council of State ruled that state deficiencies in Calais exposed migrants to degrading treatment and enjoined the State to set up several arrangements for access to drinking water and sanitary facilities.³⁴⁴

Nevertheless, hundreds of migrants are still living in makeshift camps in Calais area as of early 2019. Secours catholique – Caritas stated that 600 migrants were in Calais and surroundings at in January, denouncing ongoing police harassment.³⁴⁵ In a report published in December 2018, the Ombudsman denounced a "degradation" of the health and social situation of migrants living in camps in the north of France, with "unprecedented violations of fundamental rights".³⁴⁶

³³⁷ Ouest France, 'Paris : nouvelle évacuation d'un camp de migrants insalubre dans le nord de la capitale', 25 January 2019, available in French at: <https://bit.ly/2Nfk0Nz>.

³³⁸ Prefecture of Ile-de-France, Letter to NGOs, 12 February 2019, available in French at: <https://bit.ly/2TaGWmc>.

³³⁹ See also the previous updates of the AIDA Country Report France.

³⁴⁰ Circular NOR: INTK15201955, 20 November 2015, available in French at: <http://bit.ly/2iPDGHv>.

³⁴¹ *Ibid.*

³⁴² Le Monde, 'Violence en marge du démantèlement partiel de la jungle de Calais', 29 February 2016, available in French at: <http://bit.ly/1LpYxho>.

³⁴³ Le Monde, 'Jungle de Calais : le démantèlement débutera lundi à l'aube', 21 October 2016, available in French at: <http://bit.ly/2e7KqzU>.

³⁴⁴ Council of State, Order No 412125, 31 July 2017.

³⁴⁵ Secours Catholique, 'A Calais, dialoguer plutôt que harceler', 24 January 2019, available in French at: <https://bit.ly/2UmoDHZ>.

³⁴⁶ Ombudsman, *Exiles et droits fondamentaux, trois ans après le rapport Calais*, 19 December 2018, available at: <https://bit.ly/2Glf7uS>.

In some other cities (**Nantes, Grande Synthe, Metz**) migrants often live in the street. Some of them are asylum seekers eligible for accommodation centers but not housed due to the lack of places.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? Yes No
2. What is the average length of stay of asylum seekers in the reception centres? Varies
3. Are unaccompanied children ever accommodated with adults in practice? Yes No

The activities and tasks entrusted to all reception centres are defined in a decree of December 2018 and include:³⁴⁷

- Accommodation;
- Information about rights and obligations in the centre;
- Information on the asylum procedure;
- Information on health;
- Information on reception rights;
- Accompaniment for schooling of children;
- Social, voluntary and recreational activities;
- Preparation and organisation of exit from accommodation.

However, the budget allocated to these centres varies from 15 € to 25 € per person according to the type of accommodation, and activities vary widely in practice.

2.1. Conditions in CADA

CADA are the main form of accommodation provided to asylum seekers. They include both collective and private accommodations that are located either within the same building or in scattered apartments. There are 42,452 places in CADA spread across the French territory, therefore the following description is a general assessment that cannot cover the specific situation to be found in all CADA.

Living conditions in regular reception centres for asylum seekers are deemed adequate, and there are no reports of overcrowding in reception centres. The available surface area per applicant can vary but has to respect a minimum of 7.5 m² per person.³⁴⁸ A bedroom is usually shared by a couple. More than 2 children can be accommodated in the same room. Centres are usually clean and have sufficient sanitary facilities. Asylum seekers in these centres are usually able to cook for themselves in shared kitchens..

The staff working in reception centres also has the obligation to organise a medical check-up upon arrival in the reception centre. In the context of the application of the reform of the law on asylum.³⁴⁹

The staff ratio is framed by the 2019 Decree; a minimum of 1 fulltime staff for 15 persons is required. Staff working in reception centres is trained.

Awareness-raising sessions are sometimes organised in the reception centres and the “planned parenthood” (*Planning Familial*) teams sometimes conduct trainings on the issue of gender based violence. In some reception centres, there are information leaflets and posters on excision and forced marriages.

³⁴⁷ Article R.744-6-1 Ceseda, inserted by Article 18 Decree n. 2018-1159 of 14 December 2018.

³⁴⁸ Arrêté du 15 février 2019 sur le cahier des charges CADA, available in French at: <https://bit.ly/2Hm5CTh>.

³⁴⁹ *Ibid.*

The average length of stay in CADA in 2017 was 424 days, down from 484 in 2016.³⁵⁰

2.2. Conditions in emergency centres

In asylum seekers' emergency centres, unlike the housing of asylum seekers in hotels, facilities offer at least some sort of administrative and social support. In theory, only accommodation is provided in the context of these emergency reception centres. Food or clothing services may be provided by charities. However, reception conditions within the emergency facilities are similar to those in regular reception centres.³⁵¹

Where centres are overcrowded, applicants can also be accommodated in hotel rooms.

Conditions vary substantially across the different types of facilities. As regards CAO, a 2017 evaluation by UNHCR has reported living conditions in CAO to be satisfactory overall.³⁵²

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

- | | |
|--|---|
| 1. Does the law allow for access to the labour market for asylum seekers?
❖ If yes, when do asylum seekers have access the labour market? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6 months |
| 2. Does the law allow access to employment only following a labour market test? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does the law only allow asylum seekers to work in specific sectors?
❖ If yes, specify which sectors: Defined by Prefectures | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Does the law limit asylum seekers' employment to a maximum working time?
❖ If yes, specify the number of days per year | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 5. Are there restrictions to accessing employment in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

From March 2019 onwards, access to the labour market will be allowed only if OFPRA has not ruled on the asylum application within 6 months after the lodging of the application and only if this delay cannot be attributed to the applicant.³⁵³ This means that persons who do not lodge an asylum application, such as asylum seekers under a Dublin procedure, are excluded from access to the labour market. In this case, the asylum seeker is subject to the rules of law applicable to third-country national workers for the issuance of a temporary work permit.³⁵⁴

In reality, asylum seekers have very limited access to the labour market, due to a number of constraints. Prior to being able to work, the applicant must have sought and obtained a temporary work permit. To obtain this work permit, the asylum seeker has to provide proof of a job offer or an employment contract. The duration of the work permit cannot exceed the duration of the residence permit linked to the asylum application. It may possibly be renewed.

The competent unit for these matters is the Regional Direction for companies, competition, consumption, work and employment (DIRECCTE) at the Ministry of Labour. In any case, the

³⁵⁰ OFII, *2017 Activity report*, 92.

³⁵¹ Arrêté du 15 février 2019 sur le cahier des charges HUDA, available in French at: <https://bit.ly/2F52kAi>.

³⁵² UNHCR, *L'expérience des centres d'accueil en France*, October 2017, 19-20.

³⁵³ Article L.744-11 Ceseda, as amended by Article 49 Law n. 2018-778 of 10 September 2018.

³⁵⁴ Article R.742-2 Ceseda.

employment situation also puts constraints on this right. In accordance with Article R.5221-20 of the Labour Code (C^{trav}), the Prefect may take into account some elements of assessment such as “the current and future employment situation in the profession required by the foreign worker and the geographical area where he or she intends to exercise this profession”, to grant or deny a work permit. 30 fields of work are experiencing recruitment difficulties which justifies allowing third-country nationals to work in these without imposing restrictions. These professions are listed by region – only 6 professions are common to the whole country.³⁵⁵ In practice, Prefectures use these lists of sectors facing recruitment difficulties.

Finally, asylum seekers have a lot of difficulties in accessing vocational training schemes as these are also subject to the issuance of a work permit. According to the law,³⁵⁶ this permit is delivered to unaccompanied children, and the employment situation does not put any constraints if they meet some criteria, except when they are in asylum procedure due to limitations applied to all asylum seekers.³⁵⁷

This means that it is more difficult to obtain a permit for a child who is an asylum seeker. That is why some children do not want to ask for asylum. However, a child who has a work permit can request asylum without any effect on the permit.³⁵⁸

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

While no provision of the Education Code covers the particular case of children of asylum seekers, the law provides that they are subject to compulsory education as long as they are between 6 and 16 years old,³⁵⁹ on the same conditions as any child. Primary school enrolment can be done at the local town hall. Enrolment in a secondary school (high schools) is made directly to the institution closest to the place of residence of the child. If the children seem to have a sufficient command of the French language, the evaluation process will be supervised by a Counselling and Information Centre (*Centres d'information et d'orientation*, CIO). This State structure is dedicated to the educational guidance of all students.

When the children are not French-speaking or do not have a sufficient command of writing the language, their evaluations fall under the competency of the Academic Centre for Education of Newcomers and Travellers Children (CASNAV).³⁶⁰ The test results will enable teachers to integrate the child within the dedicated schemes e.g. training in French adapted to non-native speakers (*français langue étrangère*, FLE) or initiation classes.

Education for asylum seeking children is usually provided in regular schools but could also be provided directly in reception centres (large emergency reception facilities for instance).

Barriers to an effective access to education are varied. Beyond the issue of the level of language, there are also a limited number of specialised language training or initiation classes and limited resources dedicated to these schemes. This is an even more acute difficulty for reception centres in rural areas which simply do not have such classes. Besides, some schools require an address before enrolling children and this can be an issue for asylum seekers who do not have a personal address. Finally,

³⁵⁵ Ministerial Order NOR IMID0800328A of 18 January 2008 on the issuance of work permits to third-country national workers, available in French at: <http://bit.ly/1LWfeQd>.

³⁵⁶ Article L.5221-5 C^{trav}.

³⁵⁷ They do not have the right to work except if the length of the procedure is more than 9 months.

³⁵⁸ Article L.744-11 C^{eseda}, as amended by Article 49 Law n. 2018-778 of 10 September 2018.

³⁵⁹ Article L.131-1 Education Code.

³⁶⁰ See Circular NOR: 2012-143 of 2 October 2012.

access to education for children aged 16 to 18 is much more complicated as public schools do not have any obligation to accept them. They may be eligible for French courses offered by charities but the situation varies depending on the municipality. Access to apprenticeship is not possible as it would imply an access to a work permit that is usually not granted to asylum seekers. As a general rule, there is no training foreseen for adults. French language courses are organised in some reception centres depending on the availability of volunteers. Young adults and adults are often forced to put aside their career or training, pending the decision on their asylum application. For young people, this represents a considerable loss of time.

Finally, asylum seeking children with special needs are faced with the same difficulties as children with special needs in general. Access to trained and specialised staff (*auxiliaires de vie scolaire*) tasked with supporting these children during their education in regular schools is very limited. For example, on 10 March 2014, the Committee of Ministers of the Council of Europe adopted a resolution tackling the issue of the difficult schooling of children with autism in France.³⁶¹

D. Health care

Indicators: Health Care

- | | | |
|---|---|---|
| 1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Do asylum seekers have adequate access to health care in practice? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| 3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| 4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |

Asylum seekers under the regular procedure, like any other third-country nationals below a certain income level, have access to health care thanks to the universal healthcare insurance (PUMA) system.³⁶² Asylum seekers are exempted from the 3 month residence requirement applied to other third-country nationals,³⁶³ and this applies to asylum seekers under the Dublin procedure as well. As both asylum seekers under accelerated procedure and Dublin procedure are granted an asylum claim certification (see section on [Registration](#)) they benefit from the PUMA. Even if no legal provision has been provided in this specific issue of asylum seekers under the Dublin procedure, it has been observed in practice that the social security services allow them to be provided with the same healthcare insurance as other asylum seekers. The request to benefit from the PUMA is made to the social security services (CPAM) of the place of residence or domiciliation. The asylum seeker must submit documentary evidence of the regularity of his or her stay in France, marital status and the level of his or her resources.

Persons who have no right to remain on the territory, including rejected asylum seekers, benefit from the PUMA for one year after the end of validity of the asylum claim certification. After this period, State Medical Aid (AME) enables them to receive free treatments in hospitals as well as in any doctors' offices.³⁶⁴

Individuals with low income and who are still awaiting health insurance and needing healthcare quickly can turn to the All-Day Healthcare Centres (PASS) at their nearest public hospital. This is therefore also a possibility for asylum seekers under the accelerated and Dublin procedures. There, they will receive care and, if necessary, the medical letter needed to speed up the processing of their application for

³⁶¹ Council of Europe Committee of Ministers, *Autisme-Europe against France*, Resolution ResChS(2004)1, Collective complaint No. 13/2002, 10 March 2014, available at: <http://bit.ly/1RIREQt>.

³⁶² Article L.380-1 Social Security Code.

³⁶³ Article D.160-2(3) Social Security Code.

³⁶⁴ Ministry of Interior, *Social Rights of Asylum Seekers*, available at: <http://bit.ly/1EvEcCF>.

public health insurance. According to the law, all public hospitals are required to offer PASS services, but in practice, this does not always occur.

As a general rule, difficulties and delays for effective access to healthcare vary from one city to another in France. Access to the PUMA is functioning well in most of the regions of France, and is effective within one month. Access has been considerably improved since 2016, even if some difficulties remain, in particular for subsequent applicants. The duration of access to the healthcare insurance is in theory linked to the duration of validity of the asylum claim certification. In practice, it can be noted that CPAM deliver healthcare insurance for a one-year duration. In fact, at the end of the validity of the asylum claim certification, access to health care is not guaranteed anymore. It may then occur, at the moment of renewing their certification, that some asylum seekers get their healthcare insurance suspended.

Finally, some of the problems with regard to medical care are not specific to asylum seekers. Some doctors are reluctant to receive and treat patients who benefit from the AME or PUMA and tend to refuse booking appointments with them even though these refusals of care can in theory be punished.³⁶⁵

National legislation does not guarantee any specific provision for access to care related to mental health issues. Asylum seekers can theoretically benefit from psychiatric or psychological counselling thanks to their health care cover (AME or PUMA). However, access remains difficult in practice because many professionals refuse to receive non-French speaking patients as they lack the tools to communicate non-verbally and / or funds to work with interpreters.

Victims of torture or traumatised asylum seekers can be counselled in a few NGO structures that specifically take care of these traumas. This adapted counselling is provided, for instance, at the [Primo Levi Centre](#) and [Comede](#) in **Paris** as well as the [Osiris](#) centres in **Marseille**, [Mana](#) in **Bordeaux**, [Forum réfugiés – Cosi](#) [Essor Centre](#) in **Lyon**. These specialised centres are however too few in France, unevenly distributed across the country and cannot meet the growing demand for treatment.

The difficulties are in fact even more aggravated by the geographical locations of some reception centres where the possibility to access mental health specialists would mean several hours of travel.

