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Asylum Information Database

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European Council on Refugees and Exiles

2023 UPDATE

FRANCE

COUNTRY REPORT

Acknowledgements & Methodology

The 2023 update of this report was written by Laurent Delbos, and Sébastien Charre at Forum réfugiés and edited by ECRE.

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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 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 some departments. 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.*

Overseas France: *In France, legislation sometimes contains specific rules about the asylum system in some French overseas territories. Practices can also be substantially different from that in mainland France. While comprehensive reporting about asylum in all overseas territories does not come under the scope of this report, legislation and practices about overseas France will be showcase throughout the report in boxes such as this one, to better highlight these specificities.*

The information in this report is up-to-date as of 31 December 2023, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). 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.

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This report is part of the Asylum Information Database (AIDA), partially funded by the European Union's Asylum, Migration and Integration Fund (AMIF) and ECRE. The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of the European Commission.

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Glossary & List of Abbreviations

Administrateur *ad hoc*	*Ad hoc* administrator i.e. legal representative appointed for unaccompanied children
Déclaration de domiciliation	Document thanks to which asylum seekers declare the address at which they can be contacted throughout the asylum procedure
Domiciliation	Legal address where the asylum seeker is registered
Guichet unique	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 I Allocation pour demandeurs d'asile
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
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
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
CGLPL	General Controller of Places of Detention | Contrôleur Général des lieux de privations de libertés
CJA	Code of Administrative Justice | Code de justice administrative
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	Local representation of the health insurance administration | 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
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
GISTI	Groupe d'information et de soutien des immigrés
GUDA	Single desk for asylum seekers l Guichet unique pour demandeur d'asile
HUDA	Emergency accommodation for asylum seekers | Hébergement d'urgence dédié aux demandeurs d'asile
IOM	International Organisation for Migration
JLD	Judge of Freedoms and Detention | Juge des libertés et de la détention
LRA	Place of Administrative Detention | Local de rétention administrative
MSF	Doctors without Borders | Médecins Sans Frontières
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 French territory l Ordre de quitter le terrritoire français
PASS	Open and free centres for Access to Health Care | Permanence d'accès aux soins de santé
PRAHDA	Programme for Reception and Accommodation of Asylum Seekers | Programme d'accueil et d'hébergement des demandeurs d'asile
PUMA	Universal Health Protection Scheme | Protection Universelle Maladie
SPADA	Initial reception service for asylum seekers | Service du premier accueil des demandeurs d'asile
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

Statistics

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 2024, 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 usually published few weeks 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; this data is corrected through a definitive publication by the Ministry in June of each year.[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 and are thus not included in OFPRA statistics. The statistics on France provided to Eurostat until 2020 were incomplete insofar as these were based on OFPRA figures;
- Ministry of Interior statistics refer to persons registered at a "single desk" (*guichet unique de demande d'asile*, GUDA) (see Registration).
- Persons re-channelled from a Dublin procedure to a regular or accelerated procedure (*requalifiés*) do not clearly 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.
- Persons arrived in resettlement programmes and persons applying for asylum in detention are not registered at the GUDA but appear in OFPRA statistics.

Applications registered by the GUDA in France are usually higher than the reported number of applications lodged with OFPRA.

In 2023, 167,432 persons were registered as asylum seekers by the Ministry of Interior (compared to 155,773 in 2022), of which 145,522 as first applicants (136,724 in 2022) and 21,910 as subsequent applicants (19,049 in 2022). For its part, OFPRA reported a total of about 142,500 asylum seekers (compared to 131,254 in 2022)[5]. The latter include *requalifiés* from previous years (not included in 2022 GUDA statistics) and people whose asylum application is not registered in GUDA (i.e., asylum claims in detention and persons arriving through resettlement programmes).

According to the Ministry of Interior, the nationality breakdown of people registered in GUDA for the first 10 countries of origin in 2023 was as follows: Afghanistan, Guinea, Türkiye, Ivory Coast, Bangladesh, DR Congo, Georgia, Sudan, Albania, Sri Lanka.

1 OFPRA, 'Rapports d'activité', available in French at: http://bit.ly/3my3uOr.
2 CNDA, 'Rapports annuels', available in French at: https://bit.ly/3wMbqh9.
3 Ministry of Interior, 'Chiffres clés – Les demandes d'asile', 25 January 2024, available in French at: https://bit.ly/3xaPpvu.
4 For a discussion, see Forum refugies, 'Asile : comprendre et analyser les données statistiques', 14 January 2022, available in French at: https://bit.ly/3wgljmr.
5 OFPRA, 'Premières données de l'asile 2023 [chiffres provisoires]', 23 January 2024, available in French at: https://bit.ly/3xaPG1u.

Applications and granting of protection status at first instance: 2023 (1)

Detailed statistics on applications and first instance decisions were not made available by the national authorities at the time of writing of this report. The only indicative statistics published by the Ministry of Interior indicate a total of 167,432 applicants for international protection, out of which 145,522 were first-time applicants and 21,910 subsequent applicants. The main nationalities represented were Afghanistan, followed by Guinea, Türkiye, Ivory Coast and Bangladesh.[6]
As regards decisions on international protection, OFPRA indicated that the overall protection rate at first instance stood at 33% % in 2023.[7] A detailed breakdown by nationality was not available at the time of writing of this report.

The following statistics are based on Eurostat statistics, which must be read with caution as they include inadmissibility decisions in rejections. Moreover, data on applications does not completely correspond to cases that will go to the first instance procedure, as it includes all applications registered by authorities (including asylum seekers under a Dublin procedure).

	Applicants in 2023 (2)	Pending at end of 2023	Total decisions in 2023 (3)	Total rejections (4)	Refugee status	Subsidiary protection
Total	166,880	146,175	132,695	91,085	31,480	10,135
Afghanistan	19,015	16,340	19,455	5,985	11,855	1,615
Tûrkiye	12,375	11,170	10,840	8,980	1,755	110
Guinea	11,565	10,130	6,095	4,160	1,810	125
Ivory Coast	10,480	9,330	6,280	4,450	1,625	205
Bangladesh	10,215	15,270	9,785	9,040	520	225
DR Congo	9,605	8,170	8,105	5,965	1,625	515
Georgia	7,210	3,180	8,045	7,475	210	360
Sudan	6,065	4,535	1,710	815	350	545
Russia	4,865	4,465	3,540	2,585	920	40
Sri Lanka	4,145	4,545	2,375	1,905	405	70

Source: Eurostat

Note 1: statistics on applicants and pending concern people, including children and dependents. Based on Eurostat explanatory texts, this data refers to the number of persons covered by rejection/protection decisions, rather than the number of decisions (which may cover more than one person).
Note 2: "Applicants in year" refers to the total number of applicants, and not only to first-time applicants.
Note 3: Statistics on decisions cover the decisions taken throughout the year, regardless of whether they concern applications lodged that year or in previous years.
Note 4: Due to lack of disaggregated data, total rejections include inadmissibility decisions.

6 Ministry of Interior, 'Chiffres clés – Les demandes d'asile', 26 January 2023 available in French at: http://bit.ly/4039KeI.
7 OFPRA, 'Premières données de l'asile 2023 [chiffres provisoires]', 23 January 2024, available in French at: https://bit.ly/3xaPG1u.

Applications and granting of protection status at first instance: rates for 2023

	Overall rejection rate	Overall protection rate	Refugee rate	Subsidiary protection rate
Total	68.6%	31.4%	23.7%	7.6%
Afghanistan	30.8%	69.2%	60.9%	8.3%
Tûrkiye	82.8%	17.2%	16.2%	1.0%
Guinea	68.3%	31.7%	29.7%	2.1%
Ivory Coast	70.9%	29.1%	25.9%	3.3%
Bangladesh	92.4%	7.6%	5.3%	2.3%
DR Congo	73.6%	26.4%	20.0%	6.4%
Georgia	92.9%	7.1%	2.6%	4.5%
Sudan	47.7%	52.3%	20.5%	31.9%
Russia	73.0%	27.1%	26.0%	1.1%
Sri Lanka	80.2%	20.0%	17.1%	2.9%

Source of the percentages: calculated by the author based on the data presented in the previous table (Eurostat).

Notes: Due to lack of disaggregated data, these percentages are calculated based on total decisions, including inadmissibility decisions.

Gender/age breakdown of the total number of applicants: 2023

	Men	Women
Number	105,480	61,400
Percentage	63.2%	36.8%

	Adults	Children
Number	123,940	42,945
Percentage	74.3%	25.7%

Source: Eurostat

Notes:
- The gender breakdown (Men/Women) applies to all applicants, not only adults.
- There is no segregated data between accompanied and unaccompanied children available at latest time of writing (April 2024).

First instance and appeal decision rates: 2023

It should be noted that, during the same year, the first instance and appeal authorities handle different caseloads. Thus, the decisions below do not concern the same applicants.

	First instance		Appeal	
	Number	**Percentage**	**Number**	**Percentage**
Total number of decisions	132,695	100%	66,358	100%
Positive decisions	41,615	31.4%	13,606	20.5%
• *Refugee status*	31,480	23.7%	9,462	14.3%
• *Subsidiary protection*	10,135	7.6%	4,144	6.2%
Negative decisions	91,085	68.6%	52,752	79.5%

Source: for first instance, see Eurostat ; for appeal, see CNDA, *Rapport d'activité 2023*, January 2024, available in French at: https://bit.ly/3w20Sgw.

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	Code de l'entrée et du séjour des étrangers et du droit d'asile	Ceseda	http://bit.ly/1GQm3uQ (FR)
Amended recently by legislative change: Law n. 2018-187 March 2018 allowing for sound application of the European asylum system	*Modifié récemment dans la partie législative par :* Loi n° 2018-187 du 20 mars 2018 permettant une bonne application du régime d'asile européen		https://bit.ly/2GyHHzw (FR)
Amended recently by legislative change: Law n. 2018-778 of 10 September 2018 for managed migration, effective asylum law and successful integration	*Modifié récemment dans la partie législative par :* Loi n° 2018-778 du 10 septembre 2018 pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie		https://bit.ly/2QfUSat (FR)
Amended recently by legislative change: Law n. 2024-42 of 26 January 2024 to control immigration, improve integration	*Modifié récemment dans la partie législative par :* Loi n° 2024-42 du 26 janvier 2024 pour contrôler l'immigration, améliorer l'intégration		https://bit.ly/3J9cT74 (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

Decision of 21 April 2023 establishing the list of organisations competent for proposing representatives to accompany asylum seekers or refugees or beneficiaries of international protection to a personal interview held by OFPRA (NOR : INTV1833858S)	Décision du 21 avril 2023 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 internationale à un entretien personnel mené par l'OFPRA (NOR : INTV1833858S)		https://bit.ly/40ZnxDF (FR)

OFPRA Decision of 20 December 2022 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 OFPRA by an audiovisual communication procedure	Décision OFPRA du 20 décembre 2022 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'OFPRA par un moyen de communication audiovisuelle		http://bit.ly/3KPPusN (FR)
Bylaw of 13 May 2022 taken pursuant to Article L. 551-1 of the Code on the Entry and Residence of Foreigners and the Right of Asylum (NOR: CITC2212434A)	Arrêté du 13 mai 2022 pris en application de l'article L. 551-1 du code de l'entrée et du séjour des étrangers et du droit d'asile (NOR : CITC2212434A)		https://bit.ly/3ZU4kE3 (FR)
Bylaw of 12 December 2023 related to financial participation of persons accommodated in accommodation centres for asylum seekers. NOR : IOMV2323662A	Arrêté du 12 décembre 2023 relatif à la participation financière des personnes hébergées dans un lieu d'hébergement pour demandeurs d'asile. NOR : IOMV2323662A		https://bit.ly/49ffKWw (FR)
Bylaw of 17 December 2021 on health care for persons detained in administrative detention centres NOR : INTV2119154A	Arrêté du 17 décembre 2021 sur la prise en charge sanitaire des personnes placées en centre de rétention administrative ; NOR : INTV2119154A		https://bit.ly/3H3t2bb (FR)
Bylaw of 23 August 2021 on the list of associations entitled to propose representatives for access to waiting areas. NOR: INTV2120838A. *Amended by:* Bylaw of 8 November modifying bylaw of 23 August 2021 on the list of associations entitled to propose representatives for access to waiting areas. NOR : INTV2133201A	Arrêté du 23 août 2021 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente. NOR: INTV2120838A *Modifié par :* Arrêté du 8 novembre 2021 modifiant l'arrêté du 1er juin 2021 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente NOR : INTV2133201A		https://bit.ly/3rPm973 (FR) https://bit.ly/49y1pEY (FR)
Information of 15 January 2021 about the management of accommodation centers for asylum seekers and refugees (NOR :INTV2100948J)	Information du 15 janvier 2021 relative à la gestion du parc d'hébergement des demandeurs d'asile et des bénéficiaires d'une protection internationale (NOR : INTV2100948J)		https://bit.ly/3a5uWZH (FR)

Decree of 13 January 2021 on mission of centers for accommodation and evaluation of administrative situations	Décret du 13 janvier 2021 relatif au cahier des charges des centres d'accueil et d'évaluation des situations		https://bit.ly/3cFRV0p (FR)
Bylaw of 17 April 2023 on the residence contract and operating regulation for accommodation and evaluation of administrative situations NOR : IOMV2310331A	Arrêté du 17 avril 2023 relatif au contrat de séjour et au règlement de fonctionnement des centres d'accueil et d'évaluation de la situation administrative NOR : IOMV2310331A		https://bit.ly/4aFKPnf (FR)
OFPRA Decision of 2 July 2019 on organisational modalities for the interview, implementing Article L.723-6 Ceseda	Décision OFPRA du 2 juillet 2019 fixant les modalités d'organisation de l'entretien en application de l'article L.723-6 du Ceseda		http://bit.ly/3KSIafX (FR)
Bylaw of 19 June 2019 on missions of emergency centres for asylum seekers	Arrêté du 19 juin relatif au cahier des charges des lieux d'hébergement d'urgence pour demandeurs d'asile		https://bit.ly/2QQ1dLX (FR)
Bylaw of 19 June 2019 on missions of accommodation centers for asylum seekers	Arrêté du 19 juin 2019 relatif au cahier des charges des centres d'accueil pour demandeurs d'asile		https://bit.ly/35PnWMj (FR)
Instruction of 28 February 2019 on Law of 10 September 2018 – provisions applicable from 1 March 2019	Instruction du 28 février 2018 relative à l'application de la loi pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie - dispositions relatives au séjour et à l'intégration entrant en vigueur le 1er mars 2019		https://bit.ly/2TJRAS9 (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 1er janvier 2019		https://bit.ly/2CnZaak (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 a personal interview (NOR: INTV1836064S)	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)		http://bit.ly/412YSyO (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 immediately 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)
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/2Ol1iEN (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 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/2ugzVlX (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)		https://bit.ly/3mtpj1H (FR)
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)
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 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 certificate (NOR: INTV1524094A)	Arrêté du 9 octobre 2015 fixant la durée de validité de l'attestation de demande d'asile (NOR : INTV1524049A)		http://bit.ly/1jnCZEL (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)
Bylaw of 12 June 2013 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)
Circular of 2 October 2012 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)
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 6 February 2024 defining the terms of the medical examination provided for people likely to benefit or who benefit from protection with regard to the risks of sexual mutilation. NOR : IOMV2330687A	Arrêté du 6 février 2024 pris pour l'application des articles L. 531-11 et L. 561-8 du code de l'entrée et du séjour des étrangers et du droit d'asile et définissant les modalités de l'examen médical prévu pour les personnes susceptibles de bénéficier ou qui bénéficient d'une protection au regard des risques de mutilation sexuelle qu'elles encourent NOR : IOMV2330687A		https://bit.ly/4cQyuyw (FR)

Changes to the legal framework: new law of 26 January 2024

After a decision by the Constitutional Council on January 25, 2024, partially censoring the text definitively adopted by the national Assembly on December 19, 2023, the law 'for controlled immigration and successful integration' was promulgated on January 26, 2024, and published in the official journal the following day.[8]
Alongside the abundant measures concerning the right of residence, the return and the administrative detention, the text includes several articles modifying the legal framework of the right to asylum, on many aspects.

As the various measures of this law enter into force at the earliest on 28 January 2024 or many of them at a later stage, they will not be discussed in detail in the sections of the report. However, a presentation of the main changes related to asylum and presented below.

Regarding the asylum procedure:

- **Access to the procedure:** Access to the asylum procedure on the territory is modified with the creation of Pôles France Asile which will replace the current asylum seekers office called "Guichet unique pour demandeur d'asile" (GUDA) after a pilot phase limited to a few territories.[9] This change involves the presence of a counter of the French office for the protection of refugees and stateless persons (OFPRA), which will be added to those of the prefecture and the French office of immigration and integration (OFII). An OFPRA agent will be responsible for lodging the request and collecting the asylum request story which will therefore no longer be expressed through a written form. However, the asylum seeker can always supplement their request by sending additional information before the interview to OFPRA.
  For regular procedure only, the interview will not take place before a minimum period of 21 days after registration of the asylum request.
  For accelerated procedure and in cases that could lead to inadmissibility, OFPRA may summon asylum seekers for an interview or make a decision of inadmissibility without minimum delay.
  These provisions will be progressively implemented and deployed throughout the territory after the establishment of three pilot sites (Toulouse, Cergy Pontoise, Metz).

- **Inadmissibility**: inadmissibility may apply to any applicant benefiting from protection equivalent to refugee status (and no longer only formal refugee status) in a third country.[10] The protection must, as already provided in the law, be effective and the applicant must be legally admissible in this State. OFPRA may use a means of audiovisual communication from the Pôles France Asile if it intends to make a decision of inadmissibility due to the protection received by the applicant in another State. This will be progressively implemented and deployed throughout the territory after the establishment of three pilot sites (Toulouse, Cergy Pontoise, Metz).

- **Appeals**: The most significant developments in terms of procedure concern the appeal phase before the National Court of Asylum (CNDA). The principle will henceforth be that of a single-judge judgment for all types of procedure,[11] reversing the former principle that cases should be dealt with by 3-judge panels, and territorial chambers of the CNDA may be created in certain territories.[12] The implementation of these provisions will be specified by a decree not yet published as of early April 2024.

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8 Loi n° 2024-42 du 26 janvier 2024 pour contrôler l'immigration, améliorer l'intégration, NOR : IOMV2236472L, available in French at : https://bit.ly/3J9cT74. The main provisions of the law, with details of the entry into force for each of them, are summarized (in French) by Forum Réfugiés in a PDF document for free download available here: https://bit.ly/49pm2D6.

9 Articles L.121-17, L.521-6 CESEDA.

10 Article L. 531-32 CESEDA.

11 Article L.131-7, L.532-6 CESEDA.

12 Article L.131-3 CESEDA.

In the context of video hearings, the judge, on their own initiative or at the request of the applicant, may suspend the hearing when the quality of the transmission does not allow the applicant or their counsel to present their explanations in good conditions.[13] These provisions came into force on January 28, 2024, the day after the publication of the law in the Official Journal.

- **Appeal of a Dublin transfer decision**: The appeal deadline to contest the transfer decision is 7 days (formerly 15 days), including in the case of house arrest (formerly 48 hours). The judge rules within 15 days.[14] This provision will come into force on a date fixed by decree in the Council of State, and at the latest the first day of the seventh month following that of publication of this law (August 1, 2024). It applies to the contestation of decisions taken from their entry into force.

Regarding reception conditions:

- **Refusal and withdrawal of material reception conditions (MRC)**: The law establishes an unprecedented link between reception and the asylum procedure: a person who leaves their accommodation without legitimate reason, in addition to losing their reception conditions as before, will see their asylum application closed by OFPRA.[15] These provisions came into force on January 28, 2024, the day after the publication of the law in the Official Journal.
  The material reception conditions (MRC) are not much impacted in practice, as the main provisions in this area were censored or limited by the Constitutional Council, and the others have a rather limited scope. The legislator had wanted to make the hypotheses of withdrawal or refusal of MRC automatic, but the Constitutional Council clarified the provision by highlighting that an individual examination is necessary (in accordance with European law).[16]
  However, as part of an overhaul of administrative litigation proposed elsewhere in the law, a specific procedural framework for litigation relating to decisions to refuse or withdraw MRCs was created.[17] These provisions came into force on January 28, 2024, the day after the publication of the law in the Official Journal.

- **End of the right to remain**: The right to remain in the territory of asylum seekers who are the subject of a CNDA order ends on the day this CNDA order is signed (and no longer on the day it is notified). In the event that an obligation to leave French territory (OQTF) is taken by the administrative authorities after the order has been signed, it can however only be executed once the CNDA order has been notified.[18] These provisions came into force on January 28, 2024, the day after the publication of the law in the Official Journal.

- **Return**: The length time limit for rejected asylum applications to appeal against obligations to leave French territory (OQTF) is doubled by the new law (from 15 days to 1 month),[19] but the overall legal framework for removal and detention is otherwise strongly hardened.

Regarding detention:

- **New detention grounds for all applicants**: The new law allows for the detention of asylum seekers presenting a threat to public order (at any time during the procedure) or expressing their wish to request asylum outside the prefecture, for example during an arrest, and presenting a risk of absconding.[20] The law defines this risk of absconding by including 12 hypotheses.[21] The

13 Article L.532-13 CESEDA.
14 Article L. 572-4 CESEDA.
15 Article L.531-36, L.531-37, L.531-38 CESEDA.
16 Article L. 551-5, L.551-6 CESEDA.
17 Article L. 551-5, L. 551-6 CESEDA.
18 Article L. 542-1 CESEDA.
19 Article L.614-1 CESEDA.
20 Article L. 523-1 CESEDA.
21 Article L.523-1 – 523-5 CESEDA.

implementation of these provisions will be specified by a decree not yet published when this report was written. Potentially complex asylum applications could thus be processed within the deteriorate procedural framework of detention.

- **Extended risks of detention of asylum applicants under the Dublin procedure**: The law extends the possibilities of detention of asylum seekers under the Dublin procedure before the transfer decision. The 11 reasons already provided for by law qualifying a significant risk of a person absconding under the Dublin procedure are maintained with a modification of one point concerning the concealment of information on identity, which now also concerns elements relating to the migratory route, family composition and prior asylum applications. Furthermore, a new reason (12°) is created concerning the refusal to submit to fingerprinting and their voluntary alteration due to crossing or irregular presence in the territory.[22] These provisions came into force on January 28, 2024, the day after the publication of the law in the Official Journal.
  Moreover, the qualification of "significant risk of absconding" which allows the prefecture to detain an asylum seeker within the framework of the Dublin procedure even before a transfer is decided, can apply as soon as he is presented to the prefecture for registration of a first request for asylum. The implementation of these provisions will be specified by a decree not yet published as of early April 2024.

Regarding content of international protection:

- **Residence documents**: Those who obtain protection under asylum, and especially their family members who are not themselves protected, could be affected by certain measures which broaden the possibilities of withdrawing or renewing residence documents.

22 Article L. 751-10 CESEDA.

Overview of the main changes since the previous report update

The previous update of the report was published in **May 2023**.

International protection

- **Key asylum statistics:** In 2023, 167,432 persons were registered as asylum seekers by the Ministry of Interior (compared to 155,773 in 2022), of which 145,522 as first applicants. OFPRA, with whom applications are lodged, reported a total of about 142,500 asylum seekers (compared to 131,254 in 2022). According to the Ministry of Interior, the nationality breakdown of people registered in GUDA for the first 10 countries of origin in 2023 was as follows: Afghanistan, Guinea, Türkiye, Ivory Coast, Bangladesh, DR Congo, Georgia, Sudan, Albania, Sri Lanka. The overall protection rate stood at 31.4% in first instance (OFPRA) and 20.5% at appeal stage (CNDA). A total of 66,358 persons (including minors) were protected in 2023 (refugee status or subsidiary protection). The average first-instance processing time for all procedures at OFPRA was 126 days in 2023, compared to 158 days in 2022. The average processing time for the CNDA was 6 months and 3 days. At the end of 2023, 36,917 of the asylum seekers were in a Dublin procedure (29,446 at the end of 2022) and 16,184 had been re-channelled in 2023 from a Dublin procedure registered before 2023 to a regular or accelerated procedure. In 2023, 3,191 persons were resettled according to the Ministry of Interior (see Statistics).

Asylum procedure

- **Access to the territory:** According to a report of the Court of Auditors published in January 2024, about 89,000 refusals of entry were notified at French borders in 2023 (including internal borders). Reports of people being refused entry without their protection needs being taken into account at the Italian border persisted in 2023. Since July 2023, a 'border force' has been implemented at the French-Italian border (reinforced in September 2023) to increase the number of police officers available in this area. In a report published in May 2023, several NGOs documented the increase of police resources at the French – Spanish border, illegal control practices and expeditious procedures which do not allow individual situations and the right to asylum to be taken into account. Following a CJEU decision of September 2023, the Council of State cancelled the article of law which allowed entry refusals to be made in all circumstances and without any distinction in the context of the reestablishment of internal border controls in a decision of February 2024. According to the UK authorities, attempts to cross the Channel to join the United Kingdom reached a number of 29,437 in 2023, compared to 45,774 persons in 2022 (– 36%).

- **Decisions 'by order', i.e. without a hearing, in appeal:** In 2023, the CNDA took 34,807 decisions in collegial function, down from 38,320 collegial decisions in 2022. It further took 31,550 single-judge decisions (i.e., 55% of total decisions) with 10,397 decisions following a hearing and 21,153 by order, compared to 18,390 in 2022 (10,432 following a hearing and 18,390 by order).

- **Dublin transfers to Italy:** Following the decision of the Italian government of December 2022 to suspend incoming transfer to its country, Administrative Courts and then Administrative Courts of Appeal generally concluded that there are systemic deficiencies in the country in order to overturn transfer decisions in 2023.

Reception conditions

- **Access to reception conditions:** The number of asylum seekers without material reception conditions is an increasingly important and worrying issue. Comparing the number of asylum applications pending at the end of 2023 according to Eurostat (146,175) and the number of asylum seekers benefitting from reception conditions at this date (102,196 persons in total at the

end of December 2023 according to OFII), this means more than 40,000 asylum seekers did not have reception conditions in France as of December 2023 (see Access and forms of reception conditions).

- **Access to accommodation:** At the end of 2023, 108,814 places in accommodation centres dedicated to asylum seekers were funded by the ministry of Interior. However, at the end of 2023, 18.6% of the places occupied in accommodation centres (excluding overseas and CAES) were occupied by individuals who were no longer authorised to occupy these places such as rejected asylum applicants or beneficiaries of international protection after the period of authorised presence. Moreover, 2.65% of the places were not occupied (e.g., due to works, delays in orientation etc.).
  In 2023, the number of asylum seekers accommodated remained far below the number of persons registering an application. At the end of the year, the Ministry of Interior stated that 59% of asylum seekers eligible to material reception conditions were effectively accommodated compared to 58% at the end of 2022. If we add asylum seekers who do not benefit from reception conditions, we can consider that about 85,000 asylum seekers were not accommodated in dedicated places in France (excluding overseas) as of the end of 2023 (see Housing).

- **Freedom of movement and national distribution of asylum seekers**: In 2021 and 2022, out of 48,230 people who were offered an orientation outside Ile-de-France (Paris region) based on national reception scheme established in 2021, 12,124 refused and 5,704 who accepted did not go to the designated accommodation, leading in total to a deprivation of reception conditions for 17,828 people. Data for 2023 is not available at the time of this report. In 2023, a new accommodation system with 500 places called 'SAS d'accueil' régionaux' has been set up to allow the accommodation of homeless people evacuated from Paris to other regions. It is not specifically dedicated to asylum seekers, however in practice, many asylum seekers are accommodated there (see Freedom of movement).

- **Accommodation – informal camps:** In 2023, 6,443 persons were evacuated from camps in Paris, and partially accommodated through operations carried out by the authorities. In Calais region, hundreds of migrants were still living in makeshift camps in the area throughout 2023. In 2023 (until December), 16,041 persons were evacuated, sometimes forcibly, by local and regional authorities. In Mayotte, hundreds of asylum seekers and refugees had set up camp at the Cavani stadium in Mamoudzou. 308 refugees were evacuated on February 25, 2024 to be transferred to the mainland, with 410 people remaining there (see Asylum seekers left without accommodation).

Detention of asylum seekers

- **Detention statistics**: In 2023, 798 third-country nationals lodged a first asylum application while already in administrative detention (see Detention).

- **Detention conditions**: At the beginning of summer 2023, the General Controller of places of deprivation of liberty (CGLPL) indicated, after having visited all places of detention in recent years, that the conditions, in the majority of cases, "seriously undermine the dignity and fundamental rights of those detained", which lead her to conclude that "there is an urgent need to profoundly modify the current approach to the care of foreigners placed in CRA" (see Detention conditions).

Content of international protection

- **Civil status:** As of 30 September 2023, the average waiting time for the establishment and issuance of civil status documents for BIPs was 14.5 months, following the trend of steady increase in recent years (10.3 months in 2022, 8 months in 2021), and around 60,000 people were waiting for this procedure to be concluded at the end of 2023. OFPRA reconstructed nearly 64,900 civil status documents in 2023, compared to 43,550 in 2022, but the number of

beneficiaries of international protection has also increased significantly in recent years. While waiting for this document, refugees cannot be issued their residence document and are simply given a document called "certificate of extension of instruction" (*Attestation de prolongation d'instruction*, API) by the prefectures which is not considered sufficient by many actors to access rights or services necessary for integration (bank account, housing, employment, etc.). In March 2024, however, an administrative court considered that it was not necessary to oblige OFPRA to reduce its deadlines because the provisional certificate of family composition issued by OFPRA and valid until the issuance civil status documents must, in principle, allow access to all social rights (see Residence permit).

- **Inclusion:** At the end of 2023, there were 10,655 places in temporary accommodation centres (*Centres provisoires d'hébergement*, CPH) dedicated to BIPs. The AGIR programme, launched in 2022 and that aims to provide global support for refugee integration concerning housing, employment and benefits, continued its deployment: 52 departments were to be covered by the end of 2023. As of 31 August 2023, 40 programmes were operational, making it possible to support more than 8,300 people. The programme should generalised to the entire national territory in 2024.

Temporary protection

The information given hereafter constitute a short summary of the 2023 Annex on Temporary Protection, for further information, see Annex on Temporary Protection.

- **Key temporary protection statistics:** in its 2023 preliminary statistics, the Government mentions 62,438 active temporary protection residence permits held by Ukrainians at the end of 2023. This figure *a priori* excludes children, since residence permits are only issued to adults. According to OFII, which is responsible for the distribution of the financial allowance, 64,622 beneficiaries of temporary protection (including children) benefitted from the dedicated financial assistance at the end of December 2023 (compared to 81,885 at the end of 2022). However, this figure only concerns those eligible for the financial allowance, and therefore excludes all those who now have sufficient resources. Furthermore, significant drops in the number of beneficiaries were noted during the renewal periods for residence permits for temporary protection (valid only for 6 months) - the OFII only pays the allowance to holders of these permits.
  Arrivals of Russian nationals are not monitored, however, as in 2022, first time asylum applications by Russian nationals increased significantly, rising up to 4,125 in 2023, compared to 2,600 in 2022 and 970 in 2021.

Temporary protection procedure

- **Registration and renewal of residence permit**: French legislation still foresees that the residence permit for temporary protection only lasts for and thus must be renewed every six months. According to information provided in Parliament, of the 39,952 temporary residence permits delivered between 1st March and 12th April 2022, 34,164 were renewed 6 months later, i.e., over 85%. However, there is no direct data available for renewals in 2023. Moreover, significant drops in the number of beneficiaries of the financial allowance for beneficiaries of temporary protection were noted during the renewal periods for residence permits for temporary protection.

Content of temporary protection

- **Access to asylum**: According to Eurostat, 3,430 asylum applications were registered by Ukrainians nationals in 2023, compared to 1,770 in 2022. According to the CNDA's 2023 activity report, the Court took 311 decisions on appeal regarding Ukrainian nationals asking for

international protection (118 in 2022). After examination, 177 decisions granted international protection (46 recognised refugee status, and 131 subsidiary protection).

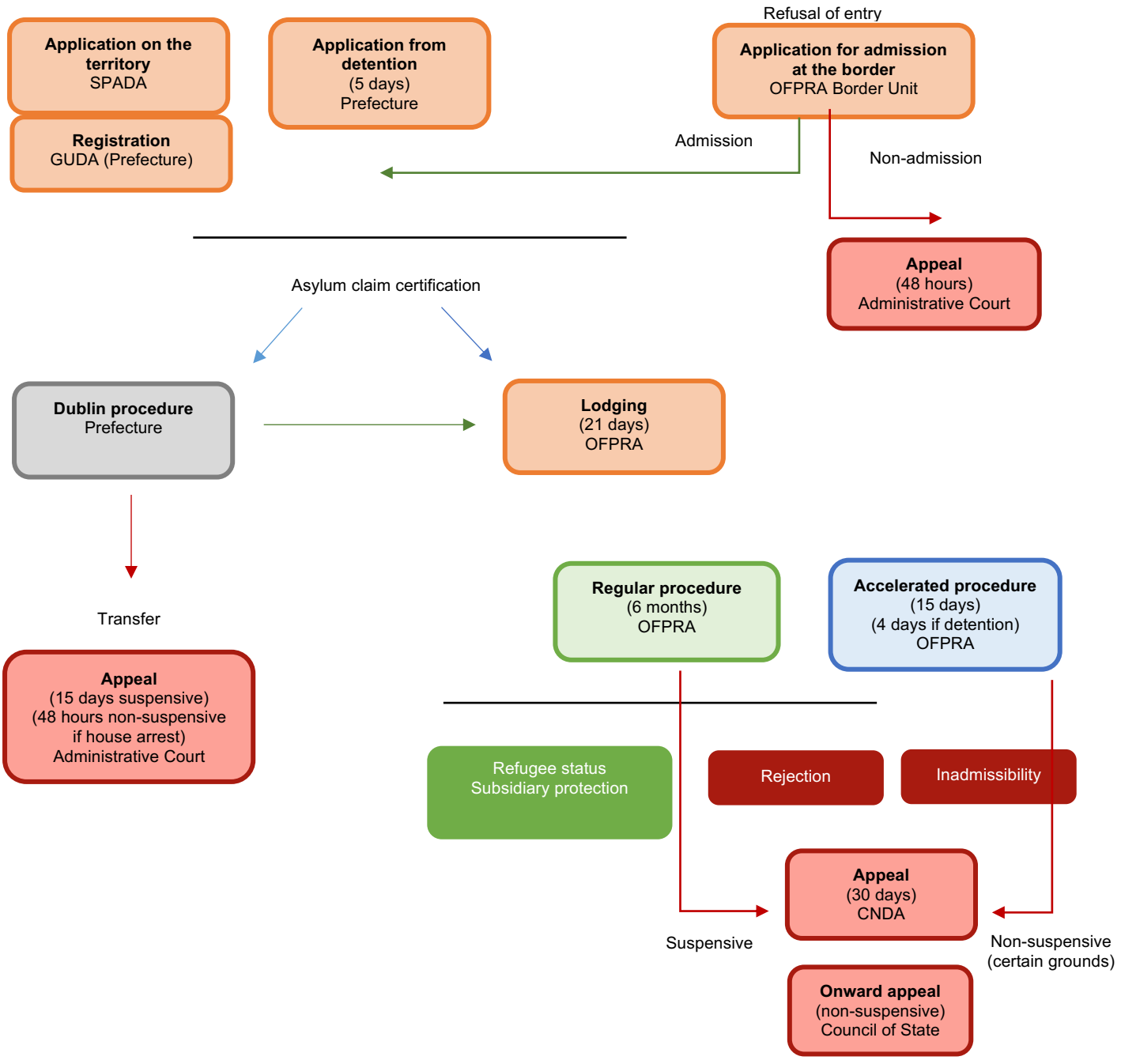
- **Housing**: to avoid using the accommodation scheme foreseen for asylum seekers, in 2022 the State thus set up a reception and support system specifically dedicated to the persons displaced from Ukraine. This collective accommodation park (holiday centres, hotels, etc.), financed in 2022 and 2023, was made up of 13,187 places at the end of 2023. In addition, there are about 10,000 people accommodated in so-called "citizen" accommodation. As of December 2023, 10,187 beneficiaries of temporary protection were staying in reception centres, as opposed to 28,000 in private accommodation. In 2022, the State decided to provide financial support to individuals having accommodated beneficiaries of temporary protection, under certain conditions. Nearly 3,000 households had benefited from this aid by the end of 2023.

- **Access to the labour market**: As of September 1, 2023, 17,438 people born in Ukraine had worked at least one hour in the previous month. Of these, 26% had done so in the hotel and restaurant sector. On the same date, there were 16,364 beneficiaries of temporary protection registered with the Unemployment Office (former Pôle Emploi, now France Travail). Among Ukrainians with access to the labour market (not specifically temporary protection beneficiaries), 44% were beneficiaries of a permanent contract, 47% of a fixed-term contract and 7% of a temporary contract.

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:	☒ Yes	☐ No
▪ Prioritised examination:[23]	☒ Yes	☐ No
▪ Fast-track processing:[24]	☒ Yes	☐ No
❖ Dublin procedure:	☒ Yes	☐ No
❖ Admissibility procedure:	☒ Yes	☐ No
❖ Border procedure:	☒ Yes	☐ No
❖ Accelerated procedure:[25]	☒ Yes	☐ No
❖ Other:	☐ Yes	☒ No

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 determining 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 determining authority?
French Office for the Protection of Refugees and Stateless Persons (OFPRA)	1,011	Ministry of Interior	☐ Yes ☒ No

Source: OFPRA.

23 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.531-10 Ceseda.

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

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

OFPRA has three essential missions: It mission to examine applications for international protection on the basis of the Geneva conventions of July 28, 1951, and New York of September 28, 1954, and the Ceseda. It also has a legal and administrative protection mission for statutory refugees, statutory stateless persons, and beneficiaries of subsidiary protection. It has as well an advisory mission within the framework of the asylum procedure at the border as it gives an opinion to the Minister of the Interior on the manifestly founded character or not of a request for authorization to enter French territory for asylum purposes It is an administrative body falling under the responsibility of the Ministry of Interior and its institutional independence is explicitly laid down in law, which means that it does not take instructions from the Ministry of Interior.[26] In 2023, the budget of OFPRA was set at € 103.5 million and the Office included 1,011 staff members at the end of the year.[27] The OFPRA website states that there are approx. 450 protection officers in charge of the examination of asylum applications.[28] The budget law for 2024 provides for a budget of €107,9 million (1,028 staff members).

As regards its internal structure, OFPRA has different units dealing with different procedures as well as different asylum applicants. This includes a unit entitled "asylum at the border". The asylum at the border unit only deals with applicants maintained in waiting zones. Applicants in detention centers (centres de retention administrative), in the process of removal from the French territory are assessed by geographical division, under an accelerated procedure (within 4 days). OFPRA also has five thematic groups ("*groupes de référents thématiques"*) each dealing with vulnerable applicants,[29] as will be explained further below. Thematic reference groups are not units as such. They are composed by agents belonging to geographical divisions, support divisions (COI and Legal Affairs) and the Protection Division.
The members are not in charge of assessing individual cases, but with advising, supporting, and training protection officers in charge of these cases. Geographical reference groups work the same way.
Another administrative arrangement visible in OFPRA relates to the units which are organised according to geographical criteria.[30]

Quality control and assurance

Following a 2013 action plan for the reform of OFPRA, an internal mechanism monitoring the quality of the decisions was put in place. It consists of an assessment of several sample cases. In addition, a "harmonisation committee", chaired by the Executive Director, was created to harmonise the *doctrine*. Its tasks include monitoring the jurisprudence of the CNDA.[31]

An agreement was signed in 2013 between OFPRA's Director General and the UNHCR Representative in France establishing a quality control mechanism and an evaluation grid with criteria regarding the three main stages of the examination of asylum cases: interview, assessment and decision. The objective is to consider useful measures to improve the quality of the decisions.

In this context, three evaluations were carried out by OFPRA and UNHCR in 2013, 2015 and 2017, based on representative samples of asylum decisions taken in 2013, 2014 and the first half of 2016 respectively. The results of the monitoring are available online.[32] Since then, there is no information as to whether another evaluation has been or will be conducted.

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26 Article L. 121-7 Ceseda.

27 *Budget law 2023, Annex on immigration, asylum, integration*, October 2022, available in French at: https://bit.ly/3XwtEOe.

28 OFPRA, 'Organisation – Les poles d'instruction', available in French at: http://bit.ly/41ags42.

29 OFPRA, 'Organisation – Les divisions d'appui', available in French at: http://bit.ly/3GJLhUW.

30 For further information, see OFPRA, 'Organisation – Les poles d'instruction', available in French at: http://bit.ly/41ags42.

31 See a description of the action plan for the reform of OFPRA, '2014 Activity report', 10 April 2015, available in French at: http://bit.ly/419s2MY, 54-55.

32 OFPRA, 'Contrôle qualité: premier exercice d'évaluation', September 2014, available in French at : https://bit.ly/47yPqq6; 'Contrôle qualité: deuxième exercice d'évaluation', May 2016, available online at : https://bit.ly/3SCng99; 'Contrôle qualité: troisième exercice d'évaluation', November 2018 (no longer online as of March 2023).

The latest report published in November 2018 contained mostly positive conclusions concerning interviews and decision-making at OFPRA. However, it also highlighted important shortcomings.[33]

Taking into account the results of these quality controls, regular trainings are provided to caseworkers, in particular regarding the interview, the assessment of proof and supportive documents and the reasoning of decisions taken. Trainings are provided in-house by OFPRA as well as a by the EUAA.[34]
In 2023, OFPRA reviewed its quality assurance processes in order to improve and broaden them. They are due to be applied from 2024, still in cooperation with UNHCR.[35]

In October 2023, about 200 OFPRA agents went on strike to oppose the figures policy aimed at shortening processing times to the detriment of the quality of instruction.[36]

Role of the Council of State in status determination

When the administration (OFPRA) rejects an asylum claim, a protection can be attributed in appeal by National court on asylum right (*Cour nationale du droit d'asile* – CNDA) which proceed to a new examination of the merits on the situation. If asylum claim is also rejected by CNDA, the applicant can refer the matter to the Council of State. However, this jurisdiction examines only if procedural guarantees and legal framework has been respected but it does not go back over the facts taken into account by CNDA. They can decide to send the case back to the CNDA or attribute himself a protection status.

However, outside of asylum proceedings and especially in expulsion proceedings when examining refoulement, the Council of State considers it may pronounce someone is a refugee or a beneficiary of subsidiary protection, although this does officially grant the status and rights attached, nor is it binding before the actual asylum authorities.[37]

5. Short overview of the asylum procedure

An asylum application in France may be made:

- On French territory;
- At the border, in case the asylum seeker does not have valid travel documents to enter the territory, including when they are placed in a waiting zone. In this case the person makes an application for admission to the territory on asylum grounds. If their request is granted, they will make a formal asylum application once they have formally entered, as in the first scenario;
- From an administrative detention centre, in case the person is already being detained for the purpose of removal.

Registration and lodging: In order to lodge an asylum application on French territory, asylum seekers must first present themselves to the locally competent orientation platform (*Structure de premier accueil pour demandeurs d'asile*, SPADA) whose task is to centralise intentions to apply for asylum and to give asylum seekers appointments to the "single desk" (*guichet unique pour demandeur d'asile*, GUDA) of the Prefecture. At the single desk their asylum claim is registered and they are granted an asylum claim

33 For further details see AIDA, *Country Report: France – 2021 Update*, April 2022, available at: https://bit.ly/407wxpU.

34 The last call for competition (public contract) for the provision of training for OFPRA agents was published in October 2023. Available in French at: https://bit.ly/3PxNszu.

35 Information received from OFPRA on 16 May 2024

36 Le Monde, 'Droit d'asile : les agents de l'Ofpra appelés à faire grève contre la « politique du chiffre »', 26 October 2023, available in French at: https://bit.ly/3IScUff.

37 Council of State, 9 November 1966, No. 58903, available in French at: https://bit.ly/426fC8T; Council of State, 30 December 2011, No. 347624, available in French at: https://bit.ly/3nv29sq; Council of State, 30 January 2017, No. 394173, available in French at: https://bit.ly/3NEMe5j.

certificate.[38] This certificate is their temporary residence permit. Intentions to lodge expressed before other authorities have no effect under French law despite EU law on the matter. On a general basis, under the French law, civil servants have the obligation to orient the person to the relevant organization when they are not competent to deal with a request.[39] In this case, the French authorities should orient asylum seekers to SPADA.The certificate does not allow asylum seekers to travel to other Member States.

If this certificate is delivered, the person enters into the asylum procedure and has to complete their application form in French and send it to OFPRA within a 21-calendar day period (i.e., lodge their asylum application), whether they are under regular or accelerated procedures.

Asylum seekers under a Dublin procedure also receive an asylum claim certificate but which specifies that they are under a Dublin transfer procedure. It serves as temporary residence permit until their transfer. As such, they are not allowed to lodge their application with OFPRA.

The certificate is not delivered to asylum seekers who register a claim at the border or from a detention centre. In addition, the Prefecture may refuse to grant an asylum claim certificate for two reasons, thus in practice banning the foreign national from remaining on French territory as they then do not have a temporary residence permit:[40]

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

First instance procedure: This includes several different procedures. The placement under an accelerated procedure does not imply a refusal to grant an asylum claim certificate. There are different grounds for channelling a claim under the accelerated procedure. In particular, OFPRA has to process asylum claims under the accelerated procedure where the applicant: (a) comes from a safe country of origin; or (b) lodges a subsequent application which is not inadmissible. Accelerated procedure implies a shorter procedure before OFPRA and CNDA, end of the right to stay in the country after first instance decision (except if it is allowed by a judge) and reduced procedural guarantees at appeal stage (see Accelerated Procedure). The Prefecture also channels asylum claims under the accelerated procedure in several cases provided by law.

An accelerated procedure entails that the person has 21 calendar days to lodge their application with OFPRA and that the latter has, in theory, 15 days to examine and decide on the case. The deadlines are even more limited for both for 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. However, following the 2018 reform, the law provides for the termination of reception conditions for certain categories of asylum seekers whose claims are rejected at first instance in the accelerated procedure, before their appeal. Under normal procedure, asylum seekers still have 21 calendar days to lodge their application but OFPRA has 6 months to examine and decide on their case.

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 prevents them from attending the interview. All personal interviews are conducted by OFPRA. Asylum seekers can be accompanied to their interview by a third person (e.g. a 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

38 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.
39 Notably, regarding the OFII, police or prison authorities, article R.521.4 Ceseda.
40 Article L.521-7 Ceseda.

and potential third person have been heard, the caseworker writes an account and a draft decision. The caseworker's decision must be signed and validated by the Head of section, but in practice around one-third of caseworkers, who have significant professional experience, are allowed to sign off on their own decisions.

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 OFPRA's 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 notification of the CNDA decision. The Council of State does not review the facts of the case, but only examines points of law such as compliance with procedural rules 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 Asylum at the Border Unit 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 manifestly unfounded. The concept of "manifestly unfounded" claims 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 SPADA to obtain an appointment at the single desk. The Prefecture will examine whether to grant the person an asylum claim certificate 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 to be 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 locally competent Administrative Court within a 48-hour deadline. If this appeal fails, the foreigner can be expelled from the country.

Linking asylum and return: When the rejection of an asylum claim is definitive, a separate return decision is notified by the prefecture. This link is not automatic and sometimes it can take many days or weeks before the notification of the return decision.

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
2. Is there a border monitoring system in place?	☐ Yes ☒ No
3. Who is responsible for border monitoring?	☐ National authorities ☐ NGOs ☐ Other
4. How often is border monitoring carried out?	☐ Frequently ☐ Rarely ☐ Never

Land and air borders

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 from removal for 24 hours.[41] 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 since September 2018, in accordance with the modifications adopted through the 2018 reform.[42]

Overseas France: The jour franc also does not apply to refusals of entry issued in **Mayotte** since September 2018, in accordance with the modifications adopted through the 2018 reform.[43] It does apply in all other French overseas territories for non-land borders.

As regards external borders, in 2022 Eurostat statistics reported 9,180 third country nationals refused entry, including 2,140 at a land border, 1,235 at a sea border, and 5,085 at an air border.[44] For the first 11 months of 2022, amongst 7,988 refusals of entry at external borders 6,244 persons have been maintained in waiting zones and 5,567 have been returned.[45]

In 2021, the Ministry of Interior communicated the following data on refusals of entry at the land border: 94,692 decisions were notified during 2021, mainly at the French-Italian border.[46] In the first 10 months of 2022, 72,581 such decisions were issued at the border with Italy (40,274), Spain (16,988), Belgium (10,761) and Switzerland (4,558).[47] According to a report of the Court of Auditors published in January 2024, about 89,000 refusals of entry have been notified at French borders in 2023.[48]

41 Article L. 333-2 Ceseda.

42 Article L. 361-4 Ceseda. 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.

43 Article L. 361-4 Ceseda. 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.

44 Eurostat, [migr_eirfs], available at: https://bit.ly/3xCejEu.

45 'Loi pour une immigration contrôlée, une intégration réussie, Etude d'impact', 31 January 2023, available in French at: https://bit.ly/4a9bAAJ, 333.

46 Annual meeting between the ministry of Interior and NGOs on the management of waiting zones, November 2022 – reported by La Cimade and ANAFE. Map of refusal of entries in 2021 provided by La Cimade, available in French at: https://bit.ly/3Ea43DG.

47 Ministry of Interior, Débat au Parlement sur l'immigration en France, Press kit, 6 December 2022, available in French at: https://bit.ly/3IpLQmW.

48 Court of Auditors, 'La politique de lutte contre l'immigration irrégulière', 4 January 2024, available in French at : https://bit.ly/4a9jA4E.