The general health system cannot currently cope with this adapted care for victims of torture and political violence. These regular structures lack time for consultations, funds for interpreters and training for professionals.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
 Yes No

The law foresees a specific procedure for the identification and orientation of asylum seekers with special reception needs. This procedure consists in an interview conducted by OFII officers. These officers shall be specifically trained on identification of vulnerability (see [Identification](#)).³⁶⁶

However, the Ceseda does not refer to vulnerability on account of sexual orientation or gender identity, therefore this is not taken into account by OFII either. In practice, LGBTI persons face strong difficulties when OFII does not provide them with housing, as most of the time they cannot find support in their national communities.

³⁶⁵ Circular DSS n. 2001-81, 12 February 2001 on the care refusal for beneficiaries of the CMU.

³⁶⁶ Article L.744-6 Ceseda.

So far, places in CADA are mostly allocated to vulnerable asylum seekers but whose vulnerability is “obvious” (families with young children, pregnant women and elderly asylum seekers). The questionnaire that is used by OFII officers as part of the vulnerability assessment only focuses on “objective” elements of vulnerability, thereby hindering the identification of less visible needs.

The French system does not yet foresee any specific ongoing monitoring mechanism to address special reception needs that would arise during the asylum procedure. In practice, however, social workers in reception centres have regular exchanges with the asylum seekers and may be able to identify these special vulnerabilities, should they appear during the reception phase. It is possible for the accommodation centres to notify OFII of the personal situation of an asylum seeker presenting a particular vulnerability and to ask for his or her re-orientation to a more suitable centre. In many occasions, social workers have reported the fact the orientation by OFII did not take into account the vulnerability of some asylum seekers. For example, it has happened that asylum seekers in a wheelchair had been proposed to be accommodated in a centre without any specific access for disabled persons.

The main difficulty for the staff is however the identification of solutions to respond to this need (see section on [Health Care](#) on the limited access to mental health care for instance). Therefore, the obligation on OFPRA and OFII to take into account the specific situation of vulnerable persons throughout the asylum procedure, including when these vulnerabilities only appear after the vulnerability assessment, should lead to new practice. The vulnerability assessment’s conclusions as well as all information related to asylum seekers are to be computerised. Consequently, it should be easier to approach vulnerability in a more comprehensive way and to facilitate exchange of information. However, this is far from being effective in practice and many legal and practical measures are still lacking to allow this system to be implemented.

For the year 2019, the Ministry of Interior has requested Prefectures to develop places for asylum seekers with disabilities and has announced the opening of places dedicated to women victims of violence or trafficking.³⁶⁷

1. Reception of unaccompanied children

Care system (“*prise en charge*”) for unaccompanied children regardless of status

The term unaccompanied child has no explicit definition in French law.³⁶⁸ The protection of these young people is therefore based on the notion of children at risk, as outlined in French legal provisions on child protection, which is applicable regardless of nationality or the status of an asylum seeker. Local authorities (*Départements / Conseils généraux*) are in charge of children at risk so they have to protect unaccompanied children in France. It is therefore difficult to obtain an overview of the situation for unaccompanied children at the national level. The Ministry of Justice has been in charge of the coordination of this issue at national level since 2010, but its role is limited in practice to the distribution of children between local authorities.

Protection measures are usually initiated by children who turn to NGOs or judges for help. There is no specific procedure in place for identifying unaccompanied children. When they go to the Prefecture in order to lodge an asylum application, the authorities verify only whether a legal guardian is present or not. If not, a legal representative to support and represent the child in asylum procedures (*ad hoc* administrator) should be appointed (see [Legal Representation of Unaccompanied Children](#)).

³⁶⁷ Ministry of Interior, Circular NOR: INTV1900071J, 31 December 2018, available in French at: <https://bit.ly/2Syc2E8>, 7.

³⁶⁸ Foreign unaccompanied children do not constitute any specific category in the *Ceseda*, except for two articles which mention them in relation to the *ad hoc* administrator (Articles L.221-5 and L.751-1), or in the *CASF*.

In practice, several social workers regularly report that some Prefectures still do not accept to register the asylum claims of unaccompanied children. Asylum-seeking children are sometimes channelled to the common law procedure for unaccompanied minors and they are prevented from registering their asylum claim.

The distribution mechanism is set out in law.³⁶⁹ The geographical distribution is done according to criteria defined by a Decree of 28 June 2016:³⁷⁰

- The part of the local population over 19 years-old ;
- The number of unaccompanied minors sheltered and supported at the end of the year;
- The transmission to the Ministry of Justice of the number of unaccompanied minors taken in charge by Childhood Welfare as of 31 December.

If no data are collected and transmitted, it will be considered that no unaccompanied minors have been supported and assisted in the concerned *départements*. These *départements* will therefore have to increase the number of minors assisted during the following year.

Specific centres for unaccompanied children

As a general rule, after identification, unaccompanied children (including those between 16 and 18) are placed in specific children's shelters that fall under the responsibility of the departmental authorities.³⁷¹ These are managed by the *conseils départementaux*. They also may be accommodated in foster families. Due to the lack of places, children are often accommodated in hotels in practice.

Very few of these centres are designed for asylum-seeking children specifically. There is a specialised centre at the department level managed by Coallia in **Côtes-d'Armor** (Samida).³⁷² In some *départements*, children are hosted in centres with all children in need of social protection, but another service helps them in their specific procedures. As an example, since 2005, Forum réfugiés-Cosi has carried out missions to provide information, legal support and assist in the referral of hundreds of asylum seeking unaccompanied minors arriving in **Lyon**. The OFPRA leaflet targeted to unaccompanied asylum-seeking children lists a number of specialised NGOs providing support.³⁷³

When children are not accommodated in specialised centres, legal support depends on services provided by NGOs in the geographical area.

In June 2017, the Senate published a report on the social care of unaccompanied children, where it noted shortcomings in the reception system, such as housing in hotels, and encouraged community-based accommodation.³⁷⁴ Through an opinion of 25 September 2017, the Ombudsman requested the creation of a centre in **Calais** where unaccompanied children could rest, receive care and obtain clear information on their rights.³⁷⁵

³⁶⁹ Law n.2016-297 relating to childhood protection, 14 March 2016, available in French at: <http://bit.ly/2jPyjYW>.

³⁷⁰ Decree n. 2016-840 relating to the distribution key of the orientations of unaccompanied minors, 28 June 2016, available in French at: <http://bit.ly/2jg4RMO>.

³⁷¹ Information on the various schemes for unaccompanied children is available at: <http://bit.ly/1JP5kiG>.

³⁷² *Ibid.*

³⁷³ OFPRA, *Guide de l'asile pour les mineurs isolés étrangers en France*, November 2018. This list includes: Centre enfants du monde (CEM – Croix Rouge française); Coallia; France terre d'asile; InfoMIE; pôle d'évaluation des mineurs isolés étrangers (PEMIE – Croix Rouge française).

³⁷⁴ Senate, *Rapport sur la prise en charge sociale des mineurs non accompagnés*, n. 598, 28 June 2017, available in French at: <http://bit.ly/2DcgMZg>.

³⁷⁵ Ombudsman, Opinion n. 17-09, 25 September 2017, available in French at: <http://bit.ly/2rcqvt2>.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

The law provides that reception centre operators are responsible for providing information to asylum seekers on: (a) their rights and obligations in the centre; (b) the asylum procedure; (c) health; and (d) social rights.³⁷⁶

The provision of information for asylum seekers accommodated in CADA about the modalities of their reception is governed by the Circular of 2019 on the missions of CADA centres³⁷⁷ and HUDA centres.³⁷⁸ Upon admission in the centres, the manager has to deliver to the asylum seeker any useful information on the conditions of his or her stay in the centre, in a language that he or she understands and in the form of a welcome booklet. These modalities can vary in practice from one centre to the other. In any case, core information about procedural rights during the asylum procedure is shared with accommodated asylum seekers on a regular basis and upon request if necessary. Each centre also has its own information procedures. Generally, in a centres managed by Forum réfugiés – Cosi, for instance, the asylum seeker is informed about these legal reception provisions through the residence contract and operating rules he or she signs upon entry in the reception centre. On this occasion, an information booklet on the right to health is handed over to the asylum seeker. As some asylum seekers do not have easy access to written information, collective information sessions through activities are also organised in reception centres managed by Forum réfugiés – Cosi.

As regards CAO, however, there have been challenges in the effective provision on information to asylum seekers on their rights. Beyond a lack of clarity on the applicability of the Dublin procedure in some cases, people hosted in CAO did not receive adequate information on crucial aspects of reception conditions, including ADA and the assessment of vulnerability. UNHCR has regretted the failure of OFII to ensure more regular presence in CAO with a view to providing such information.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
 Yes With limitations No

In France, reception centres for asylum seekers are not closed centres. They are accessible to visitors of the family accommodated in the centres and to other stakeholders within the limits set by the house rules, usually subject to the preliminary notification of the manager.

Many reception centres are managed by NGOs, whose staff is therefore present on a daily basis.

G. Differential treatment of specific nationalities in reception

There is no differential treatment of specific nationalities in reception.

³⁷⁶ Article R.744-6-1 Ceseda, inserted by Article 18 Decree n. 2018-1159 of 14 December 2018.

³⁷⁷ Arrêté du 15 février 2019 sur le cahier des charges CADA, available in French at: <https://bit.ly/2Hm5CTh>.

³⁷⁸ Arrêté du 15 février 2019 sur le cahier des charges HUDA, available in French at: <https://bit.ly/2F52kAi>.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Asylum seekers lodging a claim in detention in 2018:	Not available
2. Number of asylum seekers in detention at the end of 2018:	Not available
3. Number of detention centres (excl. waiting zones):	51
❖ Administrative detention centres (CRA):	25
❖ Administrative detention places (LRA): ³⁷⁹	26
4. Total capacity of CRA: ³⁸⁰	1,791

French law does not allow the detention of asylum seekers for the purpose of the asylum procedure. The asylum seekers covered in this section are mainly the ones who have lodged a request for asylum while in an administrative detention centre (*centre de rétention administrative*, CRA) for the purpose of removal, as well as those detained pending a transfer under the Dublin Regulation.

In 2017, 1,372 third-country nationals lodged an asylum application while in administrative detention, up from 1,292 in 2016.³⁸¹ Most asylum seekers present in administrative detention centres are either third-country nationals who have lodged a claim while being detained or rejected asylum seekers who ask for a subsequent examination of their asylum claim. The latter represented 24.9% of the total number of claims introduced in detention centres in 2017.³⁸²

At the same time, newly arrived asylum seekers can be arrested and placed in administrative detention. This can happen when they have started the registration process of their asylum claim and then have gotten arrested pending the official confirmation of this registration. Indeed, in the **Ile de France** region, these procedures can take several weeks through waiting for a registered address through an association or for the appointment at the Prefecture, before a temporary residence permit is issued (see section on [Registration](#)). These asylum seekers do not always have the necessary documents proving their pending registration with them when they get arrested. As a result, a removal decision can be taken and the person is placed in administrative detention and his or her claim may be processed from there, as was the case for persons in the centres of **Toulouse** and **Paris-Vincennes** in 2017. In practice, certain Administrative Courts order the release of such asylum seekers upon presentation of proof of steps taken to have their claim registered,³⁸³ but this is far from being automatic.

There are 25 CRA and around 26 administrative detention places (LRA)³⁸⁴ on French territory (including in overseas departments). The capacity of CRA amounts to a total of 1,791 places as of mid-2018.³⁸⁵ Article R.553-3 Ceseda foresees that each centre's capacity should not exceed 140 places.³⁸⁶ The maximum capacities for these centres are not reached in mainland France at one point in time but the turnover is very high. However, even if the capacities are not exceeded, when the centres are almost full, this causes a lack of privacy which can create tensions.

Also, in the context of the border procedure, asylum seekers are held in “waiting zones” while awaiting a decision on their application for an authorisation to enter the territory on asylum grounds. These are

³⁷⁹ The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefect.

³⁸⁰ *Ibid.*

³⁸¹ OFPRA, *2017 Activity report*, 22.

³⁸² *Ibid.*

³⁸³ See e.g. Administrative Court of Lille, Decision No 1804330, 7 June 2018; Administrative Court of Marseille, Decision No 1703152, 18 May 2017.

³⁸⁴ The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefect.

³⁸⁵ National Assembly, *Avis sur le projet de loi de finances 2019*, 12 October 2018, available in French at: <https://bit.ly/2Xav96x>.

³⁸⁶ Article R.553-3 Ceseda.

distinguished from CRA but also classified as places of deprivation of liberty, as asylum seekers cannot leave these areas (except to return to their country) until an authorisation to let them enter the French territory or a decision to return them is taken. As detailed in the section on [Border Procedure](#), 1,270 requests to enter the French territory on asylum grounds were made at the border in 2017.

However, in the context of border controls in the area of **Alpes-Maritimes** throughout 2017, the Border Police has detained newly arrived asylum seekers without formal order in a “temporary detention zone” (*zone de rétention provisoire*) made up of prefabricated containers in the premises of the Menton Border Police, and established following an informal decision of the Prefect of Alpes-Maritimes.³⁸⁷ The Administrative Court of Nice held that this form of detention was lawful insofar as it did not exceed 4 hours, after which individuals would have to be directed to a formal “waiting zone”.³⁸⁸ The Council of State has also upheld this form of detention as lawful during the period necessary for the examination of the situation of persons crossing the border, subject to judicial control.³⁸⁹

The law provides that a foreign national who applies for asylum from detention in a CRA can only be maintained in detention if the Prefecture states in a written and motivated decision that the asylum claim has only been introduced to prevent a notified or imminent order of removal.³⁹⁰ The decision to maintain a seeker in administrative detention can be challenged before administrative courts within 48 hours, and has suspensive effect. Foreign nationals who introduced a claim from administrative detention and are released are given an asylum claim certification and their claim will be normally processed.³⁹¹

This constitutes a real improvement, as for people seeking asylum in administrative detention, it is difficult to prepare such an application in a place of confinement. There is very limited time to develop the reasons for the claim, stressful conditions prior to the interview with OFPRA, difficulties to locate and gather the necessary evidence etc. In addition, for claims channelled into the accelerated procedure, OFPRA has 96 hours to examine the application.³⁹² This extremely brief period of time drastically reduces the chances of benefiting from an in-depth examination of the claim. Moreover, there have been several cases demonstrating that the 96 hours delay is not always respected by OFPRA,³⁹³ thus unlawfully extending the detention period. Therefore, only the CNDA could provide an in-depth examination of the claim. However, when the asylum seeker’s detention is confirmed by the administrative court, he or she will not benefit from a suspensive effect of his or her appeal of a negative decision given by OFPRA before the CNDA. He or she can be removed to his or her country of origin even though the CNDA has not given its final decision on the case. Consequently, the asylum seeker in detention does not benefit from an effective remedy nor from an in-depth examination of his or her claim. France has been condemned by the ECtHR in 2012 for violation of Article 13 on the right to an effective remedy in these particular circumstances.