In December 2019, several NGOs requested a parliamentary commission with the aim to investigate violations of the law at the border.[49] The issues reported by these NGOs include violent practices, pushbacks, the absence of medical and social care as well as a lack of support to vulnerable applicants including unaccompanied minors. The setting up of a parliamentary commission had already been requested by several French Deputies in November 2019.[50] A parliamentary commission on migration – not limited to border issues – was launched in April 2021 and published a report in November 2021.[51] This report recalls that 'the violations of rights at our borders have been abundantly documented and denounced' and 'it's time to put an end to it'.

Since 2015, the French police has intensified border controls which aim to prevent asylum seekers from accessing France. Despite the fact that the reintroduction of border controls at the internal borders must be applied as a last resort measure, in exceptional situations, and must respect the principle of proportionality, France has regularly re-introduced border controls at its internal borders in recent years, including continuously since 2015. The current temporary border control is valid from 1 November 2023 to 30 April 2024 and justified by 'new terrorist threats and external borders situation; internal borders'[52] Moreover, the Council of State validated in October 2019 a temporary border control decision that had been taken in 2018.[53] The Council of State considered that this measure, which is based on '"current events and the high level of the terrorist threat prevailing in France"', leads to a limitation of the freedom of movement that is proportionate to the aim pursued. The decision reintroducing border controls was challenged by NGOs again in 2022, following the CJEU decision on this issue (26 April 2022, C-368/20 and C-369/20).[54] However, the Council of State validated the measure in July 2022, considering that the threat was renewed (despite the CJUE requiring a new threat).[55]

In a decision issued in November 2020, the Council of State indicated that European law does not allow for issuing a refusal of entry to a foreigner arrested while crossing an internal border or close to it, nor does it automatically deprive an asylum seeker from reception conditions i.e. accommodation. The rules from the Return directive must apply.[56] However, in a decision issued in April 2021, the Council of State made a distinction between people arrested after crossing the border, who must be subject to the Return Directive (case law of November 2020), and those who are arrested before crossing the border for whom the refusal of entry is considered compatible with European law.[57]

Following a request from NGOs, the Council of State has requested a preliminary ruling to CJEU about the legal framework applicable in this situation. CJEU stated in September 2023 that where a Member State has reintroduced controls at its internal borders, it may adopt, in respect of a third-country national who presents himself or herself at an authorized border crossing point situated on its territory and where such controls are carried out, a decision refusing entry, provided that the common standards and procedures laid down in the Return directive are applied to that national with a view to his or her removal.[58]

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49 Amnesty International France, La Cimade, Médecins du Monde, Médecins sans Frontières, Secours Catholique-Caritas France, Anafé, MRAP, Syndicat des avocats de France, 'Nous demandons une commission d'enquête parlementaire pour le respect des droits des personnes exilées à nos frontières', 3 December 2019, available in French at: https://bit.ly/2FS8Vix.

50 Assemblée nationale, 'Proposition de résolution nº 2394 tendant à la création d'une commission d'enquête sur la violation des droits humains aux frontières françaises', available in French at: https://bit.ly/3cj0fD4.

51 Assemblée nationale, Rapport de la commission d'enquête sur les migrations, les déplacements de populations et les conditions de vie et d'accès au droit des migrants, réfugiés et apatrides en regard des engagements nationaux, européens et internationaux de la France, 10 November 2021, available in French at: https://bit.ly/34aftsC.

52 European Commission, 'Member States' notifications of the temporary reintroduction of border control at internal borders pursuant to Article 25 et seq. of the Schengen Borders Code', available at: https://bit.ly/40dSdRT.

53 Council of State, 16 October 2019, available in French at: https://bit.ly/2wHgW8p.

54 CJEU, Joined cases C-368/20 and C-369/20, 26 April 2022, available at: http://bit.ly/3o41xd2.

55 Council of State, Decision No 463850, 27 July 2022, available in French at: https://bit.ly/3I3BERa.

56 Council of State, Decision No. 428178, 27 November 2020, available in French at: https://bit.ly/3ac7REC.

57 Council of State, Decision No. 450879, 23 April 2021, available in French at: https://bit.ly/34sw8Hv.

58 CJEU, Case C-143/22, ADDE and Others, 21 September 2023, available at : https://bit.ly/3vgVWUZ.

In February 2024, the Council of State cancelled the article of law which allowed entry refusals to be made in all circumstances and without any distinction in the context of the reestablishment of internal border controls.[59] The Council notes that the provisions of Ceseda relating to withholding and retention are particularly applicable to them, which provide a framework and minimum guarantees. Finally, he recalls the obligation to respect the right to asylum. It is up to the legislator to define the rules applicable to the situation of people whom the police services intend to send back to a member state of the Schengen area with which France has concluded a readmission agreement – among others, Italy and Spain.

It should be further noted that France has signed around 40 cooperation agreements with other countries, including readmission agreements with European countries such as Kosovo, Serbia, Switzerland, Italy, Lithuania, Estonia, Hungary, Latvia.[60] These agreements should not impact the right to ask for asylum but are often interpreted in practice as taking precedence over all other considerations, especially at the Italian land border.[61]

1.1. Access at the UK land and sea borders

According to the UK authorities, attempts to cross the Channel to join the United Kingdom reached a number of 29,437 in 2023,[62] compared to 45,774 persons in 2022 (– 36%) and 28,526 in 2021 (three times more than the number reported in 2020).[63] Regarding the people who arrived during the first three quarters of 2023 (24,833 persons), 71% came from only 7 countries: Afghanistan (19.5%), Iran (10.5%), Türkiye (10.1%), Eritrea (9.7%), Iraq (8.2%), Syria (7.2%), Sudan (5.8%).[64]

According to French authorities, 35,800 persons were detected trying to cross the Channel in 2022 (compared to 51,786 in 2022, 35,382 in 2021, 9,551 in 2020 and 2,294 in 2019). [65] Similarly, the number of migrants rescued at sea decreased to 6,450 persons, compared to 8,323 in 2022, 8,609 in 2021 and 2,036 in 2020. In 2023, at least 12 persons died (5 persons in 2022, 31 persons in 2021) and 4 missing at sea trying to join the United Kingdom. Analysis shows that, like the previous year,[66] the majority of people in small boats crossing the Channel are refugees: according to the british NGO Refugee Council, nearly three quarters (74%) of Channel crossings so far in 2023 are refugees who would be granted asylum if claims were processed.[67]

On September 7, 2023, the prefects of Nord, Pas-de-Calais and Somme adopted an interdepartmental decree authorizing the use of cameras installed on board aircraft in the context of measures against illegal immigration. For 3 months, it allows the use of 76 cameras on board drones, planes and helicopters to monitor a wide coastal strip of 5 km extending over 150 km. The legality of this order is based on a 2022 law allowing border surveillance by cameras, a practice which has developed at other points of entry from May 2023.[68]

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59 Council of State, Decision No.450285, 2 february 2024, available in French at : https://bit.ly/3vqNLFv.

60 GISTI, 'Accords bilatéraux', available in French at: https://bit.ly/3tCVLQb.

61 Practice-informed observation by Forum-Réfugiés, including feedback from other NGOs, January 2023.

62 The Guardian, 'Channel crossings: 45,756 people came to UK in small boats in 2022', 1st January 2023, available at: https://bit.ly/3ka44AK.

63 BBC News, 'Channel migrants: Crossings fell in 2023, government figures show', 1st January 2024, available at: https://bit.ly/4cuvsQs.

64 Migration Watch UK, 'Channel crossing tracker' (online database), available at: https://bit.ly/3ISf2DL.

65 Préfet maritime de la Manche et de la Mer du Nord, 'Bilan opérationnel de la préfecture maritime manche et mer du nord 2023', 2 February 2024, available in French at: https://bit.ly/3vgWni5.

66 Refugee Council, 'Majority of people in small boats crossing Channel last year are refugees', 31 January 2023, available at: https://bit.ly/3xNyCf3.

67 Refugee Council, 'Almost three quarters of those crossing the Channel would be allowed to stay in the UK as refugees', 2 October 2023, available at : https://bit.ly/4auiAI8.

68 Gisti, 'Contrôles frontaliers : l'ère des drones', October 2023, available in French at: https://bit.ly/3PzPorj.

In November 2022, a new agreement was signed between the UK and France related to Channel crossings[69] following many others bilateral agreements signed since 2014.[70] Moreover, on 27 April 2022, the Nationality and Border Bill became an Act of law in the UK. As mentioned by the British NGO Refugee Council, the provisions of the Act relating to refugees and the asylum system focus heavily on penalising refugees who travel to the UK through 'irregular' means.[71] In addition, the UK government is pursuing its idea of implementing an agreement with Rwanda to externalise asylum process of people arriving illegally in UK.[72] For detailed information, please see AIDA, Country Report: United Kingdom – Update on the year 2023.

1.2. Access at the Italian land border

Reports of people being refused entry without their protection needs being taken into account at the Italian border persisted in 2023.[73] In July 2020, the Council of State highlighted to the French Government its legal obligations regarding asylum at the border.[74] The Council of State concluded that by refusing entry onto the territory the authorities had manifestly infringed the right to asylum of the applicants. In a joint statement, six NGOs welcomed the ruling, condemning the fact that these illegal practices are systematically being carried out by the police. The NGOs also urged the Ministry of the Interior to issue public instructions to the border police so that people wishing to seek international protection in France can do so at the French-Italian border as well.[75]

A network of researchers focusing on the Italian land border was also established in 2018 to raise awareness on the issue and to establish a dialogue with civil society.[76] Illegal police operations at the border have been extended from the **Menton** and **Nice** areas 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 through the mountains. By way of illustration, the Italian organisation Doctors for Human Rights (MEDU) denounced at the beginning of 2021 the critical situation of migrants who attempt to reach France from Italy through the Alpine border, highlighting *inter alia* that snow and freezing winter temperatures make the journey through the mountains particularly dangerous.[77] According to local NGOs, at least 40 persons died from 2015 to 2023 at the south French-Italian border.[78]

Figures on the number of apprehended persons and refusals of entry at the Italian border are not fully available for 2023 at the time of writing of this report. At the south border, in the department of Alpes Maritimes (mainly at border point in Menton), authorities have recorded 44,100 arrests of people trying to enter irregularly in France (a same person can be arrested multiple times), an increase of 10,6%

69 AFP, 'France, UK sign new deal on thwarting migrant Channel crossings', 14 November 2022, available at: https://bit.ly/3YCGpYL.

70 House of Commons Library, 'Irregular migration: A timeline of UK French co-operation', 16 December 2022, available at: https://bit.ly/3I5J46f.

71 Refugee Council, 'What is the Nationality and Refugee Act?', available at: http://bit.ly/3A152nw.

72 BBC, 'What is the UK's plan to send asylum seekers to Rwanda?', 16 January 2023, available at: https://bbc.in/3KtqmZ6.

73 For example, see Infomigrants, '"La police française m'a fait descendre du train": à Menton, à la frontière italienne, les refoulements s'intensifient', 28 September 2023, available in French at: https://bit.ly/3PRGbuB; Infomigrants, 'Les refoulements "sans discernement" de la France vers l'Italie se poursuivent, selon MSF', 07 August 2023, available in French at: https://bit.ly/4aI9SGq.

74 Council of State, Decision No. 440756, 8 July 2020, available in French at: https://bit.ly/3acd5QQ.

75 Amnesty International and others, 'La France viole le droit d'asile à la frontière italienne', 10 July 2020, available in French at: https://bit.ly/2JWsIIM.

76 See official website available in French at: https://bit.ly/43wRn5m.

77 InfoMigrants, 'Italy-France border situation 'serious', says medical rights group MEDU', 3 November 2021, available at: https://bit.ly/3TxLErB. See also, La Croix, 'A la frontière franco-italienne, un périlleux "jeu du chat et de la souris"', 12 December 2023, available in French at : https://bit.ly/4anNamK; InfoMigrants, 'France : un jeune migrant retrouvé mort dans une rivière des Hautes-Alpes', 31st of October 2023, available in French at: https://bit.ly/3TNP4rs; ECRE, 'France: Evictions Continue amid Winter Emergency while Council of State Allows Preventing Media Access', 12 February 2021, available at: https://bit.ly/3jRTbip.

78 Roya Citoyenne, 'Frontiere de tous les dangers: la fermeture des frontieres tue ! – Les décès depuis 2015', 15 February 2023, available in French at: https://bit.ly/4cxrSFm.

compared to 2022 (about 40,000 persons arrested this year, 26,000 in 2021, 17,000 in 2020 and 16,000 in 2019).[79] 33,429 returns have been implemented at this border. At the north border, in the border point of Montgenevre located in the department of Hautes Alpes, 6,100 persons have been arrested in 2023 (compared to 4,111 in 2022):[80] 4,600 have been returned to Italy and 1,200 minors have been protected by social services in France.[81]

Since July 2023, a 'border force' has been implemented at the French-Italian border (reinforced in September 2023) to increase the number of police officers available in this area.[82]

Racial profiling by the Border Police and other police forces deployed in the region of **Hautes-Alpes** has been reported,[83] whereby illegal return decisions are annulled by the courts.[84]
Moreover, 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.

Media reports documented incidents of unaccompanied children being refused entry by police authorities and directed back towards the Italian border.[85] The Italian Minister of Interior also accused France of such practices back in October 2018. In 2020, French Administrative courts regularly condemned the Prefecture for its illegal practices at the border violating the rights of the children.[86] Several NGOs further published a report in October 2020 on the illegal practices of the French authorities in this regard, which seem to be applied at several borders.[87] In a report published in May 2021, Human Rights Watch stated that 'French police summarily expel dozens of unaccompanied children to Italy each month in violation of French and international law'.[88] In August 2023, NGOs denounced deprivation of liberty (68 minors were detained at the border on 21st August 2023), illegal pushbacks and lack of support of unaccompanied minors in this area.[89]

79 Le Figaro, 'Immigration : dans les Alpes-Maritimes, plus de 44,000 interpellations à la frontière franco-italienne en 2023', 02 February 2024, available in French at : https://bit.ly/4cJBYDd.

80 Le Dauphiné, '« Aucun mur n'est infranchissable » : une force frontière inefficace ?', 28 January 2024, available in French at : https://bit.ly/3Trtyay.

81 Le Point, 'A la frontière franco-italienne, un périlleux "jeu du chat et de la souris"', 12 December 2023, available in French at : https://bit.ly/4cuxtw0.

82 Gerald Darmanin, ministry of Interior, post on X (ex-Twitter), 12 September 2023: https://bit.ly/3Tppd7C.

83 Tour migrants, 'Pratiques policières du contrôle de la frontière : Un an de refoulements (pushbacks) et de déni de droits à la frontière franco-italienne dans le Briançonnais', 18 January 2023, available in French at : https://bit.ly/3TPOQjp.

84 Street Press, 'Dans les Alpes, la police abuse de son pouvoir pour expulser les exilés', 14 February 2024, available in French at : https://bit.ly/43OdLaN.

85 la Republica, '"Migranti prigionieri per ore", nuovo caso al confine francese', 17 July 2019, available in Italian at: https://bit.ly/2Urx8Vh; News Deeply, 'Dodging death along the Alpine passage', 25 January 2018, available at: https://bit.ly/2H99SDP; France Culture, 'Quand les mineurs africains sont abandonnés dans la montagne', 17 November 2017,available in French at: https://bit.ly/3bar89f.

86 See e.g., Administrative Court of Nice, Orders No. 2000856, 2000858, 24 February 2020, available in French at: https://bit.ly/3A2fgUB; Administrative Court of Nice, Orders No. 2000570, 2000571 2000572, 7 February 2020.

87 Amnesty International and others, 'Les manquements des autorités françaises aux devoirs élémentaires de respecter, protéger et mettre en œuvre les droits des mineur.e.s isolé.e.s étranger.e.s en danger aux frontières intérieures terrestres de la France (frontières franco-italienne, franco-espagnole et franco-britannique)', October 2020, available in French at: https://bit.ly/3acF5Um.

88 Human Rights Watch, 'France: police expelling migrant children', May 2021, available at: https://bit.ly/3iEsDlb.

89 France Bleu, 'Migrants : des associations dénoncent les "traitements inadmissibles" des mineurs dans les Alpes-Maritimes', 26 August 2023, available in French at : https://bit.ly/43uYN9p.

Despite strong condemnations by monitoring bodies,[90] civil society organisations,[91] as well as court rulings condemning Prefectures for failing to register the asylum applications of people entering through Italy,[92] practice and official stances remain unchanged. In the report quoted above, ANAFE continued to note in 2022 an 'unashamed violation of the right of asylum'.[93] In August 2023, Médecins sans Frontières published a report highlighting that 'people on the move face violence and pushbacks at the Italian-French border.'[94]

The situation could change following the important decision of the Council of State of 2nd February 2024 (see *supra*): however in the two weeks following the decision, only 23 asylum claims had been registered at the south French-Italian border.[95]

Detention

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 organisations.[96] 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.[97] In October 2019, a French Member of European Parliament was refused access to the police station in **Menton** as it is not considered formally as a place of detention.[98] In a report on detention conditions in the context of immigration in France, published in March 2020, the European committee for the prevention of torture (CPT) reported that the material conditions in the premises in **Menton** were extremely poor and could jeopardise the right to human dignity of the people placed there. The Committee expressed serious doubts on whether people who are refused entry to the territory are able to know, understand and exercise their rights.[99] This practice continues as of 2023 as local organisations regularly observe. In addition to existing detention premises, authorities have announced in September 2023 the possibility to create 100 new places to maintain people during controls but it seems that this project has not been implemented.[100]

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90 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/41tSsZv.

91 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/3A1nkEU.

92 See e.g., Council of State, Decision No. 440756, 8 July 2020, available in French at: https://bit.ly/43s4Dbb; 20 Minutes, 'Nice : La préfecture à nouveau épinglée pour des violations du droit d'asile à la frontière franco-italienne', 3 March 2020, available in French at: https://bit.ly/39p6CTI; Administrative Court of Marseille, Order No. 1901068, 18 March 2019; Administrative Court of Nice, Order No. 1701211, 31 March 2017; Order No. 1800195, 22 January 2018; Order No. 1801843, 2 May 2018.

93 ANAFE, 'À l'abri des regards - L'enfermement ex frame à la frontière franco-italienne', September 2022, available in French at: https://bit.ly/3Is7RS4.

94 MSF, 'Denied Passage : The struggle of people stranded at the Italian-French border', 4 August 2023, available at : https://bit.ly/3IXOBwF.

95 Le Figaro, 'Immigration : Ciotti alerte Darmanin sur la décision du Conseil d'État de limiter les «refus d'entrée»', 16 February 2024, available in French at : https://bit.ly/43x4d3v.

96 ECRE, 'Access to asylum and detention at France's borders', June 2018, available at: https://bit.ly/2JaRrSu, 18-19.

97 Council of State, Order No 411575, 5 July 2017, available in French at: https://bit.ly/3msP3vj.

98 Francetvinfo, 'Migrants : Manon Aubry interdite d'accès au centre d'accueil de la police aux frontières de Menton', 31 October 2019, available in French at: https://bit.ly/2RjtmKq.

99 Council of Europe, CPT, 'Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 23 au 30 novembre 2018', 24 March 2020, available in French at: https://bit.ly/39rfnJw.

100 20 Minutes, 'Bientôt un centre pour migrants à Menton ? « Nous allons armer des espaces en plus pour la PAF », rectifie le préfet', 18 September 2023, available in French at : https://bit.ly/3TPLfSq.

On 10 December 2020, the administrative court of Marseille suspended the decision of the Prefect prohibiting NGO access to the place where migrants are detained at the border in **Hautes-Alpes**.[101] A similar decision was issued by the administrative court of Nice on 30 November 2020 regarding access to the police station in **Menton**.[102] In 2021, the prefects of Alpes-Maritime and Hautes-Alpes again issued new decisions denying the access to NGO's, but the administrative courts of Nice (4 March 2021) and Marseille (16 March 2021), and then the Council of State (23 April 2021), confirmed the illegality of these decisions.[103] However, the Council of State refused the main request, which was the closure of these places of detention. In a similar decision published in September 2022, the administrative court of Grenoble ordered the administration to authorise access to the detention center in the Fréjus tunnel but did not order the closure of this place.[104] The administration complied with the decision.

In a report published in September 2022, the NGO Anafe described the main places of detention at French-Italian border (Menton Garavan, Menton Pont Saint Louis, Montgenèvre, Frejus) and confirmed that many violations of fundamantal rights have been observed there.[105]

A preliminary inquiry into unlawful police practices in **Menton** was launched in February 2019,[106] but was still pending at the beginning of 2022. In July 2019, several NGOs sent documented requests to the Prosecutor in Nice and to the Special rapporteur on the human rights of the migrants in order to cease violations of fundamental rights at the French-Italian border.[107]

Restrictions and criminalisation of humanitarian assistance

Local habitants support asylum seekers at the border *inter alia* by rescuing them on the mountain, but the increased restrictions on access to the territory have been coupled with criminalisation of humanitarian assistance. Several persons helping migrants have been prosecuted and ultimately convicted by French courts. Although Cedric Herroux's sentence was deemed unconstitutional for violating the fraternity principle and quashed,[108] convictions continue to be delivered in other cases.[109] On 26 February 2020, the Court of Cassation further held that the protection of acts of solidarity is not limited to individual and personal actions but also extends to a militant action carried out within an association.[110] Consequently, another conviction of Cedric Herroux was quashed by the Court of appeal of Lyon in May 2020.[111] As reported by a Member of the European Parliament, Damien Carême, actions of volunteers trying to help migrants at the border were still being hindered by the police in the beginning of 2021.[112]

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101 Le Monde, 'Frontière franco-italienne : l'interdiction faite aux ONG d'assister les migrants suspendue par la justice', 17 December 2020, available in French at: https://bit.ly/39okCgi.

102 Anafe, 'Refus d'assistance médicale et juridique aux personnes exilées enfermées à la frontière franco-italienne : le tribunal administratif de Nice sanctionne l'Etat', 1 December 2020, available in French at: https://bit.ly/3GCxLj6.

103 Ligue des droits de l'homme, 'Locaux de la PAF : le Conseil d'État rejette la demande de fermeture des locaux', April 2021, available in French at: https://bit.ly/3HKPxCs.

104 Administrative Court of Grenoble, Order No. 2205652, 22 September 2022, available in French at: https://bit.ly/3zXFxTN.

105 ANAFE, 'À l'abri des regards - L'enfermement ex frame à la frontière franco-italienne', September 2022. Available in French at: https://bit.ly/3Is7RS4.

106 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: http://bit.ly/3KZwRTn.

107 Médecins du Monde, 'Atteintes aux droits à la frontière franco-italienne', 16 July 2019, available in French at: http://bit.ly/3UEec2s.

108 For further information, see AIDA, *Country Report: France – 2021 Update*, April 2022, available at: https://bit.ly/407wxpU, 30.

109 See e.g. La Croix, 'Le délit de solidarité est toujours sanctionné', 15 January 2020, available in French at: https://bit.ly/35UplBq ; Anafé et al, 'Les 7 de Briançon lourdement condamné·e·s par le tribunal de Gap', 13 December 2018, available in French at: http://bit.ly/3mzOTCd.

110 Court of Cassation, Decision 19-81.561, 26 February 2020, available in French at: http://bit.ly/41v9tCr.

111 Le Monde, 'Symbole de l'aide aux migrants, Cédric Herrou relaxé par la cour d'appel de Lyon', 13 May 2020, available in French at: https://bit.ly/3ohlBmM.

112 Damien Carême, 'Le harcèlement, lors des maraudes, à la frontière avec l'Italie doit cesser !' 19 January 2021, available in French at: https://bit.ly/36gPKfS.

1.3. Access at the Spanish land border

The French-Spanish land border is the longest land border of the mainland country (623 km) and as Spain is one of the most important gateway to Europe, many migrants enter in France through this border. Spanish media have reported that migrants are pushed back from France to Spain without appropriate guarantees, in procedures lasting less than 20 minutes.[113] 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.[114] In February 2021, the border police illegally returned a 16-years old unaccompanied child from **Bayonne** (France) to **Irun** (Spain). The NGOs which reported the incident indicated that these illegal practices are recurrent and recalled that the authorities must consider the best interest of the child, in accordance with the United Nations Convention on the Rights of the Child.[115]

Civil society organisations have denounced what appears to be a practice mirroring the methods of the Border Police on the Italian border.[116] *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."[117] Local authorities in **Bayonne** have also criticised current practice vis-à-vis migrants arriving from Spain.[118] According to the Fundamental Rights Agency (FRA) of the EU, intensified police checks implemented since the beginning of 2021, with the deployment of 1,200 to 1,600 police officers each week, led migrants to take more risks.

In a report published in May 2023, several NGOs documented the increase of police resources at the border, illegal control practices and expeditious procedures which do not allow individual situations and the right to asylum to be taken into account. In 2021 and 2022, authors of this report identified 12 deaths of migrants at this border.[119] For instance, a migrant died in June 2022 when trying to enter France by crossing the Bidasoa River which marks the French–Spanish border, the press reported.[120] Illegal practices at the border have continued in 2023, as shown for example in a TV report broadcast in April 2023.[121]

In June 2023, authorities adopted a bylaw authorising the use of drones for border controls but they ultimately withdrew the text following its challenge before administrative justice.[122]

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

114 Ibid.

115 ANAFE, 'L'Etat français renvoie illégalement un enfant à la frontière franco-espagnole', 10 February 2021, available in French at: https://bit.ly/3aXP1l0.