In a December 2014 information note, the Minister of Interior already called for an individual assessment of each case by the Prefects in order to decide precisely whether the asylum seeker in administrative detention should be delivered a temporary residence permit and therefore released from detention and channelled into the regular procedure, or not – and therefore channelled into the accelerated procedure.³⁹⁴

³⁸⁷ Anafé *et al.*, ‘Menton : des personnes exilées détenues en toute illégalité à la frontière’, 7 June 2017, available in French at: <http://bit.ly/2Dnp7pb>.

³⁸⁸ Administrative Court of Nice, Order No 1702161, 8 June 2017.

³⁸⁹ Council of State, Order No 411575, 5 July 2017.

³⁹⁰ Article L.556-1 Ceseda.

³⁹¹ Decree n. 2015-1166 of 21 September 2015.

³⁹² Article L.556-1 Ceseda.

³⁹³ See for instance Administrative Court of Appeal of Lyon, Decision 15/001317, 1 September 2015.

³⁹⁴ Ministry of Interior, Information Note of 23 December 2014 following the Council of State decision n. 375430 of 30 July 2014.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
 - ❖ on the territory: Yes No
 - ❖ at the border: Yes No
2. Are asylum seekers detained in practice during the Dublin procedure?
 Frequently Rarely Never
3. Are asylum seekers detained during a regular procedure in practice?
 Frequently Rarely Never

1.1. Pre-removal detention

Asylum seekers are not placed in administrative detention centres for the purpose of the asylum procedure.³⁹⁵ Persons who claim asylum during their administrative detention can only be maintained in detention (*maintien en rétention*) if, based on a motivated and written decision, the Prefect considers that the claim aims solely to avoid an imminent removal.³⁹⁶

On several occasions, Administrative Courts have clarified that, where the person has made references to a risk of persecution or harm upon return to the country of origin, an intention to apply for asylum solely to avoid imminent removal cannot be inferred from the fact that the person failed to register an asylum application prior to being placed in detention.³⁹⁷

1.2. Detention under the Dublin Regulation

Asylum seekers under the Dublin procedure can be placed in administrative detention with a view to the enforcement of their transfer once the transfer decision has been notified, where there is a “significant risk of absconding”.³⁹⁸

In line with the CJEU’s ruling in *Al Chodor*, the Court of Cassation clarified on 27 September 2017 that the absence of a legislative provision setting out the objective criteria for determining the existence of a “significant risk of absconding”, specific to the Dublin system, precluded the applicability of detention for the purpose of carrying out a Dublin transfer.³⁹⁹

In response to the Court of Cassation ruling, the *Ceseda* was amended in March 2018 to define the following criteria for the existence of a “significant risk of absconding”, where an applicant:⁴⁰⁰

1. Has previously absconded from the Dublin procedure in another country;
2. Has received a rejection decision in the responsible Member State;
3. Has been found again on French territory following the execution of a transfer;
4. Has evaded the execution of a previous removal measure;

³⁹⁵ Article L.554-1 *Ceseda*.

³⁹⁶ Article L.556-1 *Ceseda*.

³⁹⁷ See e.g. Administrative Court of Lille, Decision No 1803225, 11 May 2018 (Côte d’Ivoire); Administrative Court of Nancy, Decision No 1800978, 27 April 2018 (Sudan); Administrative Court of Strasbourg, Decision Nos 1801908 and 1801984, 4 April 2018 (Dominican Republic); Administrative Court of Paris, Decision No 1800364/8, 11 January 2018 (Guinea).

³⁹⁸ Article 28(2) Dublin III Regulation.

³⁹⁹ Court of Cassation, Decision No 1130, 27 September 2017. See also Court of Cassation, Decision No 17-14866, 7 February 2018.

⁴⁰⁰ Article L.551-1(2) *Ceseda*, inserted by Law n. 2018-187 of 20 March 2018.

5. Refuses to be fingerprinted or deliberately alters his or her fingerprints;
6. Has falsified a document with the aim of staying on French territory;
7. Has concealed elements of his or her identity, route, family composition or previous asylum applications;
8. Does not benefit from material reception conditions and cannot prove his or her place of actual or permanent residence;
9. Cannot prove his or her place of residence after refusing a proposal for accommodation by OFII, or after abandoning his or her place of accommodation without legitimate reason;
10. Does not respond to requests from authorities without legitimate reason;
11. Has previously evaded a house arrest measure;
12. Has explicitly declared his or her intention not to comply with the Dublin procedure.

The law has gone beyond the limits set by the Court of Cassation insofar as detention may apply before the transfer decision. Asylum seekers under the [Dublin: Procedure](#) can thus be placed in detention during the procedure of determination of the responsible state. This has been applied a few hundred times since the reform.

In practice, whereas applicants are placed less and less frequently in administrative detention and Prefectures resorted increasingly frequently to house arrest for asylum seekers under the Dublin procedure, 3,723 asylum seekers were detained in view of their removal to another EU country under the Dublin procedure in 2017,⁴⁰¹ up from 2,208 in 2016. Among them, 739 were detained between October and December 2017 without legal basis, given the Court of Cassation ruling.

1.3. Detention at the border

Persons entering by train, boat or airplane and refused entry into the territory can be placed in waiting zones strictly for the time necessary for their departure.⁴⁰² If a person makes an asylum application at the border, he or she is automatically maintained in the waiting zone for the duration of the border procedure.

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?

<input type="checkbox"/>	Reporting duties
<input checked="" type="checkbox"/>	Surrendering documents
<input type="checkbox"/>	Financial guarantee
<input checked="" type="checkbox"/>	Residence restrictions

2. Are alternatives to detention used in practice?

<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
-------------------------------------	-----	--------------------------	----

Ceseda lays down house arrest (*assignation à résidence*) as an alternative to administrative detention. This measure can take different forms:

- (a) House arrest in the case of an absence of reasonable prospects of removal:⁴⁰³ The law foresees house arrest for a maximum period of six months (renewable once or several times, up to a total limit of one year) when “the foreigner can justify being unable to leave the French territory or can neither go back to his country of origin, nor travel to any other country” and that as a result, the execution of the removal measure is compromised on the medium or long term.

⁴⁰¹ Assfam et al., *2017 Detention report*, June 2018, available in French at: <https://bit.ly/2m87Glc>, 11.

⁴⁰² Article L.221-1 Ceseda.

⁴⁰³ Article L.561-1 Ceseda.

- (b) House arrest as an alternative to administrative detention:⁴⁰⁴ The Prefect can put those people who can produce representation guarantees and whose removal is postponed only for technical reasons (absence of identification, of travel documents, or of means of transport) under house arrest for a period of 45 days, renewable once. When foreigners subjected to a return decision and who are accompanied by their minor children, do not have a stable address (decent housing within legal conditions), it is possible to envisage house arrest in hotel-like facilities.
- (c) House arrest with electronic monitoring for parents of minor children residing in France for 45 days.⁴⁰⁵ This measure is not implemented as far as we are aware.

The house arrest decision can last 6 months and can be renewed once for the same period. It has to be motivated. The Prefecture is also allowed to keep the passport or identity document of the asylum seeker.

The law does not foresee any obligation to prove the impossibility to set up alternative measures before deciding to detain third-country nationals. If the person can present guarantees of representation and unless proved to the contrary, house arrest should be given priority but a necessity and proportionality test is not really implemented. This is only a possibility left to the discretion of the administration.

Instructions of the Ministry of Interior of 19 July 2016 and 20 November 2017 recommend Prefectures to largely resort to house arrest from the beginning of Dublin procedures, with a view to overcoming recurring difficulties in the implementation of transfers.⁴⁰⁶ The instructions clarify that surveillance measures must accompany a house arrest order. Many Prefectures systematically imposes house arrest as soon as asylum seekers are placed in the Dublin procedure (see [Dublin: Procedure](#)), without conducting an individualised assessment to establish whether an alternative to detention is required.

It is now possible to detain third-country nationals accompanied by minor children if they do not respect house arrest prescriptions.⁴⁰⁷ It is also possible for the authorities to request the use of police forces to ensure the implementation of the house arrest order and to visit the third-country national in order to place him or her in a detention centre or to remove him or her from the French territory. This use of police forces has to be approved by the Judge of Freedoms and Detention (*juge des libertés et de la détention*). The judge has to make a motivated decision within 24 hours after a request.⁴⁰⁸

⁴⁰⁴ Article L.561-2 Ceseda.

⁴⁰⁵ Article L.562-2 Ceseda.

⁴⁰⁶ Ministry of Interior, Instruction NOR: INTV1618837J of 19 July 2016 relating to the application of the Dublin III Regulation – Resort to house arrest and administrative detention in the context of execution of transfer decisions, 4; Instruction NOR: INT/V/17/30666/J of 20 November 2017 on the objectives and priorities in the fight against irregular immigration.

⁴⁰⁷ Article L.551-1 Ceseda.

⁴⁰⁸ Article L.561-2(2) Ceseda.

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
 Frequently Rarely Never
- ❖ If frequently or rarely, are they only detained in border/transit zones? Yes No
2. Are asylum seeking children in families detained in practice?
 Frequently Rarely Never

3.1. Detention of unaccompanied children

In theory, unaccompanied children cannot be returned and therefore cannot be detained as a consequence. Nevertheless, it is important to stress that in 2016, the five NGOs working in administrative detention centres met 182 detained persons who declared themselves to be children, down from 280 in 2015. No data are available for 2017 and 2018. These were young persons whose age had been disputed by the authorities and had been considered as adults, as a result of a medical examination for instance.⁴⁰⁹ 49% of these young persons were released after a judicial decision in 2015.⁴¹⁰

As regards waiting zones, unaccompanied children, generally speaking, are often maintained in waiting zones in inadequate conditions. The Ombudsman urged in 2017 for a better consideration of their interests, in particular by: consolidating training of agents working in waiting zones; informing the children about their situation and rights; allowing them more space to speak and be heard; establish separate spaces for children in the waiting zone; and informing the Prosecutor (*Procureur de la République*) of all unaccompanied children in these locations.⁴¹¹

3.2. Detention of families with children

There has been a steady increase in detained families with children from 2013 to 2017. In 2016, 304 children have been placed in administrative detention with their parents in mainland France, up from 179 in 2016. Most families were detained in **Mesnil-Amelot** and **Metz**.⁴¹² It seems that the majority of the families detained were subjected to a house arrest order.⁴¹³

Figures are higher overseas. In **Mayotte**, 2,493 children were detained in 2017, compared to 4,285 in 2016.⁴¹⁴ Children are often detained with adults who are not their parents. After the Administrative Court of Mamoudzou had approved this practice, the Council of State condemned the Prefect of Mayotte twice, reminding him that it is compulsory to verify the parenthood link between a child and the adult he or she is linked to.⁴¹⁵

Some Prefectures have not resorted to detention to expel families in 2017, while others such as **Moselle, Doubs, Bas-Rhin, Paris** or **Meurthe-et-Moselle** account for 70% of cases.

⁴⁰⁹ Assfam et al., *2016 Detention report*.

⁴¹⁰ *Ibid.*

⁴¹¹ Ombudsman, Decision No 2017-144, 26 June 2017, available in French at: <http://bit.ly/2Dko1v7>.

⁴¹² Assfam et al., *2017 Detention report*, June 2018, 15.

⁴¹³ Assfam et al., *2016 Detention report*.

⁴¹⁴ La Cimade, 'Mettre fin à l'enfermement des enfants en rétention', 11 July 2017, available in French at: <http://bit.ly/2FD9vzc>.

⁴¹⁵ Council of State, Orders of 5 October 2014 and 9 January 2015. See Assfam et al., *2014 Detention report*, 30 June 2015.

On 12 July 2016, the ECtHR condemned France on five occasions for detaining children. In these decisions, the Court recalled that the detention of minors must be used as a last resort.⁴¹⁶

3.3. Detention of victims of trafficking

Another issue is raised in relation to victims of human trafficking. Detention places are not meant to guarantee protection and the police officers hearing third-country nationals in these centres mainly focus on their administrative status. Potential asylum-seeking victims of trafficking do not feel safe and confident to submit an asylum claim, or to express their fear and their situation. They encounter difficulties to trust police officers unable to protect them against their traffickers.

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|---------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 90 days |
| 2. In practice, how long in average are asylum seekers detained? | 13 days |

4.1. Duration of detention in CRA

A person can remain in administrative detention for a maximum of 90 days.⁴¹⁷ Prior to the 2018 reform, the maximum time limit was 45 days.

The decision of placement in administrative detention taken by the administration is valid for 2 days. Beyond this period, a request before the Judge of Freedoms and Detention (JLD) has to be lodged by the Prefect to prolong the duration of administrative detention.⁴¹⁸ This judge can order an extension of the administrative detention for an extra 28 days after the initial placement. A second prolongation for 30 days is possible, followed by two further prolongations of 15 days granted under certain conditions, in particular if the persons deliberately obstruct their return by withholding their identity, the loss or destruction of travel documents,⁴¹⁹ or the fact that despite the goodwill of the executing administration, the removal measure has not yet been finalised. Beyond this period of 45 days, any foreigner who has not been removed must be released.

However, a forthcoming reform of asylum and immigration law is likely to extend the maximum detention time limit to 135 days.

In practice, the length of stay of asylum seekers who have claimed asylum while in CRA is difficult to assess. However, on average, third-country nationals remained 12.8 days in administrative detention centres in 2017. In many CRA, the average detention duration was largely beyond that average:

Average duration of detention: 2017	
CRA	Average duration of detention (days)
Toulouse	18.7
Marseille	17
Mesnil-Amelot	17.7
Paris-Vincennes	16.4

⁴¹⁶ ECtHR, *A.B. v. France*, Application No 11593/12, *R.M. and M.M. v. France*, Application No 33201/11, *A.M. v. France*, Application No 24587/12, *R.K. v. France*, Application No 68264/14 and *R.C. v. France*, Application No 76491/14, Judgments of 12 July 2016.

⁴¹⁷ Article L.552-7 *Ceseda*, as amended by Article 29 Law n. 2018-778 of 10 September 2018. Originally set at a maximum of 7 days, the length of administrative detention was extended to 32 days in 2003, to 45 days in 2011 and to 90 days in 2018. In exceptional situations, not known in practice, foreigners can be detained for 6 months when they are sentenced for terrorism.

⁴¹⁸ Article L.552-1 *Ceseda*.

⁴¹⁹ Article L.552-7 *Ceseda*.

Hendaye	7.7
Lyon-Saint-Exupéry	16
Plaisir	11.6
Total	12.8

Source: Assfam et al., 2017 Detention report.

4.2. Duration of detention in LRA

Detention in LRA can only be ordered for a maximum period of 48 hours, after which the person must be transferred to a CRA.⁴²⁰ This is respected in practice.

4.3. Duration of detention in waiting zones

The placement in waiting zones is ordered for an initial period of 4 days.⁴²¹ It can then be extended by the JLD for a period of 8 days,⁴²² and in exceptional cases or where the person obstructs his or her departure, for 8 more days.⁴²³ This brings the maximum period of detention in waiting zones to 20 days in total.

If necessary, the Border Police makes full use of the possibility to prolong detention and hold people in waiting zones for 20 days, although the average period of detention is 5 to 6 days in waiting zones such as **Roissy** and **Marseille**.⁴²⁴

A final exceptional prolongation is applicable in the particular case of asylum seekers. If a person held in a waiting zone makes an asylum application after the 14th day, the law foresees the possibility of a further extension of detention for 6 more days following the submission of the asylum application, with a view to allowing the authorities to conduct the asylum procedure.⁴²⁵ The detention period can thereby extend to 26 days if the person applies for asylum on the 20th day of detention.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? Yes No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? Yes No

1.1. Administrative detention centres (CRA)

Administrative detention centres (CRA) are controlled and managed by the border police. Under the law, these administrative detention centres are not part of the regular prison administration. Placement in an administrative detention centre results from an administrative decision (not a judicial decision). Despite being held together with other third-country nationals, asylum seekers are never held with common law criminals or prisoners.

⁴²⁰ Article L.551-3 Ceseda.

⁴²¹ Article L.221-3 Ceseda.

⁴²² Article L.222-1 Ceseda.

⁴²³ Article L.222-2 Ceseda.

⁴²⁴ ECRE, *Access to asylum and detention at France's borders*, June 2018, 8.

⁴²⁵ Article L.222-2 Ceseda.

There are 25 CRA on French territory, including in overseas departments:

CRA	Capacity in mid-2018	Persons detained in 2017
<i>Mainland France</i>		
Bordeaux	20	365
Coquelles	79	3,786
Geispolsheim, Strasbourg	34	Temporarily closed in 2017
Hendaye	30	Temporarily closed in 2017
Lille-Lesquin	86	2,728
Lyon-Saint Exupéry	101	1,395
Marseille	136	1,289
Mesnil-Amelot (2 facilities)	240	3,476
Metz-Queuleu	98	1,768
Nice	38	1,029
Nimes	66	925
Palaiseau	40	600
Paris-Palais de Justice	Closed	403
Paris-Vincennes (3 facilities)	237	3,648
Perpignan	48	883
Plaisir	26	416
Rennes	56	1,072
Rouen-Oissel	72	1,167
Sète	28	401
Toulouse-Cornebarrieu	126	1,069
<i>Overseas</i>		
Guadeloupe	40	263
Guyane	45	1,486
Mayotte	136	17,934
La Réunion	6	Temporarily closed in 2017
Total		

Source: National Assembly, Avis sur le projet de loi de finances 2019; Assfam et al., 2017 Detention report.

Some CRA have specific places for women and families, including **Hendaye** (6 out of 30 places), **Mesnil-Amelot** (40 out of 240), **Rennes** (12 out of 70 places), **Rouen-Oissel** (19 out of 72 places) and **Guyane** (12 out of 38 places).

The opening of 450 more detention places is scheduled for 2019.

1.2. Places of administrative detention (LRA)

There are 26 administrative detention places (LRA) in France, including overseas departments.⁴²⁶ According to the Ministry of Interior, about 1,900 foreigners have been detained in LRA in 2017, of which 1,200 on the mainland and 700 overseas, but no data are available about each LRA.

1.3. Waiting zones at the border

In the context of the [Border Procedure](#), asylum seekers are held in a waiting zone while awaiting a decision on their application for an authorisation to enter the territory on asylum grounds.⁴²⁷

There is no public data on the exact number of waiting zones in France and their capacity. According to the Ministry of Interior, quoted in a report by Anafé published in 2018, there were 67 waiting zones in 2015.⁴²⁸ More recent information quoted by ECRE referred to asylum applications registered in 13 waiting zones, located in:⁴²⁹

- Paris Roissy CDG Airport
- Paris Orly Airport
- Paris Beauvais Airport
- Marseille Airport
- Marseille Port
- Lyon – Saint Exupéry Airport
- Toulouse Blagnac Airport
- Bâle-Mulhouse Airport
- Bordeaux Airport
- Nantes Airport
- Nice Airport
- Strasbourg Airport
- La Réunion

Waiting zones may include accommodation “hotel-type services” as is currently the case for the waiting zone of the **Paris Roissy CDG Airport** (in the ZAPI 3 - *zone d’attente pour personnes en instance*), which can receive up to 160 people. In other waiting zones, the material accommodation conditions vary: third country nationals are sometimes held in a nearby hotel (like in **Orly airport** at night) or in rooms within police stations. Not all are equipped with hotel type services. In **Marseille**, the accommodation facility of the waiting zone is located in the premises of the CRA of Marseille, located near the city centre.

In these accommodation areas, there should be an area for lawyers to hold confidential meetings with the foreign nationals. In practice, those are only established in the **Roissy CDG airport** (ZAPI 3) and can accommodate up to 160 persons. In the other waiting zones, the material conditions for accommodation can vary greatly: foreign nationals are sometimes accommodated in a nearby hotel (like in **Orly** at night time), or in rooms within police stations. They do not all have access to “hotel-type” services.

Finally, in **Alpes-Maritimes**, an informal “temporary detention zone” has been set up in the premises of the Menton Border Police in 2017 to detain newly arrived migrants from Italy for short periods before their removal from the country.

⁴²⁶ The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefet.

⁴²⁷ These are not formally designated as detention centres, but asylum seekers cannot leave these areas (except to return to their country) until an authorisation to let them enter the French territory or a decision to return them is taken.

⁴²⁸ Anafé, *Aux frontières des vulnérabilités*, February 2018, available in French at: <https://bit.ly/2T0CtTc>, 72.

⁴²⁹ ECRE, *Access to asylum and detention at France’s borders*, June 2018, 16.

9,450 persons were detained in a waiting zone in 2017, and 5,371 in the first 7 months of 2018.⁴³⁰

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Police staff working in the CRA do not receive a specific training with regard to migration and asylum law. This lack of specific training is, however, compensated by the fact that NGOs are present quasi-permanently in administrative detention centres in order to provide legal information and assistance.

Article R.553-3 Ceseda, sets out the conditions of administrative detention. They must meet the following standards:

1. A minimum usable surface of 10m² per detainee comprising bedrooms and spaces freely accessible during opening hours;
2. Collective bedrooms (separation men / women) for a maximum of six persons;
3. Sanitary facilities, including wash-hand basins, showers and toilets, freely accessible and of sufficient number, namely one sanitary block for 10 detainees;
4. A telephone for fifty detainees freely accessible;
5. Necessary facilities and premises for catering;
6. Beyond forty persons detained, a recreational and leisure room distinct from the refectory, which is at least 50m², increased by 10m² for fifteen extra detainees;
7. One or several rooms medically equipped, reserved for the medical team;
8. Premises allowing access for visiting families and the consulate authorities;
9. Premises reserved for lawyers;
10. Premises allocated to the OFII, which among others organises voluntary return;
11. Premises, furnished and equipped with a telephone allocated to the NGOs present in the centre;
12. An open-air area; and
13. A luggage room.

Centres in which families may be detained must provide specific rooms, including nursery equipment.⁴³¹ Men and women held in detention centres have separated living spaces (*zones de vie*). The set-up of the rooms varies from one detention centre to the other, ranging from 2 to 6 persons per room. Specific provisions have been adopted concerning Mayotte. The detention centre cannot exceed a 140 places capacity, will integrate unisex rooms, free-access sanitary facilities, an open-air area, one room medically equipped, reserved for the medical team and a free-access telephone for organisations intervening in the centre.⁴³²

Overall, the administrative detention conditions are deemed adequate in France (on the mainland) but there are quite important variations between centres. Throughout 2016, several riots have broken out, including cases of arson, in a number of CRA such as **Paris-Vincennes** and **Mesnil-Amelot**.⁴³³ In December 2017, a **Paris-Vincennes** unit was burned during a riot.⁴³⁴ Hunger strikes were led in four CRA in January 2019.⁴³⁵

⁴³⁰ National Assembly, *Avis sur le projet de loi de finances 2019*, 12 October 2018, 95.

⁴³¹ Article R.553-3 Ceseda.

⁴³² *Ibid.*

⁴³³ See Assfam, Forum réfugiés – Cosi, France terre d'asile and La Cimade, *Incendies en rétention : illustrations de la violence de l'enfermement*, 13 July 2016, available in French at: <http://bit.ly/2jU9qPm>.

⁴³⁴ Le Parisien, 'Bois de Vincennes : une unité du centre de rétention part en fumée après une évasion', 5 December 2017, available in French at: <http://bit.ly/2FGK27V>.

⁴³⁵ Libération, 'Mouvements de grève de la faim dans quatre centres de rétention administrative', 18 January 2019, available in French at: <https://bit.ly/2ImNNVr>.

2.1. Conditions in CRA

Overall living conditions

The 2017 Detention report gives a specific description of the detention conditions in each CRA:

CRA	General conditions / specific elements	Sanitation and food	Collective spaces
<i>Mainland France</i>			
Bordeaux	<p>Completely renovated in 2011</p> <p>Many asylum seekers are detained after being placed under Dublin procedure.</p>	<p>2 showers and 2 toilets</p> <p>3 nurses on site every day, 2 doctors part time</p>	<p>Canteen with 2 TVs</p> <p>One TV room</p> <p>20m² secured outdoor patio with table-soccer game, free access</p>
Coquelles	<p>The detention centre is the closest one to Calais. It has operated for 15 years and is dilapidated.</p> <p>The detention centre is divided into 3 zones.</p> <p>Numerous technical and equipment problems have been reported.</p> <p>Many people are detained without perspective of deportation. More than 300 foreigners have declared being minors in 2017 but not considered as children by administration.</p>	<p>3 to 4 showers per zone and 1 toilet per room</p> <p>Toilets regularly clogged</p> <p>1 nurse on site every day and 4 nurses and 2 doctors part time</p> <p>Rats and cockroach found in collective areas</p> <p>Poor quantity and quality of food provided</p>	<p>2 to 5 beds per room (25 rooms and one confinement room)</p> <p>1 TV per zone</p> <p>1 collective space with table-soccer game and a phone box</p> <p>Outdoor courtyard, free access</p>
Hendaye	Temporarily closed in 2017	<p>2 nurses present 6-7 days, 1 doctor part time</p> <p>Access to hygiene products</p> <p>Perishable products such as fruits are forbidden</p>	<p>15 rooms of 20m² with 2 beds in each</p> <p>TV room and board games</p> <p>Outdoor courtyard with a table-soccer game and basketball field, free access</p>
Lille-Lesquin	Many asylum seekers under Dublin procedures detained at the end of 2017, despite the decision of the Court of Cassation.	<p>45 showers and toilets</p> <p>2 nurses, 4 doctors</p> <p>Poor quality of food, no halal food</p>	<p>42 rooms with 2 to 4 beds</p> <p>180m² hallway with a bench and a fountain</p> <p>Outdoor courtyard with a table tennis and a playground slide</p>
Lyon-Saint Exupéry	<p>The detention centre is located in a former low cost hotel.</p> <p>Insulation and humidity problems are regularly encountered. Works are</p>	<p>1 shower and 1 toilet per room</p> <p>3 nurses and 1 doctor but no permanent access to the medical unit</p>	<p>28 rooms with 4 beds and 1 TV each and 1 confinement room (3 rooms for families, 2 rooms for women)</p> <p>2 collective rooms with 3</p>

	regularly done to improve conditions. Many people with psychiatric troubles detained in 2017.		tables tennis 2 outdoor courtyards (1 big, 1 smaller) partly planted with grass, free access
Marseille	Women victims of violence or trafficking detained in 2017. Detention conditions are degraded: leakage (sometimes floods of common areas), bad isolation, dirt, etc. Video conferencing for interviews with OFPRA is available and used as well for detainees from the Nice detention centre.	1 shower and 1 toilet per room 4 nurses and 3 doctors Regular self-harm situations have been reported to protest against detention conditions (especially food) and ill-treatment from police officers: self-injury and hunger strikes Detainees often complain about difficulties to shave properly and keep themselves clean	69 rooms with 2 beds per room TV room, canteen and walking zone, free access during the day Outdoor courtyard covered by wires, free access during the day
Mesnil-Amelot	The detention centre is geographically close to 3 prisons. Detention conditions are precarious: poor hygienic conditions, deteriorating infrastructures, limited equipment (not replaced when not functioning any more), dirt, no activities offered etc. Court is located near the CRA.	2 showers and 4 toilets for 20 people 6 nurses, 5 doctors and 1 psychiatrist twice a week Sheets are changed once a month No food or hygienic products for babies and children are provided to families	120 rooms with two beds in each of the 2 buildings and 1 confinement room per building 2 collective spaces of 16.5m ² per building with 1 TV One 80m ² courtyard per building, free access Playground for children
Metz-Queuleu	Since the beginning of 2014, asylum seekers (including detained asylum seekers from Strasbourg Geispolsheim) can have their interview with OFPRA conducted through videoconferencing. 162 children detained in 2017.	4 showers and 4 toilets per building 3 nurses and 2 doctors consulting on demand Several cases of suicide attempts reported	7 buildings of 14 rooms each in which there are 2 beds Canteen and TV room in each building Large outdoor courtyard separated in two zones (men and women/families) with a playground for children and football and basketball fields
Nice	The detention centre is dilapidated and deteriorated. Common areas are dirty and problems with the air conditioning and the heating have created difficult conditions of living. Several cases of personal belongings having been	8 showers and 9 toilets 1 nurse every day and 1 doctor part time during the week Insufficient quantity of food, no halal food, which causes many tensions between the detainees and the police	7 rooms with 7 beds in each 1 shared room with a TV, free access during the day 1 outdoor secured courtyard. Nothing in there. Ongoing works to put wires above.