116 MSF, 'Migrants trapped in relentless cycle of rejection on French-Spanish border', 6 February 2019, available at: http://bit.ly/3L0ZVdh. 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: http://bit.ly/3UFwcKa.

117 MSF, 'Migrants trapped in relentless cycle of rejection on French-Spanish border', 6 February 2019, available at: http://bit.ly/3L0ZVdh.

118 New York Times, 'French Mayor Offers Shelter to Migrants, Despite the Government's Objections', 12 February 2019, available at: http://bit.ly/3UyOVXG.

119 ANAFE, CAFI, 'Contrôles migratoires à la frontière franco-espagnole : entre violations des droits et lutes solidaires', 10 May 2023, available in French at : https://bit.ly/4avo8lE.

120 Le Matin, 'Corps d'un migrant retrouvé dans le fleuve qui sépare Espagne et France', 18 June 2022, available in French at: https://bit.ly/3Z1u3cW.

121 Arte TV, 'France-Espagne : expulsion illégale de mirgants', April 2023, available in French at : https://bit.ly/4audpbq.

122 GISTI, 'Recours contre l'arrêté du préfet des Pyrénées Atlantiques autorisant l'utilisation de drones pour la surveillance de la frontière franco-espagnole', 27 September 2023, available in French at : https://bit.ly/49605sA.

In the first 8 months of 2021, 31,213 refusals of entry were notified at the Spanish land border, up 146% compared to the same period the previous year.[123] In the first 10 months of 2022, 16,988 such decisions have been issued at the border with Spain (16,988).[124] In the first semester of 2023, 3,481 refusals of entry were notified compared to 6,154 in the same period of 2022 but an increase of readmissions by Spanish authorities (366 in the first semester 2023, 206 in the same period in 2022).[125]

1.4. Access at the Swiss land border

Regarding the increase of people arriving irregularly from Switzerland to France, an action plan was signed by both governments to reinforce police cooperation in border area.[126] It is particularly mentioned that people arrested during an attempt to cross illegally or who entered the territory irregularly can be directed as quickly as possible to the appropriate procedure (asylum and/or return). In practice no information is available about the possibility to ask for asylum when arriving from France to Switzerland. No data is published concerning refusals of entry at this border.

1.5. Access at borders in overseas territories

Overseas France: In Mayotte, thousands of people arrive each year from Comoros and sometimes from African or Asian countries, especially Sri Lanka. In 2022, 7,839 migrants (6168 in 2021, 3,536 in 2020) were arrested at sea trying to reach Mayotte illegally according to the authorities (no data for 2023).[127] In February 2024, the ministry of Interior has announced that new tools for interception and new radars will be implemented to limit irregular arrivals.[128] In French Guyana, 9,165 refusals of entry were reported in 2023.[129] No data is available for other overseas territories.

1.6. Access at airports

In 2023, about 6,250 persons have been detained in the waiting zone of Paris Roissy Airport[130], were almost all decisions of this type are taken (in 2021, 87.7% of decision maintaining people in waiting zones have been issued in Roissy[131] - no data for subsequent years).
At the end of the year 2023, 303 passengers of a flight coming from India have been maintained in an *ad hoc* waiting zone especially created in a small airport near Paris : 25 Indians have asked for asylum and been transferred to Roissy but they were released by the judge before their request was examined due to procedural irregularities.[132]

ANAFE (the National Association of Border Assistance to Foreigners – *Association nationale d'assistance aux frontières pour les étrangers*) is an organisation that provides assistance to foreigners in airports. In its Annual report published in September 2020, the organisation highlighted several difficulties in

123 La Dépêche du Midi, 'Route migratoire : la frontière franco-espagnole est désormais la deuxième porte d'entrée sur le territoire français', available in French at: https://bit.ly/3uDe4FE.
124 Ministry of Interior, 'Débat au Parlement sur l'immigration en France', Press kit, 6 December 2022, available in French at: https://bit.ly/3IpLQmW.
125 InfoMigrants, 'Pays basque : le Conseil d'État interdit l'usage de drones pour surveiller les migrants à la frontière espagnole', 26 July 2023, available in French at : https://bit.ly/3x8V1pX.
126 Confédération suisse, 'La Suisse et la France unissent leurs forces pour lutter contre les migrations secondaires et les passeurs', 27 October 2023, available in French at : https://bit.ly/4alkStm.
127 Assemblée Nationale, 'Rapport d'information sur les enjeux migratoires aux frontières Sud de l'Union européenne et dans l'océan indien', 31 May 2023, available in French at : https://bit.ly/4aqLoRW.
128 BFM, 'Gérald Darmanin à Mayotte: le ministre de l'Intérieur annonce "la fin du droit du sol" sur l'île', 11 february 2024, available in french at : https://bit.ly/4aunBAm.
129 Court of Audotirs, 'La politique de lutte contre l'immigration irrégulière', 4 January 2024, available in French at : https://bit.ly/4a9jA4E.
130 Le Monde, 'Avec la PAF de Roissy, qui traque les candidats à l'immigration irrégulière : « Le risque, pour nous, c'est de ne pas pouvoir les renvoyer »', 9 February 2024, available in French at : https://bit.ly/43yjnpc.
131 Ministère de l'Intérieur, 'Compte-rendu de la réunion annuelle sur le fonctionnement des zones d'attente 2022', 8 November 2023, available in French at : https://bit.ly/3xdThMf.
132 AFP, 'Avion immobilisé dans la Marne : vingt-cinq ressortissants Indiens libérés par la justice de la zone d'attente', 27 December 2023, available in French at : https://bit.ly/3VydLtl.

accessing the right of asylum at airports.[133] According to the latter, there is a general lack of information on the right to seek asylum and difficulties occur in the registration of asylum claims at the border. It further highlights the important role of the Police in practice and the obstacles it may create regarding the asylum application. The same difficulties have been reported by ANAFE in a report published in January 2022,[134] in an open-letter in October 2022,[135] and during the 2022's annual meeting between authorities and NGOs on the situation in waiting zones[136] Similar issues are further described below under the Border procedure (border and transit zones).

1.7. Border monitoring

There is no real border monitoring system implemented but some approved NGOs have a right to visit waiting zones and to assist people detained in these places. An annual meeting is organized by authorities to talk with NGOs about issues related to waiting zones.[137]

Moreover, some independent authorities such as the *Contrôleur general des lieux de privation de liberté* (controller of detention places) or *Défenseur des droits* (Ombudsman) have the possibility to conduct filed visits and to access all officials documents (police records etc.). In practice this allows for occasional checks but does not constitute a sustainable border control mechanism.

1.8. Legal access to the territory

For information regarding family reunification as a way to access the territory, see Family Reunification.

Resettlement

Refugees can legally access the territory through resettlement programmes. France had undertaken to resettle 3,000 people per year since 2022 (previous years' commitment was for 5,000 people), from sub-Saharan Africa or the Middle East, thereby adding to the initial resettlement commitment of around 100 households per year under a framework agreement concluded with UNHCR in 2008.

In 2023, 3,191 persons were resettled according to the ministry of Interior[138] (UNHCR database count 3,003 resettlements)[139], compared to 3,164 in 2022[140] (3,047 under European commitment and 147 under agreement with UNHCR) and 1,827 in 2021.[141] Detailed data from UNHCR shows that people have been mainly resettled from Lebanon, Türkiye, and Chad, and the majority of them come from Syria :

Country of origin	Country of asylum									
	Lebanon	Türkiye	Chad	Cameroon	Rwanda	Ethiopia	Jordan	Egypt	Others	**TOTAL**
Syria	700	528					211	53	30	**1,522**
Sudan			218			6		62	5	**291**
DRC					222	15			16	**253**

133 ANAFE, Annual report 2019, available in French at: https://bit.ly/3a5GM6k, 66.
134 ANAFE, Fermons les zones d'attente, January 2022, available in French at: https://bit.ly/339UjKt.
135 ANAFE, 'Lettre ouverte : l'Anafé appelle les parlementaires à visiter et fermer les zones d'attente [Communiqué de presse]', 25 October 2022, available in French at: https://bit.ly/3kEBmbs.
136 Ministère de l'Intérieur, 'Compte-rendu de la réunion annuelle sur le fonctionnement des zones d'attente 2022', 8 November 2023, available in French at : https://bit.ly/3xdThMf.
137 Ministère de l'Intérieur, 'Compte-rendu de la réunion annuelle sur le fonctionnement des zones d'attente 2022', 8 November 2023, available in French at : https://bit.ly/3xdThMf.
138 Ministry of Interior, *Chiffres clés – Les demandes d'asile*, 25 January 2024, available in French at: https://bit.ly/3xaPpvu.
139 UNHCR, Resettlement data finder (database), available at: https://bit.ly/43BaTO0.
140 European network on migration (ENM) France, 'Annual report', April 2023, available at: https://bit.ly/3x57Gds.
141 UNHCR, Resettlement data finder (database), available at: https://bit.ly/43BaTO0.

Eritrea					27	77		17	9	**130**
South Sudan					15	39		28	7	**89**
Somalia					1	70			10	**81**
Myanmar									14	**14**
Afghanistan									2	**2**
Others			190	364	21	7		12	27	**621**
TOTAL	**700**	**528**	**408**	**364**	**286**	**214**	**211**	**172**	**120**	**3,003**

People arriving under European commitments are previously heard by OFPRA in the country of asylum. In 2022, 26 OFPRAS's missions were carried out in Türkiye (4), Chad (4), Cameroon (3), Egypt (3), Jordan (3), Lebanon (3), Ethiopia (2), Niger (2) and Rwanda (2). In 2023, 23 missions took place.[142] People coming with this program are recognised as beneficiaries of international protection when they arrive in Paris and then have complete rights like other refugees in France. However, people arriving in the framework of agreement with UNHCR, not heard previously by OFPRA, are considered as asylum seekers at arrival: their asylum claim is processed quickly and always give rise to protection but the limited access to rights as asylum seekers for several weeks can cause difficulties (particularly in terms of access to health care). The process for the identification of resettled refugees under the UNHCR partnership is described in detail in an EMN response.[143]

All resettled people are welcomed by an NGO on arrival, which directs them towards housing previously found for them. They then benefit from integration support for 12 months by NGO.[144]

Regarding pledges for resettlement and humanitarian admission of Afghans under the EU 'Afghan support scheme', France committed to admitting 2,500 from mid-August 2021 to the end of 2022.[145] During this period, 3,134 Afghans were admitted in France: 2,635 during Summer 2021,[146] 526 from September 2021 to December 2021 and 1,095 in 2022.[147] Since 2023, there was no specific scheme for admission of Afghans, but they can exceptionally benefit from humanitarian visas.[148]

Relocations

France also contributes to relocations from Greece to other European countries through a voluntary relocation scheme. From August 2020 to March 2023, 501 unaccompanied minors and 510 members of families (417 asylum seekers and 93 beneficiaries of international protection) were relocated from Greece in this context.[149] This specific programme ended in 2023.

In the framework of the Declaration on a voluntary solidarity mechanism endorsed by 19 EU countries and 4 Schengen associated countries in June 2022, France is committed to relocating 3,000 persons in one year but at the end of 2022 only 38 people had been relocated from Italy and 225 others have been

142 OFPRA, 'Premières données de l'asile 2023 [chiffres provisoires]', 23 January 2024, available in French at: https://bit.ly/3xaPG1u.

143 EMN, *Ad-Hoc Query on 2022.58 Resettlement, humanitarian admission and sponsorship programmes*, July 2023, available at: https://bit.ly/3U8uMJr, 39.

144 Ministry of Interior, 'Instruction du 23 mai 2023 relative aux orientations de la politique d'accueil des réfugiés réinstallés pour l'année 2023 NOR : IOMV2313875J', available in French at : https://bit.ly/4a8ERM0.

145 European parliament, 'Overview of pledges for resettlement and humanitarian admission of Afghans, 2021-2022', available at: https://bit.ly/3mfmP6s.

146 Ministry of Foreign Affairs, Centre de crise et de soutien, *Activity report 2022*, available in French at: https://bit.ly/3KDMFv9.

147 DIAIR, 'Opération APAGAN : accueillir les réfugiés menacés par les Talibans', 23 January 2023, available in French at: https://bit.ly/3UeEEQp.

148 See for example : Le Monde, 'La France accueille cinq Afghanes « menacées par les talibans »', 4 September 2023, available in French at : https://bit.ly/3TAuiKs.

149 IOM-UNHCR, *Voluntary scheme for the relocation from Greece to other European countries*, available at: https://bit.ly/370FDyL.

selected for relocation by French authorities in Spain, Italy and Cyprus and waited for transfer.[150] However, IOM reports that 184 have been relocated to France in 2022.[151] According to OFPRA, 8 missions to identify people in need of international protection to relocate have been carried out in Cyprus, Greece and Spain in 2022,[152] and 10 missions in 2023.[153]

Humanitarian visas, corridors and community sponsorship

As mentioned on OFPRA website, a foreign national can apply for an asylum visa at a French representation in their country of origin. In practice, this possibility (considered as a favour and not as a right)[154] is only available in a few embassies, following specific commitments by France. A report on immigration sent by the Ministry of the Interior to the French Parliament in 2023, covering 2021 data, mentions the implementation in 2021 of visa programmes for 327 Syrians and 17 Iraqis in addition to specific operations implemented for Afghans (see *supra*).[155] he process for the issuance of an asylum visa is described in detail in an EMN response.[156]

Moreover, a protocol signed between the French authorities and religious organisations in 2017 allowed the arrival of 504 people via humanitarian corridors. It was renewed in April 2021 for a target of 300 Syrians or Iraqis from 2021 to 2023. As of November 2023, 103 persons (including 41 children) had been admitted in France under this new protocol.[157]
According to an EMN response, the persons are identified by the 5 participating faith-based associations, who are present in Lebanon, and those organisations take charge of their travel, reception and accommodation until they enter ordinary housing. On arrival in France, the persons are considered asylum seekers and goes through the regular procedure.[158]
Public data on this type of visa does not allow for a clear understanding of this issue, as the "humanitarian visa" category (excluding figures on visa for health issues) includes all these different legal pathways to the territory (including family reunification and resettlement):

	2018	2019	2020	2021	2022	2023
Refugees and stateless persons	11,931	10,874	4,402	13,807	13,763	5,942
Subisdiary protection and territorial asylum	402	1,372	171	228	2,043	3,637
TOTAL humanitarian visas on asylum	**12,333**	**12,246**	**4,573**	**14,035**	**15,806**	**9,579**

Source: Ministry of Interior, 'La délivrance de visas aux étrangers', 25 January 2024, available in French at: https://bit.ly/3PDKsl4.

150 European network on migration (ENM) France, 'Annual report', April 2023, available at: https://bit.ly/3x57Gds.
151 IOM, 'EEA Relocation in 2022', available at : https://bit.ly/3ISVMpN.
152 OFPRA, 'Activity report', p.8, available in French at : https://bit.ly/49eglrk.
153 OFPRA, 'Premières données de l'asile 2023 [chiffres provisoires]', 23 January 2024, available in French at: https://bit.ly/3xaPG1u.
154 Conseil d'Etat, 9 July 2015, *M. Allak*, No. 391392, available in French at: https://bit.ly/3JW5LMj.
155 Ministère de l'Intérieur, '*Les étrangers en France – rapport au Parlement sur les données de l'année 2021'*, 15 June 2023, available in French at: https://bit.ly/3JnxpRp.
156 EMN, *Ad-Hoc Query on 2022.58 Resettlement, humanitarian admission and sponsorship programmes*, July 2023, available at: https://bit.ly/3U8uMJr, 39.
157 Sant Egidio, 'Cinq familles de réfugiés arrivent du Liban grâce aux Couloirs humanitaires', 10 November 2023, available in French at : https://bit.ly/49bg4W4.
158 EMN, *Ad-Hoc Query on 2022.58 Resettlement, humanitarian admission and sponsorship programmes*, July 2023, available at: https://bit.ly/3U8uMJr, 39.

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
   - ❖ If so, what is the time limit for lodging an application?
2. Are specific time limits laid down in law for lodging an application? ☒ Yes ☐ No
   - ❖ If so, what is the time limit for lodging an application? 21 days
3. Are registration and lodging distinct stages in the law or in practice? ☒ Yes ☐ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

Once an individual has entered the French territory in order to seek asylum in France, they must be registered as asylum seeker by the French authority responsible for the right of residence, namely the Prefecture. Then, they 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 to make an application after entering the country.

However, the law specifies that one reason for OFPRA to process an asylum claim in Accelerated Procedure is that "without legitimate reason, the applicant who irregularly entered French territory or remained there irregularly did not introduce their asylum claim in a period of 90 days as from the date they has entered the French territory."[159] Prior to the 2018 reform, this time limit was 120 days.

Overseas France: In Guiana, the time limit is 60 days.[160]

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 33 GUDA across France (mainland).[161]

In order to obtain an appointment at the GUDA, asylum seekers must present themselves to orientation services (SPADA).[162] In practice, these are manned by local organisations who are thus responsible for this pre-registration phase and deliver the appointments at the Prefecture for the asylum seekers. According to the law, the appointment before the GUDA has to take place within 3 working days after asylum seekers have expressed their intention to lodge an asylum claim at the SPADA.[163] 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.[164]

159 Article L. 531-27 3° Ceseda.
160 Art. L.767-1 Ceseda.
161 OFII, Activity report 2021, 25 July 2022, available in French at: https://bit.ly/3Z5COBV, 93.
162 The list as of October 2022 is available here: OFII, 'Liste des structures du premier accueil des demandeurs d'asile (SPADA)', available in French at: https://bit.ly/3upGy7y.
163 Article L. 521-4 Ceseda.
164 *Ibid.*

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 increased the staff in Prefectures and in the French Office for Immigration and Integration (OFII) to reorganise services. This plan ensures fully operational GUDA every day of the week, as well as overbooking to compensate for 'no show' appointments.[165]

According to the authorities, the average time was 4 days in 2020,[166] 2.6 days in 2021,[167] 4.1 days in 2022 and 3.1 days for the first 8 months of 2023.[168]

In a report published in May 2020, the Court of Auditors (*Cour des comptes*) highlighted however the existence of "hidden delays" before accessing a SPADA and stressed that "making people wait several weeks or even several months before the deposit of their request and the assessment of their vulnerability is unsatisfactory not only with regard to their rights but also for the effectiveness of the asylum system".[169]

Indeed, asylum seekers have faced difficulties in accessing SPADAs, especially in the **Ile-de-France** region (Paris and surroundings). Since May 2018, the French Office of Immigration and Integration (OFII) operates a telephone appointment system in this region, whereby applicants obtain an SMS appointment to appear before a SPADA, which in turn books them an appointment with the GUDA to register their application.[170] The telephone appointment system therefore constitutes an additional administrative layer in the registration process. In 2018 (from the launch on 2 May 2018 until 31 December 2018), the telephone platform answered 61,957 calls and granted 46,139 appointments for registration. In 2019, the platform answered 82,339 calls and granted 64,328 appointments.[171] OFII described this system as "very positive".[172] In December 2020, OFII reported that 200,682 calls were answered and 151,478 appointments were granted during the first 600 days operation.[173]

In 2022, OFII reported 90,233 appointments granted (compared to 67,774 in 2021). On average, the telephone platform answered 10,895 calls and granted 7,519 appointments each month in 2022 (other calls had no link with asylum).[174]

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. According to La Cimade in a 2021 publication, the telephone platform is only operative a couple of hours per day and after 12:00 pm, individuals are asked to call again on the next day as all the appointments have already been booked.[175] As a result, the access to the asylum procedure reaches 1 month on average. In addition, despite initial announcements of free-of-charge access, calls to the telephone platform are charged € 0,15

165 Ministry of Interior, Circulaire NOR INTV1800126N du 12 janvier 2018 Réduction des délais d'enregistrement des demandes d'asile aux guichets uniques, 12 January 2018, available in French at: http://bit.ly/2EEPKJQ.

166 Annexe au projet de loi de règlement du budget et d'approbation des comptes pour 2020, Immigration asile, et intégration, available in French at: https://bit.ly/3JltH8Z.

167 Projet de loi de finances 2023, Mission « immigration, asile, intégration », available in French at: https://bit.ly/3FGL30F.

168 Projet de loi de finances 2024, Mission « immigration, asile, intégration », available in French at: https://bit.ly/4ct0VT5.

169 Cour des Comptes, *L'entrée, le séjour et le premier accueil des personnes étrangères*, 5 May 2020, available in French at: https://bit.ly/36m6eTK.

170 Asile en France, 'Enregistrement : Plateforme téléphonique OFII en IDF', available in French at: https://bit.ly/3KPhX0S.

171 OFII, *Rapport d'activité 2019*, October 2020, available in French at: https://bit.ly/2MrpKaP, 24.

172 *Op. cit.* P.23

173 OFII on Twitter, no longer available.

174 OFII, *Activity report 2022*, 26 October 2023, available in French at: https://bit.ly/3PDKtWa.

175 La Cimade, Asile en Ile de France : comment contourner (légalement) la plateforme de l'OFII ?', 9 February 2021, available in French at: https://bit.ly/3pexgTD.

to 0,19 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.[176]

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.[177] 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 SPADA 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.

In November 2019, another legal action was filed by several NGOs. The Administrative Court of Paris ordered the Prefecture to increase the number of daily appointments up to 100 for the Ile de France region and urged the OFII to take the necessary steps to set up a free phone number.[178] However, the Court did not order to provide an alternative way to obtain an appointment in this region.

In December 2020, 16 migrants supported by 12 NGOs again asked the court to note that the telephone platform is, for many, inaccessible and constitutes an obstacle to access asylum applications.[179] In July 2021, the Council of State conceded legal deadlines were not met in Ile-de-France due to the telephone platform and ordered the State to respect it within 4 months.[180]

In July 2023, the Administrative Court of Paris ruled that the Paris prefecture was not competent to set appointment quotas in other departments of the region but this did not lead to any change in the operation of the platform.[181]

At the GUDA, it is not mandatory to provide an address (*domiciliation*) to register asylum seekers' claims. However, as long as some notifications are still sent by mail, asylum seekers have to provide an address for the procedure to be smoothly conducted (e.g. to receive decision on reception conditions, on appeal, etc). An address certificate (*déclaration de domiciliation*) is also necessary to benefit from certain social benefits, in particular the Universal Health Protection Scheme (*Protection Universelle MAladie* - 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:[182]

- 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 their own means, their address.

The asylum claim certificate

Once the asylum application is registered at the GUDA, the OFII in principle delivers the asylum claim certificate. It is only once the asylum claim certificate *(attestation de demande d'asile*) has been granted

176 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://bit.ly/3GO1RmI.

177 Administrative Court of Paris, Order No. 1902037, 13 February 2019, available in French at: https://goo.gl/Fv4vG4.

178 Administrative Court of Paris, Order No. 1924867/9, 25 November 2019, available in French at: https://bit.ly/3ajddxq.

179 ACAT and others, 'Exilés en errance en Ile-de-France, l'impossible enregistrement des demandes d'asile', Press release. 10 December 2020, available in French at: https://bit.ly/2LbFpdP.

180 Council of State, Decision No. 447339, 30 July 2021, available in French at: https://bit.ly/3suMcRu.

181 Administrative Court of Paris, Order No . 1927567/4-1, 6 July 2023, available in French at : https://bit.ly/4cuttf0.

182 Article R. 521-5 Ceseda.

that the applicant is handed the necessary form to formally lodge the asylum application, unless they are under a Dublin procedure. Specific documentation is also handed to the asylum seeker in order to provide them information on:

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

The asylum claim certificate is delivered for a specific period of time, renewable until the end of the procedure. Depending on the procedure, the period of validity varies:[183]

- Under the regular procedure, the asylum claim certificate is valid for an initial period of time of 1 month, renewed first for 9 months and then 6 months for subsequent renewals (as many as necessary);
- Under the accelerated procedure, the asylum claim certificate is valid for an initial period of time of 1 month, renewed first for 6 months and then 3 months for subsequent renewals (as many times as necessary);
- Under the Dublin procedure, the asylum claim certificate is valid for an initial period of time of 1 month, renewable for periods of 4 months (as many times as necessary).

The Prefecture may refuse to grant an asylum claim certificate for 2 reasons:[184]

- The foreign national introduced a subsequent application after the final rejection of their first subsequent application; or
- 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.

By being refused an asylum claim certificate, foreign nationals are refused the right to stay on French territory. As they have no right to stay, they might be placed in an administrative detention centre in view of their removal. They are however still given the necessary form to lodge their application with OFPRA.