	<p>stolen have been reported.</p> <p>Asylum seekers detained by Prefecture telling them to ask for asylum in CRA</p>		
Nîmes	<p>The detention centre is a recent building, built on two floors. The detention conditions are similar to those in prison and detainees report that dirt, boredom, lack of intimacy, stress and tensions prevail.</p>	<p>1 shower and 1 toilet per room</p> <p>1 nurse every day and 1 doctor every day during the week</p> <p>Detainees often complain about difficulties to shave properly</p>	<p>31 rooms with 1 or 2 beds each</p> <p>1 room for people with disabilities</p> <p>2 TV rooms and 2 rooms with a table-soccer game</p> <p>1 fenced courtyard built in concrete with a tennis table</p>
Palaiseau	<p>The detention centre is closed to a prison. In addition, a lot of detainees are under the Dublin procedure. The detention centre is never full.</p>	<p>1 shower and 1 toilet per room</p> <p>1 nurse every day, 1 doctor 2 half-days a week</p>	<p>20 rooms with 2 beds each and 1 confinement room</p> <p>1 TV room and 1 collective room with a TV and a table-soccer game</p> <p>1 outdoor courtyard</p>
Paris-Palais de Justice	<p>CRA for women.</p> <p>Women from Nigeria victims of trafficking, situation not taken into account.</p> <p>Many detained in 2017 were seriously ill.</p>	<p>6 showers and 6 toilets</p> <p>3 doctors and 8 nurses</p>	<p>14 rooms with 2 to 4 beds in each</p> <p>1 collective room with a TV and 1 console</p> <p>1 tiny courtyard</p>
Paris-Vincennes	<p>Asylum seekers detained in 2017 because they did not have access to the procedure (access difficulties in Paris this year).</p>	<p>10 showers and 10 toilets per building (3 buildings)</p> <p>3 doctors, 8 nurses everyday</p>	<p>2 to 4 beds per room</p> <p>1 collective room with a TV and 1 console</p> <p>1 fenced courtyard with a tennis table</p>
Perpignan	<p>Recent building, clean and well maintained facilities.</p>	<p>3 showers and 3 toilets per building (5 buildings)</p> <p>Nurses everyday and 1 doctor 3 times a week</p>	<p>22 rooms with 2 beds in each, 1 room with 4 beds</p> <p>1 TV room</p> <p>2 outdoor courtyards built in concrete with a football field and a tennis table</p>
Plaisir	<p>The detention centre is located within the premises of the police station. Directions to the CRA are nowhere indicated. Video conferencing for interviews with OFPRA is available.</p> <p>Many people saying they are minors detained in 2017.</p>	<p>1 shower and 1 toilet per room</p> <p>1 nurse everyday and 1 doctor 2 half-day in the week</p> <p>Detainees are not allowed to bring food or plastic bottles in their room.</p> <p>Meals are taken under the surveillance of a police officer.</p>	<p>14 rooms with 2 beds per room</p> <p>1 canteen with a TV and a table-soccer game</p> <p>One 108m² fenced outdoor courtyard (also covered with wires).</p>

<p>Rennes</p>	<p>Many detainees coming from LRA with limited access to their rights.</p> <p>Several people arrested in ports (Ouistream, Cherbourg, St Malo, Roscoff).</p>	<p>16 showers and 18 toilets</p> <p>1 nurse every day and 1 doctor 3 half-days a week</p>	<p>29 rooms with 2 beds per room and 2 family rooms for 4 to 8 people</p> <p>1 confinement room (set up in 2014)</p> <p>1 collective room with TV and a table-soccer game</p> <p>1 collective room per building with TV</p> <p>1 fenced and opaque outdoor courtyard with a basketball field and greenery areas.</p>
<p>Rouen-Oissel</p>	<p>The detention centre is located in the Londe-Rouvray forest, within the premises of the police station. No direct public transportation leads to the detention centre.</p> <p>The building is old but is globally well maintained even though there are regular water leaks (certain rooms are particularly moist). The heating is not functioning well in common areas.</p> <p>The right to an effective remedy is not respected for people coming from prisons (decision notified on Friday evening).</p>	<p>1 shower and 1 toilet per room</p> <p>3 nurses</p>	<p>14 rooms with between 2 and 6 beds, and 2 confinement rooms</p> <p>In the “men’s area” there are 1 table-soccer game, 1 table-tennis game and 2 rooms with TV</p> <p>In the “women and family area” there is a 40 m² room for children with toys and a tennis-table game. There is also a TV room</p> <p>In each area there is a small fenced outdoor courtyard</p>
<p>Sète</p>	<p>The detention centre is dilapidated.</p> <p>Machines with coffee, cigarettes and snacks broken</p>	<p>1 shower and 1 toilet per room</p> <p>2 nurses and 1 doctor on demand</p> <p>Meals are tense and detainees complain that food is insufficient. No halal food.</p>	<p>13 rooms with 2 beds and 1 room for 4 people</p> <p>1 collective room of 50 m² with TV and a table-soccer game</p> <p>1 fenced, covered and opaque courtyard of 47m²</p>
<p>Toulouse-Cornebarrieu</p>	<p>The detention centre was built in 2006. The buildings dilapidate quickly: problems with the heating, insulation and breaks in the walls.</p> <p>Video conferencing for interviews with OFPRA is available and used as well for detainees from Hendaye, Bordeaux, Sète and Perpignan detention centre.</p>	<p>1 shower and 1 toilet per room</p> <p>2 doctors and 3 nurses part time</p> <p>Perishable products are forbidden</p> <p>Several severe cases of psychological distress have been reported, leading in some cases to suicide</p>	<p>5 areas (3 for men, 1 for women and 1 for families)</p> <p>61 rooms of 12m² (up to 20m² for family rooms)</p> <p>1 TV room</p> <p>One 200m² fenced and covered outdoor courtyard per area</p>

		attempts	
<i>Overseas</i>			
Guadeloupe	Detention in degraded conditions and particularly poor medical follow-up.	5 showers and 3 toilets 1 medic two hours everyday	Canteen with TV, free access for men, on demand for women Secure outdoor courtyard, accessible only on demand and in presence of the police
Guyane	Poor medical follow-up even though detention conditions have improved.	9 showers and 16 toilets 1 medic on site every day in the morning until 3 pm The medical unit is separated and not easily accessible for persons detained, only with a police escort	12 rooms with no proper beds (concrete platforms with wood planks and tatami) 2 secured outdoor courtyards closed during the night
Mayotte	A new detention centre was opened in Mayotte in September 2015, to replace the old centre whose conditions have been criticised on several occasions. The centre has been recently renovated and the detention conditions are significantly improved. Access to the rights very difficult (only 10% of detainees have seen NGO in 2017)	15 sanitation areas plus 2 for disabled people 15 showers plus for 2 disabled people 1 medic on site every afternoon and three nurses on site every day from 8 am to 6 pm	26 shared rooms (16 for individuals and 10 for families) 1 canteen 1 outdoor courtyard for all with a playground for children, free access
Réunion	This centre is closed for renovation.		

Separate places are provided for families in the 10 centres which are duly authorised. Access to education is not foreseen in France in CRA since children are not supposed to stay there. However, the prohibition of administrative detention for children is only applicable to unaccompanied children; children with their families can be detained for 90 days without access to educational activities.

Access to open-air areas depends on the facilities. Facilities built after 2006, such as in **Marseille**, have become prison-like. In the majority of the centres, no activity is provided. As revealed in the above table, depending on the CRA, there may be a TV room (sometimes out of order or only broadcasting programmes in French language), a few board games, a table football or even several ping pong tables but, in any event, this proves to be insufficient when administrative detention can last up to 90 days.⁴³⁶ Lack of activity and boredom are the day to day reality for persons held in these centres. The detainees can in principle keep their mobile phones if they do not include camera equipment. Most people are therefore not authorised to keep their phones and the police refuses to authorise them even if the detainees offer to break the camera tool. Detainees may have access to reading material, depending on

⁴³⁶ *Ibid.*

the centre but computers are never made available. Finally, detainees can have contact with relatives during restricted visit hours, however a number of detention centres are located in remote areas or accessible with difficulty (no or limited public transportation).

Health care and special needs in detention

There is no specific mechanism to identify vulnerable persons or persons with special reception needs while in detention.

Sanitary and social support is provided by medical and nursing staff. Their availability varies from one centre to the other (from 2 days to 7 days a week). The care is given by doctors and nurses who belong to an independent hospital staff. They are grouped in medical administrative detention centres (UMCRA).⁴³⁷ In principle, 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 of arrival. The threshold to determine that a health status is incompatible with administrative detention seems to vary a lot depending on the doctors and the detention centres. In case of high-risk pregnancy, doctors of the UMCRA may provide a certificate stating the incompatibility of the health of the person with placement in administrative detention – but this is not automatic and this recommendation is not always followed by the Prefect. In the detention centre of **Paris – Palais de Justice**, many cases of pregnant women, detained and further removed from the French territory, have been reported. The same is true for the possibility of the doctors to consider that the health status of the person is incompatible with his or her removal if no appropriate treatment exists in the country of origin. In **Rennes**, detainees with no access to appropriate treatment in their country of origin have nevertheless been deported.

The General Controller of Places of Detention (CGLPL) issued an opinion in December 2018, urging for a revision of the UMCRA framework and an expansion of their capacity.⁴³⁸

The practical problems observed regarding access to healthcare relate to a lack of consideration for psychological or psychiatric problems of the detainees, which was highlighted recently by CGLPL.⁴³⁹ Dozens of suicide attempts are reported each year in these centres. In some detention centres, the lack of continuing presence of medical units leads police officers to assess the needs of patients, as is the case for example in **Guadeloupe**. In **Bordeaux**, in only one occasion a detainee has been released for medical reasons whereas many of them suffer from physical or psychological pathologies.

The lack of medical confidentiality is another concern. Out of 13 CRA visited by the CGLPL in 2017 and 2018, more than half presented concerns about compliance with the principle of confidentiality.⁴⁴⁰

The six NGOs working in detention centres have also identified an important issue regarding victims of human trafficking. In some cases, these victims have been properly orientated and supported by the medical unit and the police, in **Lille** for example. The aforementioned NGOs have nevertheless pointed out that victims of trafficking were mostly not provided with specific support. Their number in detention centres is increasing, namely in **Coquelles, Metz** or **Sète**.

1.2. Conditions in waiting zones

Conditions in waiting zones differ considerably from one area to another.

⁴³⁷ Ministry of Interior, *The Centres of Administrative Detention*, available in French at: <http://bit.ly/1dM8BkC>.

⁴³⁸ CGLPL, Avis du 17 décembre 2018 relatif à la prise en charge sanitaire des personnes étrangères au sein des centres de rétention administrative, available in French at: <https://bit.ly/2TiP5Bm>.

⁴³⁹ *Ibid.*

⁴⁴⁰ *Ibid.*

Roissy is the most structured and organised waiting zone in France,⁴⁴¹ insofar it provides adapted infrastructure and concentrates all relevant actors in the same place. These include: the French Red Cross (*Croix rouge française*) which provides humanitarian assistance and counselling; Anafé, which provides legal information and assistance by phone and through a physical presence three days a week; OFPRA conducts interviews with asylum seekers; and as of 2017 the JLD, stationed in an Annex of the TGI of Bobigny in a building adjacent to the waiting zone. Neither the Red Cross nor OFPRA are physically present in other waiting zones in the country.

Conditions are reported as more problematic in other waiting zones.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

- | | | | |
|-------------------|---|---|--|
| ❖ Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR: | <input type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input checked="" type="checkbox"/> No |
| ❖ Family members: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |

3.1. Access to CRA

Six NGOs are present quasi-permanently (5 to 6 days a week) in the centres as a result of their mission of information for foreigners and assistance in exercising their rights (see section on [Legal Assistance](#)). The following NGOs have access to CRA:

- ❖ Lot 1 (Bordeaux, Nantes, Rennes, Toulouse, Hendaye): **La Cimade**;
- ❖ Lot 2 (Lille 1 and 2, Metz, Geispolsheim): **Ordre de Malte**;
- ❖ Lot 3 (Lyon, Marseille and Nice): **Forum réfugiés-Cosi**;
- ❖ Lot 4 (Nîmes, Perpignan and Sète): **Forum réfugiés-Cosi**;
- ❖ Lot 5 (Overseas): **La Cimade**;
- ❖ Lot 6 (Le Mesnil-Amelot 1, 2 and 3): **La Cimade**;
- ❖ Lot 7 (Palaiseau, Plaisir, Coquelles and Rouen-Oissel): **France Terre d'Asile**;
- ❖ Lot 8 (Bobigny and Paris): **Assfam**;
- ❖ Mayotte: **Solidarité Mayotte**.

Some accredited NGOs can have access to all CRA. A Decree, adopted in June 2014,⁴⁴² regulates the access of NGOs to CRA. The list of accredited NGOs whose representatives (national and local) are able to access the administrative detention places will be valid for 5 years. The exhaustive list of accessible rooms and facilities is described; this excludes the police offices, the registry, the video surveillance room, the kitchen, the technical premises. A maximum of 5 persons can make a visit within 24 hours. The time of the visits should not hinder the proper functioning of the centre, preferably during the day and the week. The head of the centre will be informed of the visit 24 hours in advance and can report the visit by giving reasons and for a limited period.

In addition, some people enjoy free access to the CRA:

- The Council of Europe Commissioner for Human Rights;
- The members of the European Committee for the Prevention of Torture;
- The French and European Members of Parliament;
- The General Controller of places of freedom deprivation;

⁴⁴¹ Anafé, *Aux frontières des vulnérabilités*, February 2018, 35.

⁴⁴² Décret du 24 juin 2014 modifiant les articles R.553-14-4 à R.553-14-8 du Ceseda complété par une note d'information du 28 octobre 2014 du ministre de l'intérieur relative aux modalités d'accès des associations humanitaires aux lieux de rétention.

- The Prefects;
- Public prosecutors; and
- JLD.

Some others have more limited access: consulate staff; lawyers; families of persons held.⁴⁴³ Only families (or friends) are subject to restricted hours. In **Marseille**, however, the frequent lack of police staff in the detention centre leads the police to decide to focus on surveillance rather than providing the opportunity for the visits to take place. Family visits are therefore sometimes simply cancelled for the morning. Since the reform of the law on asylum, representatives from UNHCR have access to the administrative detention centres in France under the same conditions as for waiting zones, meaning they have to get an individual agreement whose validity is of 3 months renewable. They are authorised to conduct confidential interviews with detainees who have applied to asylum in France.⁴⁴⁴

The law also allows access of journalists to administrative detention centres.⁴⁴⁵ This access must be authorised by the Prefect.⁴⁴⁶ In case of denial of access, the decision has to be motivated.⁴⁴⁷ Their presence must be compatible with detainees' dignity, security measures and the functioning of administrative detention centres.⁴⁴⁸ The detainees can refuse to appear on photographs or to be mentioned in articles. The journalists have to preserve the anonymity of the detained children under any circumstances. This condition does not apply to adults giving their authorisation for their identity to be revealed.⁴⁴⁹ The reform has also established the rule that journalists following Members of Parliament visiting detention centres cannot be denied access to these centres. The same limitations regarding the anonymity apply in this case.⁴⁵⁰

Finally, in cases where alternatives to detention are implemented (persons under house arrest), the key question of the exercise of rights of these persons is still to be dealt with. In fact, persons put under house arrest have neither access to information and free administrative and legal assistance by a specialised association, nor formalised social support and free health care.

3.2. Access to waiting zones

The list of NGOs accredited to send representatives to access the waiting zones, established by order of the Ministry of the Interior was last revised in May 2018.⁴⁵¹ It includes 10 organisations:

- ❖ Association nationale d'assistance aux frontières pour les étrangers (Anafé);
- ❖ La Cimade;
- ❖ Croix Rouge française;
- ❖ France terre d'asile;
- ❖ Forum réfugiés-Cosi;
- ❖ Groupe accueil et solidarité (GAS);
- ❖ Groupe d'information et de soutien des immigrés (GISTI);
- ❖ Ligue des Droits de l'Homme;
- ❖ Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP); and
- ❖ Ordre de Malte.

This authorisation is valid until June 2021.

⁴⁴³ Ministry of Interior, *Persons having access to centres and locations of administrative detention*, available in French at: <http://bit.ly/1SanmeE>.

⁴⁴⁴ Article R.556-11 Ceseda.

⁴⁴⁵ Article L.553-7 Ceseda.

⁴⁴⁶ Article R.553-19 Ceseda.

⁴⁴⁷ Article R.553-20 Ceseda.

⁴⁴⁸ Article L.553-7 Ceseda.

⁴⁴⁹ *Ibid.*

⁴⁵⁰ Articles R.553-15, R.553-16 and R.553-17 Ceseda.

⁴⁵¹ Arrêté du 29 mai 2018 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente, available in French at: <https://bit.ly/2NIDtw5>.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | | |
| ❖ First review | 2 days | |
| ❖ Second review (if person not removed) | 30 days | |

Foreigners held in CRA are informed about the reasons for their placement in these centres through the notification of the administrative decision to detain them with a view to their removal. This notification must state clearly which removal ground serves as a basis for the detention and why the removal cannot be implemented immediately. This document also mentions the legal remedies available to challenge this decision.

Foreigners also receive a notification of all their rights including the right to apply for asylum and their right to linguistic and legal support in submitting their claim.⁴⁵² According to the law,⁴⁵³ this notification should be made (orally) to the foreigner in a language he or she understands. In practice, this is done in most of the cases but not always. Detainees are also notified that their asylum claim will be inadmissible if it is submitted 5 days after their rights have been notified. The claim is deemed to be admissible after 5 days only if it is based on elements or events occurred after these 5 days. This condition is not applicable to foreigners from safe countries of origin; their claim will be deemed inadmissible in any case when it is submitted five days after they have had their rights notified.⁴⁵⁴

The law foresees a judicial review of the lawfulness of the administrative detention for all foreigners. The legality of detention falls under the dual control of the Administrative Court and the Civil Court. Each court examines specific and complementary aspects of the procedures. It is quite difficult to assert there is a judicial review of the lawfulness of administrative detention, as the Administrative Court reviews the lawfulness of the removal order and house arrest if this measure has been taken by the Prefect before the placement in detention. The Civil Court i.e. Judge of Freedoms and Detention (JLD) intervenes two days after this placement.

1.1. Administrative Court: Legality of administrative decisions of removal and house arrest

The Administrative Court is seized by a foreigner (asylum seeker if relevant) who challenges the legality of the decisions taken by the Prefect, i.e. the measures of removal and/or house arrest.⁴⁵⁵ Removal orders and house arrest can be challenged within a period of 48 hours. This period starts from the notification of the measure, and not from the arrival at the administrative detention centre, if this notification is concomitant to notification of the measure of placement in administrative detention. The administrative judge can, for example, verify that the Prefect has not committed a gross error of appreciation by ordering the removal of the territory when the foreigner is entitled to stay on the French territory. The court basically has to make a decision on the reasons why a foreigner has been placed in detention, not on whether the measure itself is lawful. The judge can also verify if the Prefect's decision

⁴⁵² Article L.551-3 Ceseda; Article R.553-11 Ceseda.

⁴⁵³ Articles L.551-2, L.111-7 and L.111-8 Ceseda.

⁴⁵⁴ Article L.551-3 Ceseda.

⁴⁵⁵ Article L.512-1 Ceseda.

of house arrest does not contravene the best interests of the foreigner and if the measure is proportionate. The administrative court must make a decision within 72 hours.⁴⁵⁶

The Administrative Court can, only in cases of an asylum claim, control the lawfulness of the detention. If an asylum claim is submitted during detention, it is possible to challenge the decision of placement in detention within 48 hours after the notification of the detention. The claimant has to prove his or her claim has not been submitted in order to make the removal measure fail. The court has to make a decision within 72 hours after the claim has been lodged.⁴⁵⁷

In several Prefectures, the asylum seeker is placed in detention on a Friday, to avoid the possibility for him to access legal assistance during the weekend, and to carry out the transfer within 48 hours. In these frequent cases, there is no effective appeal for those people.

1.2. Judge of Freedoms and Detention (JLD): Conformity of deprivation of liberty

The JLD, whose competences are set out in Article 66 of the Constitution, 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. For example, the JLD will check whether the police have respected the procedure and the rights of the person during the arrest, the legality of the police custody and the placement into administrative detention. The judge will also check whether the custody is compatible with the personal situation of the detainee.⁴⁵⁸ 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 also be seized at any moment by the person detained in administrative detention centres but these requests have to be very solidly argued (serious health problems for instance) and are hardly considered admissible.⁴⁵⁹

Appeals lodged against the measure of removal or house arrest have suspensive effect over its execution.⁴⁶⁰ It is also possible for the foreigner to seize the JLD at any moment upon a motivated request during the first 48 hours.⁴⁶¹

The law enables then to challenge the removal decision from the moment of its notification. It implies it will be impossible, theoretically, to remove someone before he or she has been in a position to seize the judge, either administrative or civil. The last years, in practice, many foreigners had been removed during the first 5 days of detention. They were not able to see the JLD and therefore did not benefit from judicial review.⁴⁶² This lack of judicial control can also involve families.

Since the end of 2017, there have been cases of court hearings conducted by videoconference from the CRA of **Toulouse**, whereas this was already the case in other CRA. These have been denounced by NGOs on the ground that individuals are not provided with the minimum guarantees set out in the law, namely the accessibility of the hearing to the public.⁴⁶³ In **Mesnil-Amelot** near Paris, on the other hand,

⁴⁵⁶ *Ibid.*

⁴⁵⁷ Article L.556-1 Ceseda.

⁴⁵⁸ Article L.552-1 Ceseda.

⁴⁵⁹ Article R.552-17 Ceseda.

⁴⁶⁰ Article L.512-3 Ceseda.

⁴⁶¹ Articles R.552-10-1 and R.552-17 Ceseda.

⁴⁶² This is also criticised in details in a report from the Observatoire de l'enfermement des étrangers OEE), *Rapport d'observation « Une procédure en trompe l'oeil » Les entraves à l'accès au recours effectif pour les étrangers privés de liberté en France*, May 2014, based on field research made between September 2013 and May 2014 in several detention places and on interviews with many stakeholders. This report makes a concerning overview of the numerous elements that thwart access to effective remedy and a fair trial which often results in the judicially unfair, if not illegal, deportation of detained migrants. The report calls for urgent reforms and makes a set of recommendations to this end.

⁴⁶³ Syndicat des Avocats de France, 'La justice par visioconférence : des audiences illégales au sein même des centres de rétention', 18 January 2018, available in French at: <http://bit.ly/2Dyo5di>.

the JLD hearings take place in an annex of the Court (TGI) located in the CRA. Annexes of the competent courts are also established in **Coquelles** and **Marseille** for detention hearings.

As regards detention in the context of the **Border Procedure**, the JLD is competent to rule on the extension of the stay of foreigners in the waiting zone beyond the initial 4 days. The stay cannot be extended by more than 8 days,⁴⁶⁴ renewable once.⁴⁶⁵ The JLD must rule “within twenty-four hours of submission of the case, or if necessary, within forty-eight hours of this, after a hearing with the interested party or their lawyer if they have one.”⁴⁶⁶ The administrative authority must make a request to the JLD to extend custody in the waiting zone and must explain the reasons for this (impossible to return the foreign national due to lack of identity documents, pending asylum application, etc.)

In **Roissy**, hearings take place in an annex of the Court (TGI) of Bobigny since the end of 2017. NGOs also noted that this annex undermines the public character of hearings given the obstacles to physically accessing the waiting zone of Roissy, as well as the right to legal representation insofar as lawyers have no access to phone, fax or Wi-Fi to receive urgent documents if needed.⁴⁶⁷

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
 Yes No
2. Do asylum seekers have effective access to free legal assistance in practice?
 Yes No

Legal assistance for persons held in administrative detention (including asylum seekers) is provided by law. Currently, six NGOs which assist foreigners are authorised, by agreement (public procurement) with the Ministry of Interior, to provide “on duty” legal advice in CRA. They inform the detainees and help them to exercise their rights during the detention procedure (hearings in front of the judge, the filing of an appeal, request for legal aid etc.)⁴⁶⁸ These NGOs are present in the administrative detention centres quasi-permanently (5 to 6 days a week). Some of these NGOs have set aside a budget to hire interpreters to assist detainees who do not speak French or English, whereas others resort to volunteers.

Conversely, no legal assistance is provided in LRA.

As for the assistance given by lawyers, the law foresees that foreigners 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. Therefore, for the prolongation of administrative detention by the JLD, Article R.552-6 Ceseda foresees that “the foreigner is informed of their right to choose a lawyer. The judge can appoint one automatically if the foreigner so requests”. Within the context of the procedure in front of the administrative court, “the foreigner can, at the latest at the start of the hearing, ask for a lawyer to be appointed automatically. They are informed by the Clerk of the Court at the time of the beginning of their request.”⁴⁶⁹

With regard to the confidentiality granted to the discussions between lawyers and their clients when they meet within the detention centres, the situation can vary from one centre to the other. An office with frosted windows is usually provided. It is however very rare that lawyers agree to go to the detention

⁴⁶⁴ Article L.222-1 Ceseda.

⁴⁶⁵ Article L.222-2 Ceseda.

⁴⁶⁶ Article L.222-3 Ceseda.

⁴⁶⁷ ECRE, *Access to asylum and detention at France’s borders*, June 2018, 9.

⁴⁶⁸ French Public Administration, *Rights of Foreigners Placed in Detention*, available in French at: <http://bit.ly/1Mh1exu>.

⁴⁶⁹ Article R.776-22 CJA.

centres, as detention centres are usually located quite far from the city centre. Lawyers can easily contact their clients by calling a public phone or by calling the NGO present in the centre that will make sure the call is forwarded to the detainee.

E. Differential treatment of specific nationalities in detention

With regard to accessing the asylum procedure from detention, the law clarifies that detainees, upon hearing their rights, are notified that their asylum claim will be inadmissible if it is submitted 5 days after their rights have been notified. The claim is deemed to be admissible after 5 days only if it is based on elements or events occurred after these 5 days. However, for persons coming from safe countries of origin (see [Safe Country of Origin](#)), a claim submitted 5 days after they have had their rights notified may be deemed inadmissible.⁴⁷⁰

The organisations working in detention places have reported that **Algerian** and **Albanian** nationals were more likely to be detained than other nationalities. According to the organisations, the fact that Albanians do not need a visa to enter to the French territory does not encourage them to challenge the removal orders they are subject to. In practice, it implies it is much easier to set in force these orders.

⁴⁷⁰ Article L.551-3 Ceseda.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

- | | | |
|----|---|----------|
| 1. | What is the duration of residence permits granted to beneficiaries of protection? | |
| | ❖ Refugee status | 10 years |
| | ❖ Subsidiary protection | 4 years |

Residence permits are granted to **refugees** for 10 years (*Carte de resident*).⁴⁷¹ That permit is also granted *ipso jure* to their family, in particular to:

- Spouses, partners (PACS) or their domestic partners if they have been admitted to join them according to the family reunification provisions;
- Spouses, partners (PACS) or their domestic partners in case their union has been sealed after the asylum application and under the condition it has been lasting for already over a year, and if they are genuinely living together;
- Children within the year after turning 18 years old;
- Parents if the refugees are still under 18 years old by the day the asylum is granted.

Some difficulties have been identified in practice regarding this provision. Young girls are regularly granted asylum on the grounds of the Refugee Convention, considering the risk of being exposed to female genital mutilation (FGM). Their mothers or fathers accompanying them often have their asylum application rejected, since it is stated that opposing FGM does not expose them to a risk of persecution. As of 1 March 2019, however, they shall also be issued a 10-year residence permit.⁴⁷²

As of 1 March 2019, residence permits delivered to **subsidiary protection** beneficiaries will be granted for four years (*Carte de séjour pluriannuelle*).⁴⁷³ The same residence permits are granted to their family on the basis of the same pattern than the one used for refugees.⁴⁷⁴

Refugees may encounter difficulties to get their residence permits issued or renewed.⁴⁷⁵ Their residence permits have to be issued the next 3 months following their request for such documentation. The same goes for the subsidiary protection beneficiaries.⁴⁷⁶ OFPRA may take longer than expected to deliver the necessary documentation that has to be submitted for the issuance of their permits.