In addition, the renewal of an asylum claim certificate can be refused, or the asylum claim certificate can be refused or removed when:[185]

- 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;
- The asylum seeker has withdrawn their asylum claim;
- 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 themselves 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;[186]
- A first subsequent application has been introduced by the asylum seeker only to prevent a notified or imminent order of removal;
- The foreign national introduced a subsequent application after the final rejection of their first subsequent application; or
- The foreign national is subject to a final decision of extradition towards another country than his country of origin, or 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 asylum

183 Ministerial ruling on application of Article L.741-1 Ceseda, published on 9 October 2015, available in French at: https://bit.ly/3LtZyqF.
184 Article L. 521-7 Ceseda.
185 Article L. 542-3 Ceseda.
186 Article L. 531-38 Ceseda.

claim certificate, 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);

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

Asylum seekers whose fingerprints are unfit for identification, i.e., unreadable, will be summoned again and their claim will be channelled into the accelerated procedure if their fingerprints are still unfit for identification,[187] with the exception of certain cases such as asylum seekers who are seriously ill. The asylum claim cannot be fully registered without the fingerprints taken and checked in Eurodac. Therefore, the asylum claim certificate is only delivered once all information, including fingerprints, has been registered.[188]

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

As of 2024, this will be affected by the provisions of the new asylum law: see Changes to the legal framework: new law of 26 January 2024.

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 determining authority in France.[189] In order for the claim to be processed by OFPRA, the filled out and signed application form has to be accompanied by a copy of the asylum claim certificate, 2 ID photos and, if applicable, a travel document and a copy of the residence permit. The file must contain a short explanation of the grounds of the claim in French.

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 is asked to provide the necessary missing elements or information within 8 additional days from when he receives such request; 3 days for subsequent applications.[190] 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 (which the asylum seeker must request), a new claim is considered as a Subsequent Application.

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. Most of asylum seekers are not housed during this period: they are supported by SPADA (social workers, interpreters…) for this step but SPADA are overworked so the time is limited to write the asylum claim.

Overseas France: A specific procedure may apply in **Guiana, Martinique and Guadeloupe** since 2019[191] (after an experimentation period in Guiana since 2018): indeed, in these territories, when there is an important increase in applications for international protection during three months in a row, the

187 Article L. 531-27 Ceseda.

188 Circular of 2 November 2015 on the implementation of the Law of 29 July 2015, available in French at: https://bit.ly/42aHbgV.

189 Article R. 531-2 Ceseda.

190 Articles R.591-3, 591-6, 591-10 Ceseda.

191 Décret n° 2019-1329 du 9 décembre 2019 portant adaptation de certaines dispositions relatives aux modalités de traitement des demandes d'asile dans les Antilles et en Guyane et modifiant les règles de recours contre les décisions de l'Office français de protection des réfugiés et apatrides dans les collectivités mentionnées à l'article 72-3 de la Constitution, NOR : INTV1922402D, available in French at : https://bit.ly/3TRRvJt.

authorities have the possibility to take special measures during a period of 18 months maximum. This includes the possibility to require that the application for international protection be lodged with OFPRA in person and within 7 days following registration; moreover, in such circumstances persons only have 3 days from receiving an OFPRA request for incomplete application, rather than 8, to provide the necessary missing elements or information. OFPRA must rule within 21 days.

A bylaw of 10 December 2021 allowed these measures to be applied in Guyana from this date during 18 months (until 10 April 2023).[192]

The same specific procedure applies **in Mayotte** since 2022,[193] without conditions (it applies permanently).

Since 2018, the law provides that an asylum application made by adults whose minor children are present in France is also considered to have been made in the name of the children:[194] a rejection therefore concerns all the members of the family (if the children want to apply for asylum later it will be a subsequent application) and when two parents are protected for different reasons the children benefit from the most extensive protection.[195] When the child is born during the asylum procedure, the same legal framework applies.[196] When the child is born or arrived after the final rejection of the parents' request, the child's request is considered as a first request.[197]

2.3. Applying for asylum from detention

In administrative detention centres for migrants in irregular situation (*centres de retention administrative*), the notification of the individual's rights read out upon arrival indicates that they have 5 calendar days to claim asylum via an OFPRA form to be completed in French. This 5-day time limit is strictly applied in practice. 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.[198]

The 5-day deadline is not applicable if the person calls upon new facts occurring after the 5-day deadline has expired,[199] However, asylum seekers who are nationals of a Safe Country of Origin do not benefit from this exception. They may only apply within 5 days.[200]

Asylum seekers in detention can benefit from legal and linguistic assistance.[201] 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

192 Arrêté du 10 décembre 2021 portant application du décret n° 2019-1329 du 9 décembre 2019 portant adaptation de certaines dispositions relatives aux modalités de traitement des demandes d'asile dans les Antilles et en Guyane et modifiant les règles de recours contre les décisions de l'Office français de protection des réfugiés et apatrides dans les collectivités mentionnées à l'article 72-3 de la Constitution, NOR : INTV2137165A. Available in French at : https://bit.ly/4cu5k8i.

193 Décret n° 2022-211 du 18 février 2022 portant adaptation de certaines dispositions relatives aux modalités de traitement des demandes d'asile à Mayotte et rectifiant les dispositions applicables en Guadeloupe, en Guyane et à la Martinique, NOR : INTV2135324D. Available in French at : https://bit.ly/3xiLixf.

194 Article L. 521-3 Ceseda.

195 Article L. 531-23 Ceseda.

196 CE, 27 January 2021, No. 444958.

197 CE, 20 December 2019, No. 436700, available in French at: https://bit.ly/3MRsxa3.

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

199 Article L. 551-3 Ceseda.

200 *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.

201 Article L. 744-6 Ceseda.

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.[202]

In criminal detention centres, it is very difficult to ask for asylum in practice whereas this fundamental right should be able to be exercised there.[203] An administrative court recalled in 2019 that it is up to the prefectural services as well as the prison administration to put in place procedures allowing the implementation of the right of asylum.[204] Subsequently, a circular specified the conditions for requesting asylum in detention,[205] while a decision of the Council of State in 2021 recalled that the asylum request could be addressed to any authority.[206]

C. Procedures

1. Regular procedure

The regular procedure is regulated by Book 6 (right to asylum and other international protections, articles L510-1 to L.597-1) of the CESEDA.

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:	6 months
2.	Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?	☒ Yes ☐ No
3.	Backlog of pending cases at first instance as of 31 December 2023:	unknown
4.	Average length of the first instance procedure in 2023:	126 days

The determining 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 (see Number of staff and nature of the determining authority).

Since May 2022, asylum seekers must connect to a secure digital platform on which OFPRA files all the documents that concern them (summons, decision, etc.).[207] The reception and accommodation places for asylum seekers have been equipped with computers so that everyone can access them, but sending by post remains possible exceptionally for people who cannot access digital tools. Support in these digital procedures remains a crucial issue[208] but the Council of State has considered that the system had sufficient guarantees.[209]

Under French law, OFPRA has 6 months to take a decision under the regular procedure.[210] When a decision cannot be taken within 6 months, OFPRA has to inform the applicant thereof within 15 calendar

202 CNDA, Decision No 16037938, 25 July 2017.
203 CGLPL, *Avis du Contrôleur général des lieux de privation de liberté du 9 mai 2014 relatif à la situation des personnes étrangères détenues*, published 3 June 2014, available in French at: https://bit.ly/41v1Iwu.
204 Administrative court of Melun, 13 March 2019, No. 1902258, available in French at: https://bit.ly/42OPLmE.
205 Ministry of Justice and others, *Amélioration de la coordination du suivi des étrangers incarcérés faisant l'objet d'une mesure d'éloignement*, 16 August 2019, available in French at: https://bit.ly/3FUqoWQ, 13.
206 CE, 21 December 2021, No. 449560, available in French at: https://bit.ly/3nr5ice.
207 CESEDA, R.531-11 & R.531-17
208 Forum réfugiés, 'Dématérialisation : de multiples enjeux pour le système d'asile', 23 November 2022, available in French at: https://bit.ly/3xeXPSI.
209 CE, 464768, 6 June 2023, available in French at: https://bit.ly/3TxanfE.
210 Article R. 531-6 Ceseda.

days prior to the expiration of that period.[211] 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.[212] Nevertheless, the law provides no consequences to non-compliance with these time limits.

In 2017, the Government set a target processing time of 2 months for asylum applications examined by OFPRA.[213] However, the average first-instance processing time for all procedures was 4.2 months (126 days) in 2023, compared to 5.2 months (about 158 days) in 2022.[214]

Average length of the asylum procedure at first instance (in days)				
2019	2020	2021	2022	2023
161	262	258	158	126

The backlog of pending cases reached 47,296 as of the end of 2022 (compared to 49,207 in 2021).[215] No data is available for 2023.

Overseas France: As mentioned before (Lodging an application), specific rules may apply temporarily in Guiana, Guadaloupe and Martinique when the number of asylum applications is high. These measures apply permanently in Mayotte since 2022.

This notably implies shorter processing times for the OFPRA, which must rule within 21 days. For the implementation of these measures, OFPRA opened an office in Guyana and Mayotte.[216]

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".[217] 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 asylum seekers with specific nationalities or having specific needs.[218] This means that interviews are held in certain cities, instead of in the premises of OFPRA in the Paris region. This has resulted in 42 decentralised missions in 2019, 23 in 2020, 50 in 2021, 35 in 2022 and 47 in 2023 especially in Bordeaux, Lille, Lyon, Metz, Strasbourg, and overseas (7 missions in Mayotte). [219]

In 2018, the reform introduced in law the possibility for OFPRA to carry out resettlement missions.[220] In 2021, this included 21 missions in cooperation with UNHCR to resettle refugees especially from **Lebanon, Jordan, Cameroun, Egypt** and **Rwanda** as well as 9 missions in Europe for relocation from Greece and Italy. In 2022, OFPRA conducted 10 external missions in Europe for relocation (4 in Cyprus, 4 in Italia, 1 in Spain and 1 in Greece) and 26 outside Europe for resettlement (4 in Turkïye, 4 in Chad, 3 in Cameroon,

211 Article R. 531-7 Ceseda.
212 Article R. 531-6 Ceseda.
213 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://bit.ly/40eItGn.
214 OFPRA, 'Premières données de l'asile 2023 [chiffres provisoires]', 23 January 2024, available in French at: https://bit.ly/3xaPG1u.
215 OFPRA, Activity report, July 2023, P.68, available in French at : https://bit.ly/49eglrk.
216 OFPRA, 'Je demande l'asile outre-mer', available in French at : https://www.ofpra.gouv.fr/je-demande-lasile-outre-mer
217 Article L. 531-7 Ceseda.
218 Marion Tissier Raffin, "Entretien avec Pascal Brice, Directeur général de l'OFPRA : « Entre continuité et modernisation : la diversification des missions de l'OFPRA »", *La Revue des droits de l'homme* [Online], 13 | 2018, 05 January 2018, available in French at : https://bit.ly/3TOFlRI.
219 OFPRA, Activity report, July 2023, P.68, available in French at : https://bit.ly/49eglrk.
220 Article L. 520-1 Ceseda.

3 in Egypt, 3 in Jordania, 3 in Lebanon, 2 in Ethiopia, 2 in Niger and 2 in Rwanda).[221] In 2023, 23 missions were carried out outside the European Union, and 10 missions in Europe. [222]

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
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? ☒ Yes ☐ No
   - ❖ If so, is this applied in practice, for interviews? ☒ Yes ☐ No

The Ceseda provides for systematic personal interviews of applicants. There are two legal grounds for omitting a personal interview:[223]

(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 2022, 97.1% of asylum seekers were summoned for an interview,[224] compared to 93.8% in 2021, 92.6% in 2020, 96.5% in 2019. The rate of interviews actually taking place was 83.8% in 2022,[225] compared to 79% in 2021, 76.3% in 2020, 74.4% in 2019.[226] Statistics on the number of interviews in 2023 were not available at the time of writing of this report.

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 they might have endured persecutions unknown to other family members.[227] 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.[228]

The law provides that the asylum seekers can ask the protection officer and the interpreter to be of a particular gender.[229] This guarantee is applied in practice, although not systematically, as the law provides that this request has to be deemed justified by OFPRA due to the difficulties of the asylum seeker to expose comprehensively the grounds of their claim, in particular if they have been subjected to sexual violence. Moreover, the law stipulates the request is granted “as far as possible”.

221 OFPRA, Activity report, July 2023, P.9, available in French at : https://bit.ly/49eglrk.
222 OFPRA, Activity report, July 2023, P.68, available in French at : https://bit.ly/49eglrk.
223 Article L. 531-12 Ceseda.
224 OFPRA, *2022* Activity report, July 2023, available in French at: https://bit.ly/3KHmAKi, 66.
225 Ibid.
226 OFPRA, 2017 Activity report, April 2018, available in French at: https://bit.ly/41tIMih, 50.
227 Article L. 531-14 Ceseda.
228 Ibid.
229 Article L. 531-17Ceseda.

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:[230]

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

In situation (b) and (c), the applicant's approval is not required to conduct the interview through videoconferencing.

An OFPRA Decision of 20 December 2022 has established the updated 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.[231] 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. This was mainly due to material problems, communication difficulties as well as interpretation issues.[232]

In 2022, 3% of all interviews were conducted through video conferencing,[233] compared to 4% in 2021, 2.9% in 2020, 2.3% in 2019 (2.2% in 2018, 3.1% in 2017 and 4.2% in 2016). Statistics on the number of interviews conducted through video conferencing in 2023 were not available at the time of writing of this report. However, OFPRA did not use videoconferencing during the first lockdown in the context of COVID-19 as a way of maintaining its activity. Instead, all personal interviews on the mainland were cancelled between 16 March and 11 May 2020.

Overseas France: Since OFPRA opened offices in Guiana and in Mayotte, asylum seekers get an in person interview in these regions but videoconferencing remain used in other oversea territories.

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.[234] In a Decision of 2 July 2019,[235] OFPRA's Director-General updated and further detailed the conditions for the organisation and the proceedings of an interview in a presence of a third party.

The third party has to give prior notice of their presence at the interview. However, since COVID-19, OFPRA requires a 48 hours prior notice. Asylum seekers with disabilities may also ask OFPRA to be accompanied by their health worker or by a representative of an association providing assistance to people with disabilities. 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 they can formulate remarks and observations at the end of the interview (except for the health worker or association helping persons with disabilities, who may not speak). These observations are translated if necessary and written down in the interview report. The interview is also fully audio-recorded. Neither the third party nor the asylum seeker have the right to record

230 Article R. 531-16 Ceseda.
231 OFPRA, Decision of 23 December 2020, available in French at: https://bit.ly/44a5Rbf.
232 La Cimade, Le droit d'asile en retention – Analyse d'une chimère, June 2018, available in French at: https://bit.ly/2EWkvIs, 29.
233 OFPRA, 2022 Activity report, July 2023, available in French at: https://bit.ly/3KHmAKi, 66.
234 Article L. 531-15 Ceseda.
235 OFPRA, Decision of 2 July 2019 establishing organisational modalities for the interview according to the implementation of Article L.723-6 of the Ceseda, 2 July 2019, available in French at https://bit.ly/3KSIafX.

the interview. The content of the interview and any notes taken are confidential and must not be disclosed by the third party, without prejudice to the necessities of a subsequent appeal.

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 them 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 sent to them before a decision is taken.[236] OFPRA Decision of 2 July 2019 allows for the possibility of providing further comments or documents after the interview, within a reasonable time-limit not hampering the decision-taking.

According to OFPRA decisions of 30 July 2020 and 21 April 2023, 38 organisations are authorised to accompany asylum seekers in interviews.[237] These organisations are frequently requested to accompany asylum seekers, most of the time by 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 2022 were accompanied by a third party, compared to 1.58% in 2021, 1.4% in 2020 and 1.7% in 2019.[238] Figures for the year 2023 were not available at the time of writing.[239]

Interviews of vulnerable asylum seekers

Throughout the duration of the procedure, the OFPRA can "define the particular examination methods that it considers necessary for the exercise of the rights of an applicant due to their particular situation, their minority or their vulnerability".[240]

Vulnerable people can be identified by the OFPRA before the interview, on the basis of information transmitted by the OFII during the first visit to the GUDA or with regard to the reasons for the asylum claim contained in the application. Identification can also take place within the framework of the investigation, with reports from stakeholders from associations or from the medical sector, who can send reports to the OFPRA.

Groups of experts are set up at OFPRA to take into account vulnerability when examining the request, around 5 protection needs: sexual orientation, unaccompanied minors, victims of torture, women victims of violence, victims of human trafficking. They provide support on these issues within the Office.

The asylum request of vulnerable people is processed by agents trained in initial or continuing training. All officers receive training in "receiving stories of suffering" and can follow EUAA training courses.[241]

The duration of the investigation can be adapted, including the possibility of reclassifying accelerated procedures into normal procedures.

In addition to authorised third parties, the presence of a mental health professional during the interview may be requested.

According to an EMN report, accompanied children are usually not interviewed. Only children who are considered of a sufficiently mature age (12 and above) can be interviewed when it is essential for the examination of their asylum application, for instance when their declarations might add relevant facts to the asylum case, or if (part of) the claim is related to the child rather than the parents. The interview of

236 Article R. 531-14 Ceseda.

237 OFPRA, Décision du 21 avril 2023 fixant la liste des associations habilitées à proposer des représentants en vue d'accompagner le demandeur d'asile ou le réfugié ou le bénéficiaire d'une protection internationale à un entretien personnel mené par l'Ofpra, available in French at : https://bit.ly/41VNpBL.

238 OFPRA, 2017 Activity report, April 2018, available in French at: https://bit.ly/41tIMih, 51.

239 OFPRA, 2020 Activity report, June 2021, available in French at: https://bit.ly/3GPni7b, 56.

240 Article L.531-10 Ceseda

241 OFPRA, 'Guide des procédures', December 2022, p.26, available in French at : https://bit.ly/3JdgVvf.

accompanied children can be undertaken in the absence of the parents where it is reasonable to believe that parents were not aware of the child's reasons for applying for international protection, or where they could be involved in violence against the child.[242]

1.3.1 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.[243]

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 to be understood during the interview, due to the absence of an interpreter for their language or a language they sufficiently comprehend, and the deficiency is imputable to OFPRA, the asylum decision shall be annulled by CNDA.[244]

OFPRA interviews can be conducted in 117 languages.[245] Interpreters are not OFPRA 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.[246] This provision also applies to protection officers.

In 2022, 89.1% of interviews were held in the presence of an interpreter,[247] compared to 96.1% in 2021, 91.6% in 2020, 86.9% in 2019, 92% in 2018 and 93% in 2017. No data was available regarding 2023 at the time of writing.

In 2020, interpretation was still conducted in-person and not by phone or videoconference despite the health crisis. OFPRA set up a health protocol, including temperature reading, mandatory masks for the asylum seeker, the interpreter and the protection officer, and protective plexiglass.

According to some stakeholders, the quality of interpretation can vary significantly. Some asylum seekers have reported that translations are too simplified (e.g. approximate translations or not in line with their answers) or carried out with inappropriate behaviour (e.g. inattentive interpreters or interpreters taking the liberty to make personal reflections or laughing with the protection officer). Moreover, OFPRA's protection officers may sometimes act as interpreters themselves, which 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.

OFPRA published a Code of Conduct for interpreters updated in August 2023.[248] It has also conducted trainings for interpreters, specifically concerning certain vulnerabilities of asylum seekers. There is no information yet on whether the Code of conduct is being well applied in practice, however.

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242 EMN, *Accompanied children's right to be heard in international protection procedures,* April 2023, available at: https://bit.ly/3POf9nF.

243 Article L. 521-6 Ceseda, inserted by Article 10 Law n. 2018-778 of 10 September 2018.

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

245 OFPRA, 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://bit.ly/412YSyO.

246 Article L. 531-17 Ceseda.

247 OFPRA, 2022 Activity report, July 2023, available in French at: https://bit.ly/3GPni7b, 97.

248 OFPRA, Charte de l'interprétariat, August 2023, available in French at: https://bit.ly/3vs935w.

1.3.2 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 OFPRA, in view of an appeal of the decision.[249] In case a technical issue prevents audio recording, additional comments can be added to the transcript of the interview. If the asylum seeker refuses to confirm that the content of the interview as transcribed complies with what was effectively said during the interview, the grounds for their refusal are written down. However, it does not prevent OFPRA from issuing a decision on their claim.[250] Moreover, the absence of an audio recording due to technical reasons does not in itself affect the validity of OFPRA's decision, as it does not constitute an essential procedural guarantee according to the CNDA.[251]

Getting access to the audio recording after a negative decision has been issued by OFPRA is quite challenging for asylum seekers. During the time-frame between the notification of the negative decision and the lodging of the appeal, the recording can only be listened to in OFPRA offices, in **Fontenay-sous-Bois**. This makes more difficult for asylum seekers accommodated outside Paris and its surroundings to get access to the recordings. In addition to travel difficulties, it would require them to be able to understand both French and the translation and to take notes of the details of the interview while listening to the recording. As a result, only 4 asylum seekers went to OFPRA to listen to the recording of their interview in 2022 as 2021, they were 7 in 2020.[252]

Once an appeal is lodged before the CNDA, the audio recording can be obtained by asylum seekers' lawyers (although this is not mandatory). Even if most of the lawyers pleading before 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 written 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 themselves at the same time as they conduct 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 2018 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 wrote their application. It also includes, if applicable, the grounds for protection regarding the underaged children of the asylum seeker, the observations of the protection officer and the publicly available sources which may have been consulted by the protection officer for the examination of the case. The report is sent to the asylum seeker together with the notification of a negative decision; in the regular procedure it can be sent before the notification, if the applicant so requests. 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 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 validation to the section manager. In September 2013, a procedure of signature transfer was set up in order to accelerate the processing delays by enabling some protection officers to sign off on their own decisions.

249 Article L. 531-19 and 531-20 Ceseda.
250 Article R. 531-15 Ceseda.
251 CNDA, Mme N., Decision No 16040286, 29 October 2018, available in French at: https://bit.ly/2GVpI5O.
252 OFPRA, 2022 Activity report, July 2023, available in French at: https://bit.ly/3KHmAKi, 75.

1.4 Appeal

Indicators: Regular Procedure: Appeal		
1. Does the law provide for an appeal against the first instance decision in the regular procedure?	☒ Yes	☐ No
❖ If yes, is it	☒ Judicial	☐ Administrative
❖ If yes, is it suspensive	☒ Yes	☐ Some grounds ☐ No
2. Average processing time for the appeal body to make a decision:	183 days in 2023	

1.4.1 Appeal before the National Court of Asylum (CNDA)

As of 2024, this will be affected by the provisions of the new asylum law: see Changes to the legal framework: new law of 26 January 2024.

Following the rejection of their asylum application by the Director-General of OFPRA, the applicant may challenge the decision before the National Court of Asylum (CNDA). The CNDA is an administrative court specialised in asylum. It is divided into 23 chambers. These chambers are divided into formations of the court, each of them made up of 3 members:[253] 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)[254] and 2 designated assessors, including one appointed by UNHCR. The presence of a judge appointed by UNHCR at the CNDA is a unique feature of the French asylum system.

The CNDA is competent for appeals against decisions granting or refusing refugee status or subsidiary protection, against decisions withdrawing refugee status or subsidiary protection and against inadmissibility decisions pertaining to subsequent applications and to asylum seekers benefiting from an effective asylum protection in another country. 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 the refugee status. If not, the persons retain subsidiary protection.

The appeal must be filed by registered mail or fax within 1 month from the notification of the negative decision by OFPRA. However, the calculation of this time-limit has been made more difficult by the 2018 Asylum and Immigration Law, which provides that the number of days used to present the legal aid application from the notification of the OFPRA decision, is deducted from the time-limit for lodging the appeal (see Regular procedure – Legal assistance).

Overseas France: For asylum applications lodged in French overseas departments (except Guyana),[255] asylum seekers have 2 months to appeal the OFPRA decision.[256] Asylum seekers in these territories are heard in video hearing (196 in 2023)[257] or during occasional trips of the Court in these regions. One of the main challenge for asylum seekers is to find specialized lawyers in their area and for the Court it may be difficult to find interpreters.

253 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.

254 10 judges acting as presidents are now working full time at the CNDA, in addition to part time judges on temporary contracts.

255 Guadeloupe, 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.

256 Article R. 421-7 Code de justice administrative.

257 CNDA, Activity report 2023, January 2024, available in French at: https://bit.ly/3xeY7sM.

There are specific formal requirements to submit this appeal:[258]

- It has to be written in French:
- It must contain the name, last name, nationality, date of birth and administrative address of the claimant;
- It must be based on law and facts;
- The certificate of asylum claim and the OFPRA decision must be attached;
- It has to be signed by the claimant or their attorney;
- It has to specify in which language the claimant wishes to be heard; and
- In case the claim has been processed as 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.[259] 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 of the appeal to the applicant which notifies them of their right to consult their file, the right to be assisted by a lawyer, the fact that the information concerning their application is subject to automated processing, of the possibility that their appeal will be processed "by order" (*ordonnance*), that is 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.[260]

In 2023, the CNDA registered 64 685 appeals and took 66,358 decisions, compared to 61,552 appeals and 67,142 decisions in 2022.[261].

The appeal is processed by a panel of three 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 relevant section – rules on the appeal. In 2023, the CNDA took 34,807 decisions in collegial function, down from 38,320 collegial decisions in 2022. It further took 31,550 single-judge decisions (i.e., 55% of total decisions) with 10,397 decisions following a hearing and 21,153 by order, compared to 18,390 in 2022 (10,432 following a hearing and 18,390 by order).[262]

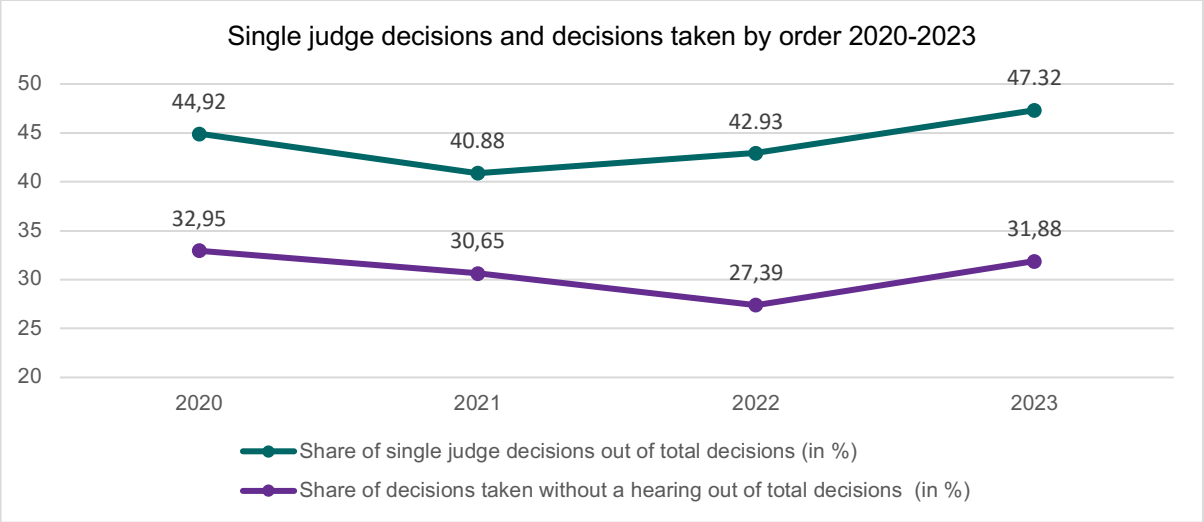
258 Articles R. 532-6 and 532-7 Ceseda.

259 Article R.532-6 Ceseda

260 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.

261 CNDA *2024,* Activity report 2023, available in French at: https://bit.ly/3GCMs90.

262 *Ibid*.



Processing times

The law provides that the CNDA has to rule within 5 months under the regular procedure.[263]

The average processing time for the CNDA to process a claim decreased to 6 months and 3 days in 2023, compared to 6 months and 16 days in 2022 and 7 months and 8 days in 2021. During 2023, the average processing time was 6 months and 26 days for the regular procedure; and 4 months and 29 days for the accelerated procedure.[264]

The investigation of the case must be ended at least 5 days 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.[265] After that date, producing new information might require reopening the investigation phase and possibly postponing the hearing. After the hearing, it is nevertheless possible to produce further elements to the Court by submitting a *"note en délibéré"*.[266] In the regular procedure, the Court publishes its decision 21 days after the hearing. During this delay,named *"délibéré"*, the claimant can inform the Court of new elements or claim for further study of the case if an incident took place during the hearing.

In case of an emergency hearing, to which an applicant must be summoned at least 7 days in advance, the investigation phase may be closed at the hearing itself.[267]

Hearing and decision

Unless the appeal is rejected by order (*ordonnance*), the law provides for a hearing of the asylum seeker. The fact that the CNDA may reject cases without hearing them has an effect on the duration of the procedure.

A summons for a hearing has to be communicated to the applicant at least 30 days before the hearing in the regular procedure,[268] at the address indicated to the CNDA.[269] 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*

263 Article L.532-6 Ceseda
264 Ibid.
265 Article R. 532-23 Ceseda.
266 Article L.731-3 Code de justice administrative
267 Article R.532-32 Ceseda.
268 Article R. 532-32 Ceseda. In case of "emergency" however, the period between the summons and the hearing can be reduced to 7 days.
269 Council of State, Decision No. 414389, 7 June 2018, available in French at: https://bit.ly/2GABhQx.

following a specific request from the applicant. The hearing in *camera* is *ipso jure* (*de plein droit*), meaning that it must be done if the applicant requests it.[270] The CNDA must specify in its decision whether the hearing is public or held *in camera*.[271]

Asylum seekers who are not accommodated in reception centres have to organise and pay for their journey to the Court, close to Paris, themselves, even if they live in distant regions. For those accommodated, cost of such travel is included in the budget of the accommodation centre.

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, they are invited to make oral submissions, the administrative procedure before the CNDA being mainly written. Following the hearing, the case is placed under deliberation.

Out of the total of 66,358 decisions taken by the CNDA in 2023, 45,205 of them were issued following a hearing, of which 34,807 hearings were held in collegial function and 10,397 in single-judge format. The remaining 21,153 decisions were taken by order (*ordonnance*), i.e., 32% of all decisions.

The hearing takes place at the CNDA headquarters in Montreuil, near **Paris,** but the use of videoconferencing for CNDA hearings is allowed. Since 1 January 2019, the CNDA may use videoconferencing to ensure "a proper administration of justice". The interpreter sits in a room together with the asylum seeker; if this is not possible, they are present from the side of the Court.[272] 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.[273]

The CNDA held 263 video hearings in 2023, up from 267 in 2022, 165 in 2021 and 104 in 2020.[274] In practice, videoconferencing has usually only been applied to appeals lodged overseas, where it replaced mobile court hearings. The 2018 asylum law reform paved the way for its implementation regarding applicants in mainland France without their consent.[275] The law passed constitutional review[276] and thus the President of the CNDA issued a decision providing that videoconferencing would be established from the premises of the Administrative Courts of Appeal of **Lyon** and **Nancy** for appeals lodged after 1 January 2019 by person registered in certain parts of the relevant regions.[277]

This element of the 2018 reform was severely criticised, with practitioners referring to technical deficiencies in the videoconferencing system in **Lyon**. This negatively affects the quality of hearings and raises important fundamental rights concerns, which are exacerbated in cases involving vulnerable applicants.[278] The measure was suspended, and a mediator appointed to find a solution that would suit both the Court and the lawyers. As a result, the Court and the lawyer organisations reached an agreement in November 2020, providing for the express consent of the applicant as a prerequisite for videoconferencing and the holding of decentralised mobile hearings in **Lyon** and **Nancy**.[279] It also promoted a balance between videoconferencing and external hearings held directly by the court in Lyon

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270 Article L.532-11 Ceseda

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

272 Article L.532-13 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.

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

274 CNDA, *2024 Activity report,* 2023, available in French at: https://bit.ly/43HhYfF, 7.

275 At the time article L. 733-1 CESEDA; since 1 May 2021, article L. 532-13 CESEDA.

276 Constitutional Court, Decision No. 2018-770 DC, 6 September 2018, available in French at: https://bit.ly/3okLnMl.

277 CNDA, Decision 2018.12.DK.01 of 17 December 2018, available in French at: https://bit.ly/3KI09ED.

278 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://bit.ly/3AC1FDG.

279 Forum réfugiés-Cosi, 'Cour national du droit d'asile : un accord sur la vidéo-audience qui préserve la qualité de l'instruction', available in French at: https://bit.ly/3aQnkuu.

and Nancy. In 2023, there were 42 hearing sessions (halfdays or days) by videoconference in Nancy and 25 in Lyon. The implementation of this agreement is monitored by a mixed steering committee of Court personnel, lawyers, interpreters, doctors' representatives and audio-visual technical experts.[280] This does not apply to videoconferencing for applicants overseas, only to the attempt to expand videoconferencing further with applicants in mainland France.

Decisions of the CNDA are published (posted on the walls of the court building) after a period of 21 days following the hearing under regular procedure and after one week under accelerated procedure.[281] Negative decisions are forwarded to the Ministry of Interior, i.e. OFPRA and Prefectures. Since the COVID-19 crisis and considering the restrictions to access courts, the Court also publishes the anonymised list of its decisions on its website, thus enabling all applicants to be informed of decisions, including those who do not live in Paris.

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.[282] In practice, however, the applicant is not informed that their appeal will be rejected by order. Courts consider that the general information provided upon registration of the appeal, which includes explaining that the applicant has the right to access the file, discharges them from their duty to inform.[283]

Furthermore, the Council of State has recently confirmed rejections by order as practiced by the Court, deciding that the CNDA can reject an appeal by order even if the applicant had announced a complementary statement which has not been submitted yet and even if the appeal deadline has not expired yet.[284]

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 they have indicated, they are heard in a language they can reasonably be expected to understand.[285]

Asylum seekers may face several obstacles in challenging a negative OFPRA decision. Although time limits and appeal modalities are translated on the back of the refusal notification, asylum seekers sometimes do not understand them, in particular those who are not accommodated in reception centres where they may have social workers available to them, as well as other asylum seekers going through the same procedure. Applicants are not eligible for support for the preparation of their appeal within the SPADA, where they were in theory eligible for support in first instance. 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 out the legal aid request form. In practice, most accommodation centres keep on assisting asylum seekers in writing and challenging their claim to the CNDA.[286]

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

280 CNDA, *Vademecum sur les video-audiences devant la Cour Nationale du Droit d'Asile*, 12 November 2020, available in French at: https://bit.ly/3a4nU92.

281 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://bit.ly/3HcgoZV.

282 Article R. 532-3 (5) Ceseda.

283 Article R. 532-9 Ceseda.

284 Council of State, Decision No. 447293 of 10 November 2021, available in French at: https://bit.ly/3C0UTHi.

285 Article R. 532-40 Ceseda.

286 Practice-informed observations by Forum Réfugiés and partners, January 2024.

protection status.[287] This appeal must be lodged within 2 months of the notification of the CNDA decision.[288] The Council of State does not review the facts of the case, but only allegations based 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 may refer the case back to the CNDA to decide again on the merits, 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, they may request legal aid to the Office of legal aid of the Council of State. In practice, it is very difficult to obtain, as contrary to legal aid before the CNDA, the legal aid office of the Council of State does a preliminary review of the appeal and rejects legal aid where the appeal seems to manifestly inadmissible or devoid of any grounds.

The Council of State received the following appeals in 2023:

Appeals before the Council of State: 2016-2023						
	2018	2019	2020	2021	2022	2023
Total number of appeals	**836**	**905**	**614**	**1,051**	**810**	**652**
Total number of decisions	**845**	**866**	**644**	**933**	**935**	**607**
Admissible	34	49	42	51	52	62
Not admissible	811	817	602	882	883	545
Decisions on admissible appeals	28	38	49	59	42	49
Positive decision for asylum seeker	24	26	30	38	35	40

Source: CNDA, *Rapport d'activité 2023*, January 2024, available in French at: https://bit.ly/3xeY7sM.

This appeal is not suspensive, the average processing time is around two years and the applicant may be returned to their country of origin during this period.[289]

287 Article L.511-1 CJA.
288 See CNDA, 'Voies de recours contre les décisions de la CNDA', available in French at: http://bit.ly/1dBgbhO.
289 Practice-informed observations by Forum Réfugiés and partners, January 2024.

1.5 Legal assistance

Indicators: Regular Procedure: Legal Assistance

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 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), they can be supported in the writing of their application form by staff from the reception centres, in accordance with the mission set out in their framework agreement.[290] 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" (SPADA)[291] applies,[292] and they can obtain some basic information and assistance on the procedure from their relevant SPADA.

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).[293] Some local authorities sometimes contribute to this funding.

Access to legal assistance is therefore uneven dependent upon the type of reception conditions provided. Asylum seekers in the most precarious situations i.e.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 or dependent upon unofficial sheltering solutions, who are without direct support and are sometimes located far away from the regional SPADA. 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 SPADA. Therefore, asylum seekers have to rely on legal support from lawyers.

290 Bylaw of 19 June 2019 on missions of accommodation centers for asylum seekers, available at: https://bit.ly/35PnWMj.

291 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.

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

293 Ministry of Interior, 'selected FAMI projects in 2023', available in French at : https://bit.ly/3xdlVx6.

The law foresees the granting of legal aid ("*aide juridictionnelle*") for lawyers to file an appeal before the CNDA in case of a negative decision from OFPRA.[294] Legal costs can therefore, upon certain conditions, be borne by the State. In practice, the right to legal aid is considered *ipso jure* (*de plein droit*) in this case. 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 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, therefore shortening the time limit to benefit from legal aid.[295]

Following the 2018 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 their legal representative receives the notification of legal aid from the Legal Aid Office.[296] 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. This is a more restrictive stance from what was provided before the reform, where the time limit to lodge the appeal restarted in its entirety following the legal aid decision.

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.[297] 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 though the State budget for the general legal aid system. In practice, legal aid is widely granted:

Applications for legal aid before the CNDA: 2015-2023						
	2018	2019	2020	2021	2022	2023
Total applications	48,620	51,891	39,788	61,015	58,665	56,028
Total decisions on applications	46,639	51,888	42,261	62,890	58,256	61,183
❖ *Granted*	*44,985*	*48,789*	*40,105*	*59.881*	*55,250*	*59,415*
❖ *Refused*	*1,384*	*3,099*	*2,156*	*3.009*	*3,006*	*1.768*
Acceptance rate	96.4%	94%	94.9%	93.63%	94.84%	97,1%

Source: CNDA, *Rapport d'activité 2023*, January 2024, available in French at: https://bit.ly/3xeY7sM, 35.

Since 2013, asylum lawyers receive 16 credits (€ 512 - excluding taxes) for appeals with a hearing and 4 credits (or € 106) for appeals without a hearing before the CNDA. Since 2022, the amount of the unit value is € 36 (excluding taxes).[298]

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.[299] In particular, it is not enough to cover the cost of an interpreter during the preparation of the case.[300] Lawyers are often

294 Article 3 Law n. 91-647 of 10 July 1991 on legal aid

295 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.

296 Ibid.

297 CNDA, 'L'aide juridictionelle', available in French at: http://bit.ly/1FXqvaw.

298 Article 44, Budget law for 2022, available in French at: https://bit.ly/3vqhz2D.

299 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.

300 Senate, Information Report No. 130, prepared by Senators Jean-Yves Leconte and Christophe-André Frassa, 14 November 2012, available in French at: https://bit.ly/3UEb9Yh.

court-appointed by the CNDA,[301] 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. 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 may therefore be on their own to write their appeal and face a high risk of seeing their appeal rejected by order due to insufficient arguments. They can only rely on legal assistance from NGOs, which is nevertheless very uncertain given the uneven availability of such assistance, as it is dependent on the location of the asylum seeker, the availability of interpreters as well as the capacity and resources of the NGO.[302]

2. Dublin

Overseas France: The Dublin procedure does not apply to asylum applicants in overseas France.[303]

2.1 General

Dublin statistics: 1 January – 31 December 2023

Outgoing procedure				Incoming procedure			
	Requests	Accepted	Transfers		Requests	Accepted	Transfers
Total	49,925	32,470	2,739	**Total**	10,686	5,913	1,682
Italy	17,863	10,437	9	Germany	5,082	2,650	615
Croatia	7,890	6,722	131	Belgium	1,860	1,036	204
Germany	4,934	2,593	909	Netherlands	946	623	205
Austria	3,997	2,997	355	Switzerland	808	496	217
Spain	3,937	2,717	584	Italy	379	273	8
Belgium	1,825	1,252	311	Austria	334	177	86
Bulgaria	1,822	1,065	84	Cyprus	183	42	49
Portugal	1,485	1,161	66	Greece	147	40	32
Romania	1,195	817	26	Spain	135	65	2
Switzerland	1,002	361	77	Sweden	132	97	77

Source: Eurostat, based on total requests (first time and re-examination)

Detailed statistics on the application of the Dublin Regulation are not made available by the authorities prior to their publication on the Eurostat database. However, limited data was made available at the beginning of 2024. At the end of 2023, 36,917 of the asylum seekers were in a Dublin procedure (29,446 at the end of 2022) and 16,184 had been re-channelled in 2023 from a Dublin procedure registered before 2023 to a regular or accelerated procedure (10,437 in 2022).[304] As regards the actual implementation of transfers in 2023, the ratio of implemented transfers compared to outgoing requests was only of 5.5% in 2023, or 8.4% when taking into account only accepted requests.

301 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).

302 Practice-informed observations by Forum Réfugiés and partners, January 2024.

303 Article L. 591-2 Ceseda.

304 Ministry of Interior, *Chiffres clés – Les demandes d'asile*, 25 January 2024, available in French at: https://bit.ly/3xaPpvu.

In 2022, French authorities placed 36,847 persons under Dublin procedure, compared to 30,223 in 2021 (it differs from Eurostat data which indicates 37,258 outgoing requests in 2021 and 44,881 in 2022). At the end of 2022, 29,446 of them were still in a Dublin procedure and 7,401 persons were re-channelled from a Dublin procedure to a regular or accelerated procedure (requalifiés).[305]

Outgoing Dublin requests by criterion: 2023		
Dublin III Regulation criterion	Requests sent	Requests accepted
"Take charge": Articles 8-15:	**22,406**	14,013
Article 8 (minors)	0	1
Article 9 (family members granted protection)	0	0
Article 10 (family members pending determination)	0	0
Article 11 (family procedure)	533	71
Article 12 (visas and residence permits)	6,732	4,724
Article 13 (entry and/or remain)	15,128	9,211
Article 14 (visa free entry)	13	6
"Take charge": Article 16	0	0
"Take charge" humanitarian clause: Article 17(2)	35	13
"Take back": Article 18 and 20(5)	**27,474**	18,444
Article 18 (1) (b)	26,314	9,681
Article 18 (1) (c)	12	767
Article 18 (1) (d)	1,135	3,020
Article 20(5)	13	4,976

Source: Eurostat, based on total requests (first time and re-examination)

Incoming Dublin requests by criterion: 2023		
Dublin III Regulation criterion	Requests received	Requests accepted
"Take charge": Articles 8-15:	10,686	2,395
Article 8 (minors)	30	41
Article 9 (family members granted protection)	8	4
Article 10 (family members pending determination)	24	6
Article 11 (family procedure)	27	17
Article 12 (visas and residence permits)	2,719	2,206
Article 13 (entry and/or remain)	213	80
Article 14 (visa free entry)	2	0
"Take charge": Article 16	4	1
"Take charge" humanitarian clause: Article 17(2)	401	40
"Take back": Article 18	7,249	3,516
Article 18 (1) (b)	6,236	707
Article 18 (1) (c)	17	16
Article 18 (1) (d)	996	2,793
Article 20(5)	7	1

Source: Eurostat, based on total requests (first time and re-examination)

[305] Ministry of Interior, *Chiffres clés – Les demandes d'asile*, 22 June 2023, available in French at: https://bit.ly/3PDQZfM.

Application of the Dublin criteria

The Dublin procedure is applied to all asylum seekers without exception, as per the Regulation. The Ministry of Interior regularly highlights the need to apply the Regulation strictly, in response what are considered important secondary movements.[306]

The official policy of the French Dublin Unit is that it does not transfer unaccompanied children under the Dublin Regulation.[307] In practice, 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.[308]

The dependent persons and discretionary clauses

In practice, it is possible to ask the Prefecture to be rerouted from a Dublin procedure to a regular or accelerated procedure ("*requalification*") especially for vulnerable people, and the discretionary clause seems to be often applied for these situations in some districts. In 2022, Eurostat records 1,033 use of the sovereignty clause (article 17.1 Dublin) by French authorities.

2.2 Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications? ☐ Yes ☒ No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility? Not available

The Dublin procedure is regulated by articles L.571-1 to L.573-6 CESEDA.

While there is no official data available on how long a transfer takes place after the responsible Member State has accepted responsibility, civil society organisations have reported that it can vary from 1 to 153 days.[309]

The Dublin procedure is not carried out by OFPRA but by a separate entity – the Prefectures – in accordance with the recast Asylum Procedures Directive.[310] The deadline of 3 months for Prefectures to

306 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; 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://bit.ly/3UWlLID.

307 Position expressed by the Minister of the Interior in 2009, and not reviewed since according to the experience of Forum Réfugiés. Ministry of Interior, 'Visite d'un centre d'accueil de mineurs étrangers isolés interpellés à Calais : Eric BESSON salue le succès du dispositif mis en place', 1 October 2009, available in French at: https://bit.ly/32Nwa88.

308 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.

309 This is based on information gathered through Court decisions issued in 2019. See also : La Cimade, 'Guide pratique et théorique du réglement Dublin', 7 May 2021, available in French at: https://bit.ly/2uneV0d.

310 Article 4(2) recast Asylum Procedures Directive.

issue an outgoing Dublin request starts from the moment the applicant makes an application at the orientation platform (SPADA) 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*.[311]

In practice, according to data communicated to La Cimade, on average in 2021, a Dublin request was sent by the Prefectures to other countries within 11 days, requested countries answered in 16 days, the decision was notified in 42 days, the procedure before the Administrative Court lasted 34 days and transfers were implemented in 235 days: in total the procedure was thus carried out in 338 days on average in 2021.[312] More recent statistical data is not available.

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.[313] They also receive the general guide for asylum seekers, also translated into several languages,[314] and a form to notify their intention to introduce an asylum claim (see section on Registration). In practice, many asylum seekers do not seem to be really informed of the details of the procedure after their interview.

During the application process, the officers in Prefectures are requested to take fingerprints for each and every asylum seeker above 14 years old and 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 their claim will be channelled into the accelerated procedure if their fingerprints are still unfit for identification,[315] with the exception of certain cases such as asylum seekers who are seriously ill. The asylum claim cannot be fully registered without the fingerprints taken and checked in Eurodac. Therefore, the asylum claim certificate is only delivered once all information, including fingerprints, has been registered.[316]

Asylum seekers receive an asylum claim certificate specifying the procedure under which they have been placed, for instance the Dublin procedure.[317] This asylum claim certificate allows asylum seekers under a Dublin procedure to remain legally on French territory during the entire procedure.

Once a claim is classified as a Dublin procedure, the applicant receives a second information leaflet on the Dublin procedure (Leaflet B, produced by the EU and translated into several languages)[318] 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. The applicant must go to the Prefecture regularly with their Dublin notice document to clock-in when they are subject to a house arrest order.[319]

Usually, 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. However, there is not necessarily

311 Administrative Court of Appeal of Bordeaux, Decision 17BX03212, 22 December 2017, available at: http://bit.ly/2DttGBh. See CJEU, C-670/16, *Mengesteab*, Judgment of 26 July 2017, available at: https://bit.ly/3GOHLZK.

312 La Cimade, 'Les Dubliné.e.s sortent (un peu) du brouillard statistique', 28 June 2023, available in French at : https://bit.ly/3VzCUE2.

313 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.

314 Ministry of Interior, *Guide du demandeur d'asile*, available in 30 languages at: https://bit.ly/3c1FdHf.

315 Article L. 531-27 Ceseda.

316 Circular of 2 November 2015 on the implementation of the Law of 29 July 2015, available in French at: https://bit.ly/42aHbgV.

317 Articles L. 521-7 Ceseda.

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

319 Article L.751-5 Ceseda

information either about the country which was contacted or on the criteria leading to this referral. Moreover, the asylum seeker is not necessarily informed about the date when the country determined to be responsible for their 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 notification of the 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 implemented a regionalisation plan (consolidated in 2019)[320] for the Dublin procedure whereby only one Prefecture per region is now responsible for the implementation of the Dublin procedure for the applications registered in its respective region. The regional centres are the following:

Regional focal points for the Dublin procedure: 2023	
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
Ile-de-France – Essonne	Evry
Ile-de-France – Hauts-de-Seine	Nanterre
Île-de-France – Paris	Paris
Ile-de-France – Seine et Marne	Melun
Ile-de-France – Seine Saint Denis	Bobigny
Ile-de-France – Val de Marne	Créteil
Ile-de-France – Val d'Oise	Cergy-Pontoise
Ile-de-France – Yvelines	Versailles
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.

As a result, the Ministry of Interior advised that asylum seekers under Dublin procedure should be accommodated close to that Prefecture or, if not yet accommodated, should register with a SPADA near the regional centre Prefecture. In some regions, a regional scheme regarding accommodation has been established. In **Auvergne-Rhône Alpes** for example, this scheme designates 4 SPADA and 5

320 *Arrêté du 10 mai 2019 désignant les préfets compétents pour enregistrer les demandes d'asile et déterminer l'Etat responsable de leur traitement (métropole).* NOR: INTV1909588A, available in French at: https://bit.ly/3axKAwv.

accommodation centres near Lyon, to which all asylum seekers of the region under a Dublin procedure must be oriented.[321]

The regionalisation plan creates difficulties for asylum seekers who have no means of travelling to the competent Prefecture after receiving a Dublin notice document, as missing an appointment leads to the withdrawal of reception conditions and thus exposition to destitution.[322] The Council of State has clarified, however, that where the applicant is required to travel from their place of residence to appear before the *pôle régional*, the transport costs must be borne by the Prefecture.[323] However, problems persisted throughout 2023 as transport vouchers were sometimes delivered too late. As a result, asylum seekers were not always able to attend their appointment.[324]

Detention and house arrest during the procedure

The law provides for 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).

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 518 times in 2022 according to NGOs providing legal assistance in detention centre (517 in 2021).[325]

Individualised guarantees

In 2023, individualised guarantees were still not requested 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.