According to provisional Ministry of Interior statistics, France granted 19,575 residence permits to refugees and stateless persons and 11,610 to subsidiary protection beneficiaries in 2018.⁴⁷⁷ According to OFPRA, more than 46,700 persons (including accompanying minors) have received protection in 2018.⁴⁷⁸

⁴⁷¹ Article L.314-11(8) Ceseda.

⁴⁷² Article L.314-11(8)(d) Ceseda, as amended by Article 64 Law n. 2018-778 of 10 September 2018.

⁴⁷³ Article L.313-25 Ceseda, inserted by Article 1 Law n. 2018-778 of 10 September 2018.

⁴⁷⁴ *Ibid.*

⁴⁷⁵ See e.g. La Cimade, 'De longues files d'attentes virtuelles pour accéder aux préfectures', 19 December 2017, available in French at: <http://bit.ly/2BVdrZe>, although these have not been encountered by Forum réfugiés – Cosi in the areas where it operates.

⁴⁷⁶ Articles R.743-3 and R.743-4 Ceseda.

⁴⁷⁷ Ministry of Interior, *Chiffres clés – titres de séjour*, 15 January 2019 available in French at: <https://bit.ly/2sY4XP9>.

⁴⁷⁸ OFPRA, 'Les données de l'asile 2018 à l'OFPRA', 15 January 2019, available in French at: <https://bit.ly/2S1UgVr>.

2. Civil registration

When protection is granted, a “family reference form” is sent to the beneficiary of international protection by OFPRA, with the notification of the OFPRA protection decision or later, when the protection has been granted by the CNDA.

Upon receipt of the family reference form duly completed, signed by the beneficiary of international protection and sent by post, OFPRA begins the instruction for the establishment civil status documents begin. The time limit for issuing documents is 3 months, insofar as possible. For 2017, OFPRA reported a 3.8 month average time for delivering those documents. However, this is only an average and some beneficiaries of international protection wait much longer for their documentation. OFPRA has prioritised the issuance of civil status documents for some categories of persons, for instance unaccompanied children, girls at risk of FGM and resettled and relocated refugees.⁴⁷⁹

OFPRA takes into account the documents provided by the beneficiary of international protection in his or her asylum application file, namely foreign civil status documents, identity or travel documents (national identity card, passport). Statements of the beneficiary at the time of filing of his or her application for asylum, during the interview at OFPRA and on the family reference form, are also taken into account.

The personal status of the beneficiary of international protection will continue to apply according to the law of the country of origin for all rights acquired before the grant of international protection. For instance, a religious marriage will be valid in France if the national law of the person considered it as official, even though French law does not recognise this type of union. By way of exception, French law will apply to acts prior to the recognition of the international protection in two cases: (a) French law will prevail in case of a right contrary to French public order e.g. polygamous marriage; and (b) same sex marriage will automatically be recognised pursuant to French law, even if not recognised under the law of the country of origin.

French law applies to all events subsequent to the grant of international protection. The beneficiary may therefore marry, enter into a civil union (PACS) or divorce according to French law.⁴⁸⁰

3. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2018: Not available

According to French law, **refugees** obtain a long-term resident status from the moment they are granted asylum. It is possible at the moment of the renewal of this permit to be issued *ipso jure* permanent resident status.⁴⁸¹ This permanent residence permit is only issued if the third-country national can prove his or her proficiency of the French language,⁴⁸² and if her or his presence is not a threat to the public order.⁴⁸³

The threat to the public order is in practice assessed through the potential criminal sentences pronounced against a third-country national. No systematic discrimination against specific nationalities has been reported in this regard. The difficulty encountered to benefit from this status is more likely linked to a lack of information. As mentioned in the law, this status has to be claimed. *Ipso jure* has to be interpreted as the fact it cannot be denied if a third-country national, complying with the conditions

⁴⁷⁹ OFPRA, *2017 Activity report*, 56.

⁴⁸⁰ OFPRA, *Guide of procedures*, 2015, available at: <http://bit.ly/2mI3utk>.

⁴⁸¹ Article L.314-14 Ceseda.

⁴⁸² *Ibid.* and Article L.314-10 Ceseda.

⁴⁸³ Article L.314-14 Ceseda.

listed by legal provisions, asks for it. Prefectures, at the moment of the renewal of the first residence permit, do not automatically indicate to refugees they can be issued such a document.

4. Naturalisation

Indicators: Naturalisation

1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	None
❖ Subsidiary protection	5 years
2. Number of citizenship grants in 2018:	55,830

There are several ways to obtain citizenship according to French law. It is possible to be naturalised by declaration or by decree. Naturalisation by declaration is only possible for refugees and beneficiaries of subsidiary protection's children born in France or arrived in France before turning 13 years-old. Otherwise, their children will either have to lodge an asylum claim of their own or submit a residence permit request. It is also possible to access citizenship by marriage to a French citizen.

Beneficiaries of international protection usually obtain citizenship by decree. The criteria and conditions for naturalisation are listed in the Civil Code and the 1993 Decree on citizenship,⁴⁸⁴ as follows:

1. Five years of previous regular residence;⁴⁸⁵
2. Strong knowledge of French: the candidate can produce a diploma or any document certifying his or her linguistic skills, proving he or she is able to have a conversation about any topic of his or her interest;⁴⁸⁶
3. Strong knowledge of History of France and its institutions, culture, and place in the world, as well as strong knowledge of the exercise of the French citizenship;⁴⁸⁷
4. The candidate must not be subjected during his or her stay in France to a sentence of 6 months or more of imprisonment;⁴⁸⁸
5. Entire subscription to the values and symbols of French Republic.⁴⁸⁹

A leaflet is issued to any candidate to citizenship. This document describes the criteria the candidates have to meet to be deemed eligible for citizenship. The law establishes integration in the French society as a compulsory condition. This leaflet is then not distributed in other languages. Along with the leaflet, the candidates are issued the list of documents they have to produce.⁴⁹⁰ Beneficiaries of **refugee status** are not bound by the five years of residence requirement. They are legally authorised to candidate for naturalisation from the moment they are granted asylum.⁴⁹¹ The difficulty they encounter is linked to their knowledge of the language.

Beneficiaries of **subsidiary protection** fall under the general rules. They have to wait for 5 years before being authorised to lodge their citizenship claim. This period can be shortened to 2 years if they graduate after 2 years spent in a French college, if they render an exceptional service to France or if they can demonstrate they are particularly well-integrated.⁴⁹²

⁴⁸⁴ Decree n. 93-1962 relating to citizenship declarations, naturalisation, reintegration, loss, forfeit and withdrawal of the French citizenship decisions, 13 December 1993, available in French at: <http://bit.ly/2j89AmO>.

⁴⁸⁵ Article 21-17 Civil Code.

⁴⁸⁶ Article 37(1) Decree n. 93-1362.

⁴⁸⁷ Article 37(2) Decree n. 93-1362.

⁴⁸⁸ Article 21-23 Civil Code.

⁴⁸⁹ Article 21-24 Civil Code.

⁴⁹⁰ Article 37-1 Decree n. 93-1362.

⁴⁹¹ Article 21-19 Civil Code.

⁴⁹² Article 21-18 Civil Code.

The citizenship application has to be lodged at the Prefecture. The prefecture has 6 months to process the claim,⁴⁹³ during which an interview is conducted to assess the level of integration of the candidate, regarding especially his or her knowledge of the language and of the French “culture”.⁴⁹⁴ If the Prefecture takes a positive decision, it is transmitted to the Ministry of Interior in charge of adopting a decree relating to the acquisition of citizenship by the candidate.⁴⁹⁵ The Ministry has to make its decision within 18 months following the transfer of the notice by the prefecture.⁴⁹⁶ These deadlines can be extended once for three months on the basis of a written and motivated decision.⁴⁹⁷

In practice, refugees encounter many difficulties beyond the mere ones linked to their knowledge of the language. The interview conducted aims also to determine the level of integration on the French society of the candidates. This assessment is very wide since, according to lawyers supporting refugees in this process, economic and cultural aspects are taken into account, as well as their ties with their original community. The Prefecture will particularly scrutinise the relationship claimants have with French people. In that sense, claimants are used to submitting more documents than those required by law. For example, they will produce testimonies from teachers if they have children, proof of their economic situation or testimonies of French friends.

A total of 55,830 persons were granted French citizenship by decree in 2018 compared to 65,654 in 2017, though this number is not limited to beneficiaries of international protection.⁴⁹⁸

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure? Yes No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? Yes No
3. Do beneficiaries have access to free legal assistance at first instance in practice? Yes With difficulty No

5.1. Grounds for cessation

Regarding **refugees**, the law reflects the cessation grounds set out in Article 1C of the Refugee Convention.⁴⁹⁹

Regarding beneficiaries of **subsidiary protection**, the law includes provisions inspired by the Refugee Convention. The benefit of subsidiary protection ceases when the conditions leading to grant the protection no longer exist. It is also the case when there is a significant and durable change of context in the country of origin of the beneficiary.⁵⁰⁰ In 2017, OFPRA ceased 11 subsidiary protection statuses.⁵⁰¹

There is no systematic review of protection status in France. Cessation is not applied to specific groups. There are no systematic difficulties in relation to the application of cessation either. In practice, people who were granted asylum on the grounds of family unity may, following divorce, no longer be considered as refugees. In relation to children, however, the CNDA held in 2018 that, in line with the

⁴⁹³ Article 41 Decree n. 93-1362.

⁴⁹⁴ Article 46 Decree n. 93-1362.

⁴⁹⁵ *Ibid.*

⁴⁹⁶ Article 21-25-1 Civil Code.

⁴⁹⁷ *Ibid.*

⁴⁹⁸ Ministry of Interior, *L'accès à la nationalité*, 15 January 2019, available in French at: <https://bit.ly/2sY4XP9>.

⁴⁹⁹ Article L.711-4 Ceseda.

⁵⁰⁰ Article L.712-3 Ceseda.

⁵⁰¹ OFPRA, *2017 Activity report*, 120.

principle of family unity, a child benefitting from the same refugee status as his mother could not be subject to cessation by the mere fact of reaching the age of 18, as long as the mother maintained refugee status.⁵⁰² Family unity is not applied to subsidiary protection beneficiaries.

In practice, cessation is mostly applied when there is a fundamental change of context in the country of origin of beneficiaries. For instance, the CNDA applied cessation in 2016 to a Vietnamese who was granted refugee status in 1977 because of the fundamental changes which occurred in the country since that date.⁵⁰³ In 2018, it refused to apply cessation to refugees from DRC and Sri Lanka due to the fact that the change of circumstances was not of a significant and durable nature.⁵⁰⁴

In a case concerning two girls at risk of FGM in Mali, the CNDA refused to apply cessation despite statements from the girls' mother that the prevalence of FGM was dropping in the country of origin. The Court relied on the best interests of the child principle enshrined in the Convention on the Rights of the Child, and the protection against FGM set out in Article L.752-3 *Ceseda*, to conclude that there was no change of circumstances.⁵⁰⁵

As regards cessation grounds due to the individual conduct of the beneficiary pursuant to Article 1C of the Refugee Convention, the CNDA has delivered several relevant judgments in recent years:

- **Re-establishment in the country of origin:** Cessation under Article 1C(4) of the Convention was applicable in the case of a beneficiary who travelled to the country of origin despite warnings that his or her Travel Document does not allow travel to that country, and who obtained authorisation to travel from the country's consular authorities in France;⁵⁰⁶
- **Re-availment of protection of the country of origin:** In the case of a refugee who was issued a driver's licence in the country of origin without physically returning to the country – as the procedure was handled by his wife – the issuance of an official document could not constitute re-availment of the protection of the country of origin pursuant to Article 1C(1) of the Convention.⁵⁰⁷

5.2. Cessation procedure

The cessation decision can be made without any interview by OFPRA. OFPRA has however the obligation to address a notice to the refugee or beneficiary of subsidiary protection about the decision to initiate the cessation proceedings and the grounds of this decision. The beneficiary is therefore put in a position to formulate observations against this decision. He or she may be summoned to an interview at OFPRA upon the regular procedure scheme.

The cessation decision made by OFPRA can be challenged before the CNDA under the same conditions as an appeal lodged under the [Regular Procedure: Appeal](#). In such a case, the CNDA shall examine the applicability of all cessation clauses and not limit itself to the specific cessation ground raised by OFPRA, according to a 2017 ruling of the Council of State.⁵⁰⁸ This was confirmed by the CNDA in 2018.⁵⁰⁹

⁵⁰² CNDA, *M. O.*, Decision No 17013391, 31 December 2018.

⁵⁰³ CNDA, *M. D.*, Decision No 14018479, 25 February 2016.

⁵⁰⁴ CNDA, *M. K.*, Decision No 18001386, 17 October 2018 (DRC); *M. L.*, Decision No 17047809, 25 May 2018 (Sri Lanka).

⁵⁰⁵ CNDA, *Mme S and Mme F.*, Decision Nos 17038232 and 17039171, 26 November 2018.

⁵⁰⁶ CNDA, *M. Q.*, Decision No 16032301, 6 July 2017.

⁵⁰⁷ CNDA, *M. H.*, Decision No 16029914, 14 September 2018.

⁵⁰⁸ Council of State, Decision No 404756, 28 December 2017.

⁵⁰⁹ CNDA, *M. M.*, Decision No 15003496, 28 November 2018.

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the withdrawal procedure? Yes No
2. Does the law provide for an appeal against the withdrawal decision? Yes No
3. Do beneficiaries have access to free legal assistance at first instance in practice? Yes With difficulty No

The withdrawal of the residence permit is only possible in France if protection status is also withdrawn.

The 2018 asylum reform has rendered withdrawal of international protection mandatory, whereas it was previously only optional for OFPRA.

According to the law, as amended in 2018, **refugee status** shall be withdrawn where the refugee:⁵¹⁰

1. Should have been excluded from refugee status under Articles 1D, E and F of the Convention;
2. Obtained status by fraud;
3. On the basis of circumstances arising after the grant of protection, must be excluded under Articles 1D, E and F of the Convention;
4. Constitutes a serious threat for national security;
5. Has been sentenced in France, another EU Member State or third country whose criminal legislation and jurisdictions are recognised by France for a crime related to terrorism or for an offence by 10 years of imprisonment, and represents a serious threat for society.

The CNDA has interpreted the concept of fraud for the purposes of withdrawal under Article L.711-4 Ceseda. It found on two occasions in 2018 that refugee status cannot be withdrawn if the fraudulent elements of the claim were not determinant for the grant of protection.⁵¹¹

OFPRA withdrew 247 refugee statuses in 2017, including on cessation grounds.⁵¹²

Subsidiary protection shall no longer be granted in the event where:⁵¹³

1. OFPRA or the Prefecture discover, after the protection is granted, that the beneficiary should have been excluded from protection according to the Refugee Convention exclusion clauses, or constitutes a serious threat to public order, public security or national security;
2. Subsidiary protection was obtained by fraud;
3. On the basis of circumstances arising after the grant of protection, the beneficiary must be excluded from protection;
4. There are serious reasons to believe that the beneficiary has committed serious crimes which would be sentenced by imprisonment if committed in France and has left the country of origin solely to evade prosecution.

The procedure is the same as for [Cessation](#).

⁵¹⁰ Articles L.711-4 and L.711-6 Ceseda, as amended by Article 5 Law n. 2018-778 of 10 September 2018.

⁵¹¹ CNDA, *M. G.*, Decision No 14020621, 15 February 2018, where the Court found that the refugee's overall credibility was unaffected by the fraudulent representation of certain dates during the asylum procedure; CNDA, *M. B.*, Decision No 13024407, 28 September 2018, where the refugee's fraudulently declared identity (that of one of his brothers) did not affect his well-founded fear of persecution on ethnic and political grounds upon return to Turkey.

⁵¹² OFPRA, *2017 Activity report*, 120.

⁵¹³ Articles L.712-3 and L.712-2 Ceseda, as amended by Article 5 Law n. 2018-778 of 10 September 2018.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?
 Yes No
 - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?
 Yes No
 - ❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? Yes No

The same legal framework is applicable to refugees and beneficiaries of subsidiary protection in terms of family reunification. As soon as refugees and subsidiary protection beneficiaries are granted protection, they are entitled to apply for it. Family reunification is permitted for:⁵¹⁴

1. Spouses or partners (PACS) with whom they were in a relationship previously the lodge of their asylum claim if they are at least 18 years old;
2. Partners who are at least 18 years old in case their union has been sealed prior to the lodging of the asylum claim if they demonstrate they durably and steadily lived together;
3. Children within the year after turning 18 years old;
4. First degree parents if the beneficiaries are still under 18 years old by the day asylum is granted. Following the 2018 reform, unaccompanied children beneficiaries of international protection may be reunited with their first degree parents and their dependant children.

The application for family reunification is not time limited. Family reunification is not subjected to income or health insurance requirements.⁵¹⁵

Beneficiaries' family members have to request a visa at the French embassy with all the documentation proving their relationship with the refugee or the beneficiary of subsidiary protection they want to join.⁵¹⁶ The embassy communicates to OFPRA the elements collected and asks for certification. If the information collected by the embassy corresponds to the declarations the beneficiary made to OFPRA, his or her family members must be issued a visa without delay.⁵¹⁷

In practice, beneficiaries and their family members face difficulties in gathering the documentation proving their family ties. In case of traditional or religious unions, they do not have any certificate of the celebration and cannot then prove they are married or partners. The same problems have been identified concerning birth certificates. Such documentation does not even exist in some countries and the delays for being issued a visa in order to come to France, in the framework of family reunification, can be very long.

2. Status and rights of family members

Family members are not granted the same status as sponsors, even though they are issued the same residence permit. Upon their arrival in France, they have to present themselves at the Prefecture in order to be issued this permit. They have to comply with the same obligations as any third-country national allowed to stay in France. They will have the same rights as their sponsors, especially in terms

⁵¹⁴ Article L.752-1(1) Ceseda, as amended by Article 3 Law n. 2018-778 of 10 September 2018.

⁵¹⁵ Article L.752-1(1) Ceseda.

⁵¹⁶ Article L.752-1(2) Ceseda.

⁵¹⁷ Articles R.751-1 to R.751-3 Ceseda.

of integration. Family members are not beneficiaries of international protection even if they have benefited from family reunification with such a beneficiary.

C. Movement and mobility

1. Freedom of movement

Beneficiaries of protection are entirely free to settle in any part of the French territory. They are not restricted to specific areas.

2. Travel documents

The law states that the duration of validity of travel documents is defined by Article 953 of the General Tax Code: 5 years for **refugees**, if it is a biometric travel document, and one year for **beneficiaries of subsidiary protection**.⁵¹⁸ French law does not provide for duration of validity of non-biometric travel documents. Official French websites, however, assert that the duration of validity of travel documents for refugees is 2 years.⁵¹⁹ In practice, whereas the law is clear on the 5-year duration, Prefectures issue only 2-year travel documents for refugees.

Geographical limitations are applied to these travel documents. Refugees and beneficiaries of subsidiary protection are not allowed to travel to countries where personal fears have been identified.⁵²⁰ Failure to respect these limitations may lead to the **Cessation** of the protection grant, as confirmed by a 2017 ruling of the CNDA.⁵²¹

In 2015, the CNDA confirmed a cessation decision adopted by OFPRA, regarding an Afghan refugee who had spent two months in his country in order to celebrate his marriage. However, considering the current situation in Afghanistan, he has been granted subsidiary protection.⁵²²

Travel documents are issued by Prefecture. In practice, no specific problem has been reported, except the fact that prefectures can be very slow in delivering the document.

D. Housing

Indicators: Housing

- | | |
|--|---------------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 6 months |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2018 | Not available |

Beneficiaries are allowed to stay in reception centres 3 months following their protection grant.⁵²³ This period can be renewed for another 3 months with the express agreement of OFII.⁵²⁴ During their stay in the centre, beneficiaries are supported to find accommodation according to the mechanisms adopted by the local authorities. At the end of 2017, out of a total of 74,080 people accommodated in reception centres, 18.3% were beneficiaries of international protection.⁵²⁵

⁵¹⁸ Article L.753-4 Ceseda.

⁵¹⁹ See Ministry of Interior, *Accueil des Etrangers*, at: <http://bit.ly/2ImCIJR>.

⁵²⁰ Articles L.753-1 and L.753-2 Ceseda.

⁵²¹ CNDA, *M. Q.*, Decision No 16032301, 6 July 2017.

⁵²² CNDA, *M. Z.*, Decision No 14033523, 5 October 2015.

⁵²³ Article R.744-12(1)(1) Ceseda.

⁵²⁴ *Ibid.*

⁵²⁵ OFII, *2017 Activity report*, 24.

Beneficiaries can also be channelled to temporary accommodation centres (*Centres provisoires d'hébergement*, CPH) upon an OFII decision. They will be then allowed to stay there for 9 months. This stay can be renewed for a 3-month period.⁵²⁶ At the end of 2018, there were 5,207 accommodation places in CPH spread across the different regions as follows:

Capacity of CPH per region: 2018	
Region	Maximum capacity
Auvergne Rhône-Alpes	807
Bourgogne Franche-Comté	301
Bretagne	338
Centre	251
Grand Est	443
Hauts de France	300
Ile de France	877
Normandie	286
Nouvelle Aquitaine	521
Occitanie	380
Provence Alpes Côte d'Azur	391
Pays de la Loire	312
Total	5,207

Source: Ministry of Interior, Circular NOR: INTV1900071J, 31 December 2018: <https://bit.ly/2Syc2E8>.

The implementation of integration mechanisms relies on Prefectures and local authorities. They sign in fact an agreement with the stakeholders to support and assist beneficiaries with their integration.⁵²⁷ Beneficiaries have to sign a republican integration covenant in which they commit to respect French fundamental values and to comply with French legal obligations.⁵²⁸ The agreement between Prefectures and local stakeholders determines the role of each actor and their obligations towards the beneficiaries.⁵²⁹ The organisations running these centres have to house the beneficiaries but also support them in their integration process. They have to assist them in getting access to French classes, funded by the French State, and accompany them in determining their professional orientation. At the end of their stay in CPH, beneficiaries fall under the general rules applicable to foreigners and have to integrate in the private market to get housing.

The actions implemented to facilitate beneficiaries integration vary from an area to another. 12 months, in case the initial duration of stay has been extended, may not be enough for beneficiaries to get integrated. France terre d'asile and Forum réfugiés – Cosi manage systems intending to facilitate this access to integration. These mechanisms are focused on beneficiaries' integration but are based on the French general provisions dedicated to access to housing for insecure populations.

Forum réfugiés – Cosi runs the *Accelair* programme. This programme is dedicated to refugees living in **Lyon** area and who have been granted asylum for less than one year. On the basis of this programme, places are saved for refugees within the real estates managed by providers of social housing. Refugees registered in this programme are supported from 6 to 18 months. The duration of the support may

⁵²⁶ Article R.349-1 Code of Social Action and Families as amended by Decree n. 2016-253 of 2 March 2016 relating to temporary accommodation centres for refugees and beneficiaries of subsidiary protection, available in French at: <http://bit.ly/2jNt1xD>.

⁵²⁷ Article L.751-1 Ceseda.

⁵²⁸ Article L.311-9 Ceseda.

⁵²⁹ This agreement is attached by to Decree n. 2016-253 of 2 March 2016.

depend on the individualised project of each beneficiary. This assistance aims to make refugees autonomous and to ensure their integration.⁵³⁰

Similar programmes have been developed in 9 other departments in 2017 and 2018. In its National Strategy for Integration published in June 2018, the government has announced the development of similar programmes throughout the country.⁵³¹

E. Employment and education

1. Access to the labour market

Beneficiaries are allowed to access the labour market from the moment they are granted asylum, whether they are refugees or beneficiaries of subsidiary protection. They have the same access as French nationals except for positions specifically restricted to nationals.

However, they encounter the same difficulties regarding the access to this market as those they face in terms of [Housing](#). The same legal framework regulates the mechanisms of integration of beneficiaries regarding employment. The organisations running the CPH are funded to support beneficiaries in determining their professional path and facilitating their integration in the labour market.⁵³² To do so, these organisations implement partnerships with stakeholders in charge of access to the labour market and the struggle against unemployment. Then, they work in close collaboration with the French national employment agency (*Pôle emploi*) or with local charities and NGOs to facilitate the professional integration of beneficiaries.

In practice, it is more difficult for them to find a job. The first obstacle is obviously linked to the language. Even if the law provides that the French State provides French classes,⁵³³ the current number of 240 hours of classes is rarely sufficient for beneficiaries to adequately command the language in order to get a job.⁵³⁴ Therefore, they often turn to their native community to be supported in their professional path, which might complicate their integration. The number of hours of French classes should be increased to 400 as from 2019, however.

In the countryside, they also have difficulties regarding remoteness of location. Outside big French cities, it is compulsory to have a car in order to have a chance to find a job. However, these difficulties are not typical to beneficiaries even if they affect them more directly. They indeed cannot afford to buy a vehicle and do not benefit from any family support.

Moreover, refugees and beneficiaries of international protection suffer from a lack of recognition of their national diplomas. This implies therefore that highly skilled beneficiaries face the main obstacles to enter to the labour market. They have to accept unqualified jobs, mostly without any link with their previous job in their country of origin. Social workers refer to protection beneficiaries as a “sacrificed generation”. They have renounced practicing their original trade so that their children can graduate in France and be able to aim for highly skilled positions.

⁵³⁰ Forum réfugiés – Cosi, *Programme d'intégration des réfugiés – Accelair*, available at: <http://bit.ly/1TCowBy>.

⁵³¹ Ministry of Interior, *Stratégie nationale pour l'accueil et l'intégration des personnes réfugiées*, 5 June 2018, available in French at: <https://bit.ly/2tY4qfN>.

⁵³² Article 8 Standard Agreement relating to the functioning of CPH, attached to the Decree of 2 March 2016 relating to temporary accommodation centres for refugees and beneficiaries of subsidiary protection, available in French at: <http://bit.ly/2jNt1xD>.

⁵³³ Article L.311-9 *Ceseda*.

⁵³⁴ Libération, 'Intégration des réfugiés: «sur la langue on perd un temps fou», selon un rapport', 13 January 2018, available in French at: <http://bit.ly/2DS08uT>.

In February 2018, a report from Member of Parliament Aurélien Taché put forward 72 proposals aiming at reinforcing integration policy for migrants in France, among them beneficiaries of international protection.⁵³⁵ A National Strategy for Integration based on this report was announced in June 2018,⁵³⁶ while several provisions of the 2018 reform reflect some of the recommendations such as increased French classes, development of integration programs like *Accelair*, mobilisation of housing for refugees etc.

2. Access to education

Access to education is the same for beneficiaries as for asylum seekers (see [Reception Conditions: Access to Education](#)). The main difference is linked to access to vocational training for adults. These trainings fall under the professional integration systems described in the section on [Housing](#).

Beneficiaries' children are allowed to get access to any school included into the national education system. They do not have to attend preparatory classes. In the event they have special needs, in terms of language or disability for example, they will be orientated accordingly to the general education system.

F. Social welfare

Once they are granted protection, beneficiaries have access to social rights under the same conditions as nationals. This includes health insurance, family and housing allowances, minimum income, and access to social housing.

Several administrations are in charge of providing these services. These include: the health insurance fund (CPAM) for health insurance (CMU), the family allowance fund (CAF) for family allowances, the housing allowance (APL) and the minimum income (RSA), and *Pôle Emploi* for job search support and unemployment compensation.

The Court of Cassation has ruled in a judgment of 13 January 2011 that **refugees** can benefit retroactively from all benefits and other social welfare from the date of their arrival in France. This is linked to the declaratory nature of refugee status, which does not exist for beneficiaries of **subsidiary protection**.

Social welfare administrations are essentially regulated at *département* level. It is therefore necessary to inform them of any change of address and *département* for an effective follow-up of the files. The websites set up by these administrations facilitate such procedures.

In practice, the difficulties encountered by beneficiaries of international protection are the same as those facing nationals and are linked to the inadequacies and shortcomings of the French system, which is sometimes dysfunctional. On the other hand, certain difficulties may remain due to the lack of proficiency in the French language, combined by the lack of cooperation of certain administrative agents.

⁵³⁵ Aurélien Taché, *72 propositions pour une politique ambitieuse d'intégration des étrangers arrivant en France*, February 2018, available in French at: <https://bit.ly/2AiyZkG>.

⁵³⁶ Ministry of Interior, *Stratégie nationale pour l'accueil et l'intégration des personnes réfugiées*, 5 June 2018, available in French at: <https://bit.ly/2tY4qfN>.

G. Health care

Health care for beneficiaries is the same as provided to asylum seekers, which is the same provided to French citizens. The difficulties encountered by beneficiaries are not specific to their status but are typical of structural dysfunctions identified within the French health care system (see [Reception Conditions: Health Care](#)).

ANNEX I – Transposition of the CEAS in national legislation

Directives and other measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)