In 2020, the Administrative Court of **Lyon** suspended a Dublin transfer to Greece considering that the Prefecture had failed to take into consideration the observations made by the asylum seeker regarding his individual situation in the destination country.[326]

In 2023, several judgments have annulled transfer decisions to Italy due to manifest errors in assessing the applicants' vulnerability under Article 17 of the Dublin Regulation.[327]

Transfers

Any transfer decision must be motivated and notified in writing to the applicant.[328] It should 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 they understand or are likely to understand.

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321 Préfecture de région Auvergne Rhône Alpes, 'Schéma régional d'accueil des demandeurs d'asile et des réfugiés (SRADAR) 2021-2023', 3 February 2022, available in French at : https://bit.ly/4aa9Nvf.

322 ECRE, *Access to asylum and detention at France's borders*, June 2018, available at: https://bit.ly/3oamVxg, 20.

323 Council of State, Order 422159, 26 July 2018, available in French at: https://bit.ly/3mJHBf9.

324 Practice-informed observations by Forum Réfugiés and partners, January 2024.

325 ASFAM - Groupe SOS, Forum réfugiés, France terre d'asile, la Cimade, Solidarité Mayotte, 'Centre et locaux de rétention administrative', Activity report 2022, April 2023, available in French at: https://bit.ly/43C9ZkG.

326 Administrative Court of Lyon, Decision No. 20065, 8 September 2020.

327 Administrative Court of Appel of Douai, 21 November 2023, n°23DA01657 ; Administrative Court of Appel of Douai, 14 November 2023, n°23DA01421 ; Administrative Court of Appel of Nantes, 3 July 2023, n°23NT00394.

328 Article L. 572-1 Ceseda.

The period between the response of the requested country and the notification of a transfer decision varies considerably among Prefectures. According to data collected by La Cimade, it took an average of 42 days in 2021 for a decision to be notified, with some Prefectures issuing a decision in 14 day (Val-de-Marne) and others taking 100 days (Loiret). [329]

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 runs again for a full 6 months following 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 will not be renewed again following the appeal decision for instance.[330]

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

- Voluntary transfer initiated by the applicant themselves: a *laissez-passer* is provided as well as a meeting point in the host country;
- Enforced transfer: the applicant is accompanied by police forces up until the boarding of the plane; or
- 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 Dublin procedure who do not benefit from stable housing receive a first letter from the Prefecture, informing them of the transfer. If they don't come to the Prefecture, 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.[331]

The law enables the Prefect to place under house arrest, systematically, any asylum seeker subject to a transfer decision (see Alternatives to Detention).[332] Where the asylum seeker does not comply with the house arrest, they may be placed in administrative detention.[333] The Prefect can also ask that the Judge of Freedoms and Detention (JLD) require the assistance of the police to ensure of the presence of the asylum seekers at the place they are supposed to remain or to operate their transfer.[334] Since an instruction of the Ministry of Interior of 20 November 2017, the use of these provisions increased in every Prefecture.[335]

In practice, the notification of a 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 (at the address of the SPADA) is notified in person at the Prefecture. Accommodated asylum seekers are notified by the Border Police at the place they are housed.

329 La Cimade, 'Les Dubliné.e.s sortent (un peu) du brouillard statistique', 28 June 2023, available in French at : https://bit.ly/4aqSKVy.
330 Council of State, Decision 420708, 24 September 2018, available in French at: https://bit.ly/3UNTH3K.
331 Practice-informed observations by Forum Réfugiés and partners, January 2024.
332 Article L. 731-1 Ceseda.
333 *Ibid.*
334 *Ibid.*
335 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, available in French at: https://bit.ly/3L4zG5v.

In 2023, France sent 49,925 outgoing requests and implemented 2,739 transfers, making for a 5.5% transfer rate (compared to 7.4 in 2022, 8% in 2021 and 10.3% in 2020).[336]

In 2023, a total of 16,184 asylum seekers who had been placed in a Dublin procedure in previous years were allowed to lodge applications with OFPRA after their Dublin procedure in France came to an end (requalifiés).[337] In these situations, the process of returning to the French asylum system is marked by differences in practices depending on the territory, sometimes long delays in obtaining a new appointment and the lack of reception conditions for this new asylum application.[338]

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 that this interview is not always conducted in practice.[339] The instruction of the Ministry of Interior of 19 July 2016 also recalls that interviews must be systematically conducted, not only in cases of a Eurodac 'hit'.[340]

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 certificate.[341] 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.[342] During this appointment, which takes place at the GUDA in Prefectures (therefore not in offices guaranteeing confidentiality), questions are asked about civil status, relatives of the applicant, modes of entry into French territory, countries through which the applicant possibly travelled prior to their 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.

336 Eurostat as of 02 May 2024 regarding 2023 data.
337 Ministry of Interior, Statistics on asylum, 25 January 2024.
338 Forum réfugiés, 'Règlement Dublin : quel accès à l'asile pour les procédures « éteintes »', 6 May 2021, available in French at: https://bit.ly/42UdEta.
339 e.g., Administrative court of Marseille, Decision No. 2001268, 28 September 2020.
340 Instruction relative à l'application du règlement Dublin III. Recours à l'assignation à résidence et à la rétention administrative dans le cadre de l'exécution des décisions de transfert, 19 July 2016, NOR : INTV1618837, available in French at : https://bit.ly/3mtpj1H.
341 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.
342 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 [2014] OJ L 39/1.

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.

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? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No

As of 2024, this will be affected by the provisions of the new asylum law: see Changes to the legal framework: new law of 26 January 2024.

Asylum seekers placed under the Dublin procedure can introduce an appeal before the Administrative Court to challenge the transfer decision. The appeal has to be introduced within 15 days after the asylum seeker has been notified the decision. The appeal has suspensive effect. The designated judge has to rule within 15 days of the appeal being lodged.[343]

These time limits are shorter in case of detention or house arrest. In such cases, the appeal has to be introduced within 48 hours of the decision notification.[344] The judge has to rule within 72 hours of the appeal being lodged.[345]

In practice, the shorter time limit for introducing an appeal may prevent asylum seekers who are not accompanied or accompanied at SPADAs from introducing their appeal on time. Several Prefectures (e.g. in Eure) tend to notify the transfer with a house arrest measure on a Friday, to prevent the asylum seeker from finding legal assistance during the weekend, and transfer him or her 48 hours later.[346] 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.[347]

The appeal allows the asylum seekers to challenge the application of the Dublin criteria and the country of transfer with regard to their personal and family situation. Regarding the situation in the country of transfer, the judge examines several aspects of the asylum system (reception conditions, procedural guarantees, etc.).

343 Article L. 572-5 Ceseda.
344 *Ibid.*
345 Article L. 614-6 Ceseda.
346 See for example : InfoMigrants, 'Y-a-t-il des recours possibles à une procédure Dublin?', 6 December 2019, available in French at: https://bit.ly/2RIvUlw.
347 Court of Cassation, Decision No 17-15.160, 27 September 2017, available in French at: https://bit.ly/3MOLJoN.

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?
   ☐ 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 Dublin decision in practice?
   ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☒ Representation in courts
     ☒ Legal advice

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

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 contested decision is unlawful or unfounded and may, for instance, lead to a violation of their fundamental rights. Access to legal aid can be refused if the arguments are deemed unfounded.[348]

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" (notably, since a decision in 2021, the risk of indirect return from another European country is not an argument accepted).[349]

Hungary: On several occasions in 2016 and 2017, Administrative Courts suspended the transfer of asylum seekers under the Dublin Regulation to Hungary.[350] Case law remains inconsistent since 2018, however, with some courts arguing that the asylum procedure and reception conditions present no systemic deficiencies in Hungary.[351] As France maintains a policy of applying the Dublin Regulation systematically where there are indications of previous stay or application in Hungary, it continued to be one of the main Member State sending requests in 2021 and 2022 (485 requests in 2022 according to Eurostat), although according to Eurostat no actual transfers were carried out between 2018 and 2022.

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.[352] In 2018, several

348 Law n° 91-647 of 10 July 1991 related to legal assistance, NOR : JUSX9100049L, art.7

349 CE, 28 May 2021, n° 447956, M. H. A.

350 Administrative Court of Appeal of Nancy, Decision No 15NC00961, 31 March 2016; Administrative Court of Appeal of Lyon, Decision No 15LY03569, 31 May 2016; etc. In contrast, a decision considering that there are no systemic deficiencies in Hungary: Administrative Court of Versailles, Decision No 16VE02239, 28 June 2017.

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

352 Administrative Court of Lyon, Decision 19011982, 13 May 2019. Administrative Court of Rennes, Decision 1705747, 5 January 2018, EDAL, available at: https://bit.ly/2NgRHOw; Administrative Court of Nantes, Decision No 1601004, 12 February 2016. See also Administrative Court of Pau, Decision of 26 January 2018.

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 cut funding for asylum seekers, its hostile discourse on migrants, and the increase in incidents of racist violence.[353] Higher courts have expressed similar views in some cases.[354] In 2022, an administrative court annulled a transfer decision to Italy indicating that there are 'serious reasons to believe that the request (...) will not be treated by the Italian authorities under conditions that comply with all the guarantees required by respect for the right of asylum'.[355] Following the decision of the Italian government of December 2022 to suspend transfer to its country, Administrative Courts and then Administrative Courts of Appeal generally find a systemic failure in the country to overturn transfer decisions.[356]

Bulgaria: There have been decisions suspending transfers in 2018, taking into account allegations of police violence against asylum seekers in Bulgaria among other factors.[357] In one case in July 2018, after the European Court of Human Rights granted interim measures to prevent a transfer to Bulgaria, the Administrative Court of Paris ruled against the transfer,[358] but the Council of State found on appeal that the conditions in Bulgaria did not warrant a suspension of the transfer.[359] 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.[360] In one case in December 2021, the Administrative Court of Rouen annulled a transfer in light of the systemic deficiencies in the country, especially for Afghans who face a recognition rate as low as 1%.[361] A similar ruling was made in 2022 by the Administrative Court of Melun.[362]

Croatia: In January 2024, the Administrative Court of Strasbourg has suspended a transfer to Croatia on account of systemic deficiencies.[363]

In some individual cases, Administrative Courts have prevented transfers on the basis of risks of chain *refoulement* upon returning asylum seekers 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* given these countries' tendency to return such persons to their country of origin.[364] However, the Council of State put an end to this type of case law in a decision of 28 May 2021

353 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.

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

355 Administrative Court of Montpellier, Decision No. 2203347, 4 July 2022.

356 Administrative Court of Nantes, Decision n°23NT01470, 26 September 2023; Administrative Court of Nantes, Decision n°23NT03023, 2 February 2024.

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

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

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

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

361 Administrative Court of Rouen, 21 December 2021.

362 Administrative Court of Melun, Decision N°2204149, 11 July 2022.

363 Administrative Court of Strasbourg, Decision N°2308967, 4 January 2024.

364 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). Administrative Court of Appeal of Lyon, Decision NO. 20LY01035, 20 April 2020 (Sweden).

where it ruled that protection is presumed in other EU countries and that it is up to the applicant to prove a possible violation of fundamental rights.[365]

2.7 The situation of Dublin returnees

Applications of persons returned to France under the Dublin III Regulation are treated in the same way as any other asylum applications. If the asylum seeker comes from a safe country of origin, their application is examined under the accelerated procedure. If the asylum application had already received a final negative decision from the CNDA, the asylum seeker may apply to OFPRA for a re-examination only if they possess new evidence (see section on Subsequent Applications).

Support and assistance to Dublin returnees remains 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 welcomed 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 conduct (*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 as no organisation or official service meets them. The centre cannot afford their travel within the French territory due to funding shortages.

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

- On the one hand, some Prefectures do not register the asylum claims of Dublin returnees and redirect them to the SPADA. As it has already been mentioned in the Registration section, access to these platforms is very complicated and some returnees have to wait several weeks before getting an appointment with the organisations running them.

- On the other hand, some Prefectures do immediately register the asylum claims of returnees and direct 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 eager 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 supposed to present themselves at the SPADA run by Forum réfugiés to be registered before submitting their claim. They encounter the same difficulties in terms of accommodation to the conditions in **Paris**.

When the incoming transfer concerns an asylum seeker who has previously abandoned their application and left the country, a new claim is considered as subsequent application.

Dublin returnees further face important obstacles in accessing reception centres that is the same difficulties as all asylum seekers in France in securing housing. This is due to the fact that there is approximately a 50% gap of available places, as further explained in Conditions in reception facilities.

365 Council of State, Order NO. 447956, 28 May 2021. Available in French at: https://bit.ly/3rWle67.

3. Admissibility procedure

3.1 General (scope, criteria, time limits)

As of 2024, this will be affected by the provisions of the new asylum law: see Changes to the legal framework: new law of 26 January 2024.

The law provides OFPRA with the possibility to decide on the admissibility of asylum applications lodged before it.[366] Claims are deemed inadmissible in the following cases:

- The asylum seeker already benefits from an effective international protection status (refugee status or subsidiary protection) in another EU Member State;
- The asylum seeker has already been granted refugee status and benefits from an effective protection in another third country and they can effectively be readmitted there; or
- When, following a preliminary examination carried out in accordance with the procedure defined in Article L. 531-42, it appears that this request does not meet the conditions provided for in the same article (new elements that significantly increase the probability that the applicant meets the conditions required to qualify for protection).

The applicability of these grounds may be discovered by OFPRA upon lodging of the application 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.[367]

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

OFPRA never takes decisions 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. However, the law sets no consequence in case those time-limits are not complied with by OFPRA. As a matter of fact, they are very unevenly implemented in practice.[368]

The notification of the decision includes procedural aspects and the time period to introduce an appeal to the CNDA to challenge the inadmissibility decision.

In 2022, OFPRA issued 14,250 (13,000 in 2021) inadmissibility decisions.[369]

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 on ground of the existence of an international protection in an EU Member State or refugee status in a third country, are invited to a personal interview.

366 Article L. 531-32 Ceseda.
367 Article R. 531-38 Ceseda.
368 Practice-informed observations by Forum Réfugiés and partners, January 2024.
369 OFPRA, *2022 Activity report*, July 2023, available in French at: https://bit.ly/49eglrk, 66.

The interview in the case of Subsequent Applications, which represent the largest part of inadmissibility cases, is not required by law.

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 ☐ Some grounds ☒ No

There is a 1-month time limit for introducing an appeal before the CNDA.

The appeal is not suspensive in inadmissibility cases based on the existence of an international protection in an EU Member State or refugee status in a third country.[370] However, the appeal is also not automatically suspensive in inadmissibility cases concerning subsequent applications.[371] Similarly 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.

3.5 Suspension of returns for beneficiaries of protection in another Member State

No EU country is affected by a general suspension of return for beneficiaries of protection, but a case-by-case examination may lead to such a suspension.

In May 2023, CNDA ruled on the question of the necessary elements to confirm the existence of international protection obtained in another EU Member State for the purposes of the application of article L. 531-32 of the CESEDA.[372] The court held that in the absence of an official document from the authorities of the Member State who granted protection, proving that protection was granted, the existence of such protection can be ascertained on the basis of consistent evidence and indications from the case file, and relying on comparisons of the fingerprints taken from the applicant at the time of submitting his application

370 Article L. 542-2 Ceseda.
371 Article L. 542-2 Ceseda.
372 CNDA, 28 March 2023, M. M. n°20031552 C +.

in France, in accordance with Article 9 (1) of the Dublin III Regulation, with those taken previously in another Member State. The court further added that the applicant's statements on the granting of international protection must also be considered. However, in this case, the Court concluded that there were no systematic and general deficiencies in Hungary that would reach the particularly high level of severity in the reception of applicants and beneficiaries of protection.

Recently, several decisions have recognised the lack of protection for refugees in Greece[373] (with exceptions)[374] or in Malta.[375]

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. Where is the border procedure mostly carried out? ☒Air border ☐Land border ☐Sea border
3. Can an application made at the border be examined in substance during a border procedure? ☐ Yes ☒ No
4. 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?[376] 2 working days
5. Is the asylum seeker considered to have entered the national territory during the border procedure? ☐ Yes ☒ No

A specific border procedure to request an admission into the country on asylum grounds is provided by French legislation,[377] 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 claim itself.[378]

In 2022, the arrival of the ship *Ocean Viking* in November 2022 gave rise to a massive placement in a temporary waiting area created in Toulon: while the 44 unaccompanied minors were directly taken into the care of the child protection system, 188 out of the 190 adults placed in this waiting area applied for asylum, and admission to the territory as such was granted to 67 of them (35%) (others were released for procedural issues except 2 persons returned to Mali).[379] Despite government announcements upon arrival of the ship, no relocation seems to have been implemented to another European state.[380]

Legal framework

The border procedure is governed by Article R. 351-1 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

373 CNDA, 2 May 2022, CNDA, 23 September 2022, n°22025059; CNDA, 14 October 2022, n° 22030088.
374 Conseil d'Etat, 30 January 2024, n°457524.
375 CNDA,18 February 2022, n° 21064690.
376 Deadline for OFPRA to send an opinion to the Ministry of Interior.
377 Article L. 351-1 Ceseda.
378 OFPRA, 'Demander l'asile à la frontière', 20 April 2016, available in French at: http://bit.ly/2D1RcpL.
379 Assemblée nationale, *Mission « flash » sur le bilan de la zone d'attente temporaire installée sur la presqu'île de Giens (Var) en novembre 2022*, 29 March 2023, available in French at: https://bit.ly/3zovp6g.
380 Forum réfugiés, 'Comment s'organise la relocalisation vers d'autres pays européens des passagers de l'Ocean Viking accueillis en France ?', December 2022, available in French at: https://bit.ly/3Lwdbp3.

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.'

As soon as asylum seekers apply for asylum after being refused entry into the territory, they are directed to a waiting zone. Article L. 343-1 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.'

Grounds for applying the border procedure

French law foresees a specific procedure for persons held in waiting zones after arriving in train stations, port or airports without a document allowing them to enter the territory regularly (a decision to refuse entry is notified before placement in the waiting zone). Rather than an examination of the asylum claim itself, this procedure concerns the person's admission to the territory for the purpose of seeking asylum ("*admission au territoire au titre de l'asile"*). Access to the territory is granted if:

- France is responsible for the claim under the Dublin Regulation;
- the claim is admissible; and
- the claim is not manifestly unfounded.[381]

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."[382]

In theory, the asylum grounds and the merit of the application should thus not be examined by OFPRA at this stage, but only once the applicant is granted access to the territory and their claim has been channelled into the regular or accelerated procedure. As explained under Border procedure – Personal interview, the border procedure is very different from the asylum procedure on the territory. The purpose of the interview at the border is to point out the blatant elements showing the lack of credibility of an application that do not correspond to asylum critera or are manifestly lacking credibility regarding the risk of persecutions or severe violations.[383] Stereotypical, imprecise or incoherent accounts can lead to consider the application as manifestly unfounded.[384]

However, 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.[385]

It should be noted that the asylum applicant is not considered as being on French territory as long as the admission procedure is pending, i.e., there is a 'fiction of non-entry' that applies as long as entry to the territory has not been explicitly granted.

381 Article L. 351-1 Ceseda.
382 Article L. 352-1 Ceseda.
383 Information received from OFPRA on 16 May 2024.
384 Information received from OFPRA on 16 May 2024.
385 Practice-based observation by Forum Réfugiés and partners, January 2024.

Dublin III in the border procedure

OFPRA can only issue a negative opinion on admission to the territory for asylum purposes in case the application is inadmissible or manifestly unfounded. OFPRA is not competent to assess and apply the Dublin Regulation, which is the third ground for refusal of admission to the territory on asylum grounds. This competence lies entirely with the Ministry of Interior and such a refusal is issued where there is evidence that the applicant has family ties, documentation from another country or has applied for asylum in another country.[386] In case elements are submitted by the applicant during the interview with OFPRA that are relevant to the application of the Dublin Regulation, OFPRA issues its opinion to the Ministry of Interior without basing itself on the Dublin-related aspects.[387]

The Ministry of Interior reported that the Dublin procedure had been applied at the border in 11 cases in 2019, in two cases in 2019, and in one case in 2020 as of the end of September 2020. However, none of the persons were actually transferred to the responsible Member State. This is due to various reasons such as the suspension of the transfer decision by the administrative court; the person was released from detention by the liberty judge prior to the transfer; the applicable time limits for the transfer were not met; or cases where the person refused to embark.[388] More recent information is not available.

Authorities involved in the border procedure

The first authority involved in the border procedure is the Border Police (‘*Police aux frontieres’*), which is responsible for border management and apprehending individuals at the border. Thus, it is usually the first authority with whom applicants are in contact. The Border Police conducts a first interview upon arrival to collect basic identification information, based on which OFPRA will prepare its interview. The asylum application must be considered 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 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 examination and appreciation of asylum claims made at the border lie with OFPRA. As mentioned under Number of staff and nature of the determining authority, OFPRA is one of the few asylum authorities in Europe which has a Unit dedicated to the border procedure. It is entitled the “asylum at the border” Unit and is thus responsible for claims made in waiting zones.[389] In 2018, the Border Unit of OFPRA was comprised of three Protection Officers, one Secretary and one Head of Division.[390] The Unit is now supported by a reserve list of approximately 50 trained Protection Officers to assist when needed.[391]
The Ministry of Interior is responsible for determining whether a person should be granted access to the territory for the purpose of the asylum procedure. OFPRA issues a binding opinion to the Ministry of Interior allowing or refusing entry on two of the three grounds. The latter is the authority officially issuing the decision, and it can only refuse entry to the territory despite a positive opinion from OFPRA in case there is a threat to public order,[392] or by applying the Dublin Regulation, the only grounds not under the purview of OFPRA.

The Ministry of Interior is also the authority responsible for the placement of foreign nationals in the waiting zone, under the supervision of the JLD.[393]

386 Information provided by OFPRA, 24 April 2018.
387 Information provided by OFPRA, 24 April 2018.
388 Information provided by the Ministry of Interior, 21 October 2020.
389 ECRE/AIDA, Asylum authorities: an overview of internal structures and available resources, November 2019, available at: https://bit.ly/3peHrYq, 10.
390 ECRE/AIDA, *Access to asylum and detention at France’s borders*, June 2018, available at: https://bit.ly/3jEbV53, 20.
391 Information received from OFPRA on 16 May 2024.
392 Article L. 352-2 Ceseda.
393 Article L. 342-1 Ceseda.

Administrative Courts (*Tribunal administratif*) are responsible for the appeals lodged against decisions rejecting the access to the territory as well as placement into waiting zones decisions.[394] An onward appeal against the decision of the *Tribunal administratif* can further be lodged in front of Administrative Courts of Appeal (*Cour administrative d'appel*).[395]

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.

Location of the border procedure

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 of 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 be 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.[396]

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).

While there are several waiting zones in France, but the one in Roissy – Charles de Gaulle Airport of Paris, is by far the main point of activity in the country, followed by Orly airport, also located in Paris.

Since 2015, around 70% to 80% of all applications made at the border were made at **Roissy airport** and 10 to 12% at **Orly airport**. By way of illustration, in 2021, 86.9% of all border procedures were lodged at Roissy airport, and 5.2% at Orly airport. A slight increase in the number of applications made at the border in Overseas France was noted in 2018 and 2019, mainly due to arrival of several ships from Sri Lanka and Indonesia to the Réunion Island.[397] In 2021, Marseille was the third main waiting zone with 3% of all applications at the border made in this place. In 2022, Roissy airport remains by far the one where the most procedures are carried out (70%) but the *ad hoc* waiting zone created in Toulon for arrival of *Ocean viking* at the end of the year take the second position with 7,7% of all asylum applications at the border this year. 7,5% of applications were made at three other places (Orly airport, Lyon airport, Marseille port).[398]

394 Article L. 352-4 Ceseda.
395 Article L. 352-9 Ceseda.
396 Article L. 342-4 Ceseda.
397 OFPRA, Rapports d'activité, available in French at: http://bit.ly/3my3uOr.
398 OFPRA, Rapports d'activité, available in French at: http://bit.ly/3my3uOr.

Time limits in the border procedure

There is no strict deadline to apply for asylum when applicants are waiting for their admission at the border and are placed in waiting zones. From when the application for international protection has been made, OPFRA has two working days to issue its opinion to the Ministry of the Interior.[399]

Average processing times of OFPRA (in days)						
2017	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
3.39 days	2.74 days	3.5 days	3.1 days	2.5 days	3 days	2.5 days

In 2023, the average processing time for OFPRA to issue its decisions at the border was 2,5 days.[400] It has consistently exceeded the time limit of two days laid down in national law, reaching up to 3.5 days in 2019. Available figures further indicate that some years, a relatively important amount of cases were not being examined by OFPRA within four days, thus largely exceeding the two days time limit laid down in law. In 2019, this represented 28.5% of the cases, a large increased compared to 2018 (17%) and a figure that is comparable to the year 2017 (28% of the cases).[401] More recent statistics were not available at the time of writing of this report.

Nevertheless, national law does not foresee any time limit for the Ministry of Interior to issue its decision based on the binding opinion of OFPRA. This means that applicant can theoretically be held in waiting zones for several days, up until a formal decision of the Ministry of Interior has been issued. Practice suggests, however, that the Ministry of Interior issues its decision within the same day. Moreover, there have been no cases in which the decision took longer than the 4 weeks' timeframe foreseen by Article 43(2) of the recast Asylum Procedures Directive.[402]

The person may apply for asylum at any time whilst they are held in the waiting zone, meaning during an initial period of 4 days which can be extended up to a maximum of 20 days. 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 6 more days following the submission of the asylum application, with a view to allowing the authorities to conduct the asylum procedure.[403] Therefore detention in the waiting zone can reach 26 days if the person applies for asylum on the 20th day of detention.

Number of border procedures

The number of applications made at the border has doubled from around 900 applications in 2015 to more than 2,000 applications in 2019. This is still far below the record number of 5,100 applications registered at the border in 2008,[404] after which numbers dropped significantly. When comparing these figures with the total number of applications, they represent a very small fraction of the caseload before OFPRA. In 2019, the number of applications lodged at the border represented only 1.4% of the total caseload. Very few applications were made at the border in 2020 (891) due to health crisis but an increase was noted the following years: 1,613 in 2021 and 2,416 in 2022 (most important figure since 2009). Statistics on the year 2023 were not available at the time of writing of this report.

399 Article R. 351-4 Ceseda.
400 Information received from OFPRA on 16 May 2024.
401 OFPRA, Rapports d'activité, available in French at: http://bit.ly/3my3uOr.
402 OFPRA, Information provided on 21 September 2020.
403 Article L. 342-4 Ceseda.
404 OFRA, Annual Report 2008, 2009, available in French at: https://bit.ly/40dvLHR, 26.

The main nationalities applying at the border from 2018 to 2022 were as follows:

Asylum applicants at the border by nationality									
1 Jan – 31 Dec 2018		1 Jan – 31 Dec 2019		1 Jan – 31 Dec 2020		1 Jan-31 Dec 2021		1 Jan – 31 Dec 2022	
Morocco	140	Sri-Lanka	289	Türkiye	14%	India	14%	Türkiye	14%
Türkiye	131	Türkiye	246	DRC	12%	Türkiye	12%	Sri Lanka	12%
DRC	120	Morocco	180	Morocco	9%	DRC	9%	Morrocco	4%
Sri Lanka	107	DRC	123	Syria	6%	Algeria	6%	Central African republic	4%
Cuba	90	Iran	76	Sri Lanka	4%	Sri Lanka	4%	DRC	3%
Others	856	Others	1,136	Others	54%	Others	55%	Others	63%
Total	**1,444**	**Total**	**2,050**	**Total**	**891**	**Total**	**1,613**	**Total**	**2,416**

Source: OFPRA, *Annual Reports*, available at: https://bit.ly/3my3uOr.

More recent statistics on the year 2023 were not available at the time of writing of this report.

Decisions issued in border procedures

A person's access to the territory in the context of the border procedure can be either accepted or refused.

- If the Border Unit of OFPRA considers that the application for international protection is *not* manifestly unfounded nor inadmissible, and if France is deemed responsible for the asylum claim under the Dublin III Regulation, the Ministry of Interior is bound to grant entry to French territory. The only exception is where there is a threat to national security.[405] While the Ministry of Interior regularly assesses this risk, no cases of refusal of entry on this ground have been reported so far. The asylum applicant will be given an 8-day temporary visa upon release. Within this time frame, upon request from the asylum seeker, the competent Prefecture provides an asylum application certificate which allows for the lodging of the application. OFPRA then processes the asylum claim as any other application for international protection lodged on the territory.

- If OFPRA considers that the application for international protection *is* manifestly unfounded or inadmissible, or if another country is deemed responsible under the Dublin III Regulation, the Ministry of Interior refuses to grant entry to the foreigner based on a motivated 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 returned to their country of origin. However, individuals refused entry benefit from a so-called "full day" (*jour franc*), which protects them from 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.[406] The jour franc is no longer guaranteed in Mayotte and at land borders since September 2018, however.[407]

405 Article L. 352-2 Ceseda.
406 Article L. 333-2 Ceseda.
407 Article L. 361-4 Ceseda.

In France, only a minority of applicants are effectively granted access to the territory. This concerned 20.4% of applicants in 2016, 26.6% of applicants in 2017, 39.5% of applicants in 2018, 40.5% of applicants in 2019, 48.8% in 2020, 39.2% in 2021) and 40.3% in 2022.[408]

This means that, since 2015, most applicants were refused access to French territory. These figures seem to point to the significant difficulties faced by persons applying for protection at the border. 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. More recent information or statistics was not available at the time of writing of this report.

Overseas France: On Reunion Island, boats regularly arrive from Sri Lanka, which results in placement in waiting zone and sometimes asylum procedures which usually lead to decisions of non-admission.[409]

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? ☒ 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

Individuals apprehended at airports are first interviewed by the Border Police, which drafts a report (*procès-verbal*) collecting basic information relating to the identity of the applicant. In practice, there have been cases where the Border Police has asked questions going beyond collecting basic information, relating to the merits of the application for international protection or cases where it indicated to the applicant that their asylum claim had low chances of success.[410] This is not documented in the reports of the Border Police, however, as it would be considered by Administrative Courts as a ground for annulment of the decision refusing admission to the territory on the ground of asylum.[411]

As regards interviews with OFPRA, 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 dedicated "Border Unit" of OFPRA which provides the Ministry of Interior with a binding opinion on whether their application is well-founded or not. OFPRA should deliver 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:[412]

- ❖ 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 their 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
- ❖ The interview can be conducted by video conferencing.

408 OFPRA, Rapports d'activité, available in French at: http://bit.ly/3my3uOr.
409 The Conversation, 'À La Réunion, des Sri Lankais victimes des déficiences de la politique migratoire', 12 November 2023, available in French at : https://bit.ly/49dluAf.
410 Information provided by Anafé, 17 September 2019.
411 Information provided by Anafé, 17 September 2020.
412 Article R. 351-3 Ceseda.

Remote interviews

Videoconferencing is often used in interviews during the border procedure as opposed to the regular procedure**. 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.[413] The interviews in **Orly, Marseille** and **Lyon** are conducted by videoconference and interviews for all other border procedures are done by phone.[414] The consent of the applicant is not needed. When videoconferencing is used, it almost always runs into technical problems, as a result of which the interview is then carried out by phone.[415] This led the Administrative Court of Marseille in 2017 to invoke procedural irregularities and annull 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.[416]

Another important concern raised in practice relates to issues of confidentiality. According to OFPRA, all the rooms are approved by OFPRA and, to be approved, the room has to be used only by the asylum seeker and the confidentiality has to be guaranteed.[417]
However, according to other stakeholders, remote interviews are sometimes carried out in inadequate rooms where other persons may be present or where there is a disturbing background noise.[418] In **Orly** for example, the interview is held in a common room where other people are held and where other police staff maybe present. Moreover, the interview room is not soundproof and is placed next to an office of the border police, as a result of which background noise from police officers may disrupt the interview.[419]

Remote interviews further create difficulties to share and submit documentary evidence. There have been cases where asylum applicants were not able to share evidence they had in their possession, or only partially on video when videoconference is used. There are no other tools such as fax or scanners available to submit these documents.[420]

Interpretation

Issues with regard to interpretation have been reported during the initial interview, carried out with the Border Police at the very start of the procedure. Interviews with OFPRA must be carried out in the presence of an interpreter, unless the interview can be carried out in French. In practice, interpretation in interviews with OFPRA is available in 40 languages and is readily available through the Inter Service Migrants (ISM) by phone or videoconference. In the last years, interpretation was used in the majority of cases, reaching up to 87% of all cases in 2022, compared to 82.9% in 2021, 83% in 2020, 89% in 2019, 82.3% in 2018.[421]

Nevertheless, when carried out remotely, the quality of the interpretation services seems to raise concerns. According to organisations assisting asylum seekers, remote interview and interpretation prove particularly challenging for the individual as they are often interrupted by the Protection Officer, who is typing notes at the same time.[422] According to a report by ECRE published in 2018, in **Nice**, the interview report was read out to the applicant without being translated and did not mention whether the applicant

413 Information provided by Anafé, 17 September 2020.
414 Information provided by OFPRA, 21 September 2020.
415 Information provided by OFPRA, 24 April 2018; Information provided by Anafé, 17 September 2020.
416 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.
417 Information received from OFPRA on 16 May 2024.
418 Information provided by Anafé, 17 September 2020.
419 Information provided by Anafé, 17 September 2020.
420 Information provided by Anafé, 17 September 2020.
421 OFPRA, Rapports d'activité, available in French at: http://bit.ly/3my3uOr.
422 Information provided by La Cimade, 26 April 2018.

was interrupted in the course of the interview.[423] According to OFRA, interview conditions have evolved since then.[424]

Another issue relates to confidentiality. There have been cases where the background noise indicated that the interpreter was in a train station while the interview was ongoing; or in a parc surrounded by children.[425]

Accompaniment by a third party

Since 2015, the law foresees the possibility for asylum applicants to be assisted during the interview by a third-party, namely a member of an accredited civil society organisation or a legal representative.[426] 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 June 2021. It includes 10 organisations.[427] As regards specifically the waiting zone at Roissy CDG, the Red Cross has permanent presence and Anafé is present certain hours every week. In other waiting zones, Anafé and certain other NGOs may be reached at certain hours via phone.[428]

This possibility is rarely used in practice, however. Only 7.5% of all applicants were accompanied by a third party in 2019, compared to 6.9% in 2018 and 4.1% in 2017.[429] In 2019, only 7 interviews were attended by an NGO representative.[430] This means that over 90% of interviews were carried out without a third party being present from 2017 to 2019. More recent statistics were not available at the time of writing of this report.

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.[431] The interview may also take place only a couple of hours after the application has been made, thus rendering the availability of NGOs within that short time frame extremely difficult. Available figures indicate that, when a third-party is present, it is usually a legal representative rather than an NGO.[432]

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?
   ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ Some grounds ☐ No

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

423 ECRE, Access to asylum and detention at France's borders, June 2018, available at: https://bit.ly/3oamVxg, 21.
424 Information received from OFPRA on 16 May 2024.
425 Information provided by Anafé, 17 September 2020.
426 Article L. 352-2 du Ceseda.
427 Ministry of Interior, Arrêté du 1er juin 2021 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente, 2021, available in French at: https://bit.ly/34TYwCR.
428 Information provided by OFPRA, 21 September 2020.
429 OFPRA, Rapports d'activité, available in French at: http://bit.ly/3my3uOr.
430 Information provided by OFPRA, 21 September 2020.
431 *Ibid*, 22.
432 In 2018 for example, out of the 93 interviews conducted in the presence of a third-party, 90 interviews were carried out with a legal representative and only 3 of them in the presence of an NGO. OFPRA, *Annual Report 2018*, 2019, available at: https://bit.ly/3ohjNji, 25.

Administrative Court. The appeal must be introduced within 48 hours and has suspensive effect. The Administrative Court must decide within 72 hours.[433] This decision of the Administrative Court can be challenged within 15 days before the President of the competent Administrative Court of Appeal, but this second appeal does not have suspensive effect.

Anafé has denounced the illusory nature of the effectiveness of this suspensive appeal.[434] In practice several obstacles occur in this regard: the asylum seeker has very few resources to write such an appeal on his own; the request must be lodged with the competent court within 48 hours of notification of the decision of the Minister of the Interior, without extension on weekends; the appeal must be written in French and sufficiently motivated in fact and in law (otherwise, the appeal can be rejected without a hearing). These difficulties persisted in 2023.[435]

In France, the success rate of appeals in border procedures was 33% in 2019.[436] This is a slight increase on previous years (18% in 2018; 24% in 2017; 15% in 2016; and 11% in 2015), but the majority of appeals are rejected. No data on this issue has been available since 2020.

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;[437] 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, in this case 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 also 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 their own

433 Article L. 352-4 Ceseda.
434 ANAFE, Privation de liberté en zone d'attente, les détenus face à la justice, 2017, available in French at: https://bit.ly/30RbYkt.
435 Practice-informed observations by Forum Réfugiés and partners, January 2024.
436 Information provided by the French Ministry of Interior, 21 October 2020.
437 Article L. 352-2 Ceseda.

expense, or prepared a sufficiently well-argued request in French by themselves, 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.[438]

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 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.[439]

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 articles L. 531-24, L. 531-26 and L. 531-27 Ceseda, which lists 10 grounds.

The accelerated procedure is automatically applied where:

- The applicant originates from a Safe Country of Origin; or
- The applicant's Subsequent Application is not inadmissible.

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

- The asylum seeker refuses to be fingerprinted;
- When registering their claim, the asylum seeker has presented falsified identity or travel documents, or provided with wrong information on their nationality or on their conditions of entry on the French territory or has introduced several asylum claims under different identities;
- The claim has not been registered within 90 days after the foreign national has entered the French territory;[440]
- The claim has only been made to prevent a notified or imminent removal order; or
- The presence of the foreign national in France constitutes a serious threat to public order, public safety or national security.

Overseas France: For asylum applicants in Guyane, the ground regarding not registering the asylum claim within a certain period of time after entering the French territory applies if the application was not registered within 60 days, instead of 90.[441]

In the abovementioned cases, it is the Prefecture that decides to channel related claims under the accelerated procedure. In that case, the asylum claim certificate specifically mentions that the asylum seeker is placed under the accelerated procedure. The ground for applying the accelerated procedure is specified in an additional document given to the applicant together with the certificate. 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.

438 See also Observatoire de l'enfermement des étrangers, Une procédure en trompe l'œil : Les entraves à l'accès au recours effectif pour les étrangers privés de liberté en France, May 2014, available in French at : https://bit.ly/3L5mNrS.

439 Anafé, Voyage au centre des zones d'attente, November 2016, available in French at : https://bit.ly/415NRwR, 53.

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

441 Article L. 591-3 Ceseda.

While processing an asylum claim, OFPRA also has the competence to channel a claim under an accelerated procedure where:[442]

1. The applicant presented false identity or travel documents, provided false information or concealed information or documents concerning his identity, his nationality or the terms of his entry into France in order to mislead him or submitted several asylum applications under different identities;
2. The applicant has only raised questions in support of his request that are irrelevant to the asylum request he is making;
3. The applicant has made manifestly inconsistent and contradictory, manifestly false or implausible statements to the office which contradict verified information relating to the country of origin;

In all 10 cases, OFPRA can decide to reclassify the application and not 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 their country of origin might not be safe considering their particular situation.[443] In addition, OFPRA may decide not to process under the accelerated procedure claims of vulnerable applicants, but there is no category for which this is automatically foreseen or applied. In 2019, OFPRA rechannelled 206 cases into the regular procedure out of a total of 40,677 cases processed in the accelerated procedure, compared to 24 cases out of 37,759 in 2018 and 63 cases in 2017. On the other hand, OFPRA rechannelled 1,384 cases from to the regular to the accelerated procedure in 2019,[444] compared to 1,110 in 2018.[445] Statistics on the years 2020 through 2023 were not available at the time of writing.

Similar to the regular procedure, OFPRA is the determining authority competent for accelerated procedures. Its decisions should in theory be made within 15 calendar days.[446] This period is reduced to 96 hours if the asylum seeker is held in administrative detention.[447] 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 under the accelerated procedure have waited more than 15 days before receiving the decision from OFPRA.[448]

Average processing times of first-time requests under the accelerated procedure by OFPRA (in days)						
2016	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**
98 days	No data	84 days	72 days	195 days	189 days	130 days

Source: OFPRA, Activity reports 2016, 2018, 2019, available at: http://bit.ly/3my3uOr. Regarding 2020 to 2022, information received from OFPRA on 16 May 2024.

According to Ministry of Interior statistics, 50,750 asylum applications were filed in accelerated procedures at the end of 2019, representing 33% of all caseloads.[449] Statistics in this regard have not been available since 2019.

Three grounds for placing an asylum seeker under the accelerated procedure may not applied to unaccompanied children: (a) use of false identity or travel documents or false information; (b) reasons

442 Article L. 531-26 Ceseda.
443 Article L. 531-28 Ceseda.
444 OFPRA, *Activity Report 2019*, available in French at: 22.
445 2016-2019 : OFPRA, *Activity Report 2018*, 2019, available in French at: https://bit.ly/3ohjNji, 21.
446 Article R. 531-7 Ceseda. Delays are even shorter (96 hours) for persons held in administrative detention centres and in waiting zone.
447 Article R. 531-23 Ceseda.
448 This information has been collected by Forum réfugiés social workers in **Lyon**, **Clermont-Ferrand** and **Marseille** but also by other NGOs in **Paris** and its surroundings, **Bretagne**, **Charentes-Maritimes**, **Somme** or **Lorraine**.
449 Ministry of Interior, *Chiffres clés – les demandes d'asile,* 21 January 2020.

unrelated to international protection; and (c) manifestly contradictory or incoherent information, or statements that are clearly contradicted by country of origin information.[450]

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 under 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. Given the deadlines operated under by OFPRA, they are called to an interview much quicker than those in the regular procedure.[451]

The same grounds for omission of interview apply, except for asylum seekers under accelerated procedure for reasons of a Subsequent Application. No specific statistics are available for the rate of interviews conducted in the accelerated procedure.

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? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it suspensive ☐ Yes ☒ Some grounds ☐ No

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 rendered by a single judge within 5 weeks.[452]

As the preparation of these appeals is hardly supported by NGOs and given that assistance to draft the appeal is no longer in the mandate of the SPADA, 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 where the accelerated procedure is based on: (a) safe country of origin; (b) subsequent application; and (c) threat to public order.[453] 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, in another separate procedure 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.[454]

450 Article L. 531-30 Ceseda.
451 Practice-informed observations by Forum Réfugiés and partners, January 2024.
452 Article L.532-6 Ceseda.
453 Article L. 542-2 Ceseda.
454 Article L. 752-5 Ceseda.

The Administrative court examines the risk of persecutions: on this point, they never in practice question the assessment of OFPRA, considering themselves less competent than this administration to assess these fears. It can also grant suspensive effect in case of difficulties linked to the individual examination of the situation, the absence of an interview or interpreting failures noted at OFPRA.[455]

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 challenge their placement under accelerated procedure in the appeal against the negative decision on their claim.[456]

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 reclassify the claim as regular procedure.[457] In 2017, 207 cases under single-judge procedure were thus rechannelled into collegial hearing by the CNDA.[458] Figures have not been made available since then.

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?
   ☐ 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 courts ☒ Legal advice

Asylum seekers under 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, the legal assistance they can hope for depends on 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, lose their right to residence and thus may lose their right to reception conditions, including the possibility of assistance in accommodation, if suspensive effect is not granted for their appeal before the CNDA and their right to residence temporarily restored.[459]

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.[460] This short timeframe might prevent asylum seekers under accelerated procedure to prepare the case correctly with the lawyers.

455 CE, 16 October 2019, No. 432147, available in French at: https://bit.ly/3G4GflC.
456 Article L. 531-31 Ceseda.
457 Article L. 532-7 Ceseda.
458 CNDA, 2017 Activity report, available in French at: https://bit.ly/3GNklE1, 20.
459 Article L. 752-12 Ceseda.
460 Article L.532-6 Ceseda.

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. 522-1 Ceseda refers to the identification of vulnerability, in particular (article L. 522-3 Ceseda) 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.

1.1 Screening of vulnerability

OFII is responsible for identifying vulnerabilities and special needs of asylum seekers.[461] 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.[462] 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 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. 522-3 Ceseda.

The assessment is carried out by OFII officers specifically trained on vulnerability assessments and in the identification of special needs. However, the publication of the questionnaire designed for the vulnerability assessment reveals that only objective vulnerability is assessed during the interview with OFII upon registration of the application at the GUDA,[463] and only those limitedly listed. No vulnerability linked to the asylum claim shall be discussed, it is only for the purposes of the reception conditions. Therefore, this vulnerability assessment has a limited impact on the early identification of less visible vulnerabilities and procedural needs; e.g., in the case of victims of torture and of physical, mental or sexual violence as well as victims of human trafficking.

The law provides that information attesting to a particular situation of vulnerability is transmitted, after agreement of the asylum seeker, by OFII to OFPRA.[464] However, in practice, the (limited) identification of vulnerabilities carried out by the OFII mainly aims to adapt reception conditions. The taking into account of vulnerabilities in the asylum procedure is not regulated by law, the OFPRA therefore relies mainly on the elements which may emerge from the asylum claim and/or the reports made by accompanying persons to adapt the procedure.

461 Article L. 522-1 Ceseda.
462 A copy of the questionnaire may be found at: https://bit.ly/3A5keQh.
463 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.
464 Article L.522-4 Ceseda.

As it was clear vulnerabilities were not fully taken into account,[465] a “national plan for the reception of asylum seekers and the integration of refugees for 2021-2023" published on 18 December 2020 aimed to remedy this. It includes measures aimed at identifying vulnerabilities at an early stage and strengthening their management.[466] This national plan mentions the publication of an "action plan for the care of the most vulnerable asylum seekers and beneficiaries of protection" in January 2021 in order to “guide the actions carried out jointly by State services and operators for the coming years”. This action plan was published in May 2021.[467] It foresees two main objectives: better identify and better protect vulnerable people. The plan breaks down these two axes into ten actions:

1. Establishment of a “health appointment” as soon as the asylum application is registered;
2. Creation of a network of “vulnerability referents” among asylum actors, to develop coordination and information sharing;
3. Development of training in identifying vulnerabilities
4. Implementation of early identification of vulnerabilities from the start of the procedure, in particular by the first reception structures (SPADA);
5. Development of targeted information campaigns aimed at vulnerable users;
6. Development of specialised accommodation places for victims of trafficking, women victims of violence, asylum seekers and vulnerable LGBTI refugees, and people with reduced mobility;
7. Development of collaboration and information of health professionals on the management of psycho-trauma;
8. Medical presence in each accommodation centre;
9. Access to the asylum procedure for unaccompanied minors through enhanced cooperation and a specific registration procedure;
10. Strengthening of medical care for resettled refugees.

While this action plan was largely welcomed by civil society organisations as it contains notable advances, some also criticised the absence of specific budget. The recommendations mainly refer to the coordination and pooling from existing resources, which are often insufficient. Only a few points have been implemented since May 2021, such as the creation of a network of “vulnerability referents” (point 2), the development of trainings provided by national authorities to NGOs and public stakeholders (point 3) and the development of specialised accommodation places (point 6). They have proven to be effective in practice.

During the interview with OFII, the asylum seeker is informed that they can benefit from a free medical examination. Information collected by OFII on the vulnerability of an applicant, whether during the initial interview or the optional free medical examination, is sent to OFPRA, with the consent of the applicant.

This lack of interview or of a proper interview is a persisting issue. This interview is meant to offer reception conditions suitable given the asylum seekers’ vulnerability. It may lead some asylum seekers being 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.[468]

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 SPADA for

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465 See also Forum Réfugiés, ‘Accueil des demandeurs d’asile : les vulnérabilités encore insuffisamment prises en compte’, 10 February 2020, available in French at: https://bit.ly/3d2pNVr.

466 Ministry of Interior, *Schéma national d’accueil des demandeurs d’asile et d’intégration des réfugiés 2021-2023*, 18 December 2020, available in French at: https://bit.ly/376rJsl. See also Forum Réfugiés, Schéma national d’accueil : quelles conséquences pour les demandeurs d’asile ?, 12 January 2021, available in French at: https://bit.ly/2Z4TEV9.

467 Ministère de l’Intérieur, ‘10 actions pour renforcer la prise en charge des demandeurs d’asile et des réfugiés vulnérables’, 28 May 2021, available in French at : https://bit.ly/3ULcZ9Y.

468 Practice-informed observations by Forum Réfugiés and partners, January 2024.

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 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 (see Prioritisation and exemption from special procedures).

1.2 Age assessment of unaccompanied children

In France, age assessment is not conducted within the framework of the asylum procedure but in a separate procedure, as a prerequisite to benefitting from the Childcare Protection system. This procedure is handled locally by each *"département*". The age assessment procedure and criteria are detailed in a legal framework of 2016,[469] which establishes the elements to be considered to determine the applicant's minority based on 'social evaluation'. The ground rules are as follows:

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

In theory, this process aims to organize entry into child protection and is not directly linked to asylum system. People could introduce asylum claim as minors despite not being recognised as such under the child protection service: however the non-recognition of a minority by child protection often leads to significant practical difficulties in appointing a temporary legal representative (*administrateur ad hoc*), which can delay the processing of the application by the asylum authorities.

In 2022, 14,782 persons were protected as unaccompanied minors by Childcare protection systems[470] but only 980 unaccompanied children applied for asylum.[471]

Methods for assessing age

In practice, bone examinations continue to be implemented even when unaccompanied children possess 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. However, these practices have decreased since the legal consolidation of the social assessment that started in 2016 and the development of protective case law.[472]

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. On 21 March 2019, the French Constitutional Court ruled that bone tests determining the age of young migrants are not unconstitutional. The case concerned a young Guinean, Adama. S, who declared to be 15 years old upon his arrival in France in 2016. A bone test concluded that his age was between 20 and 30 years. With the support of

469 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. Order relating to the methods of evaluating people presenting themselves as minors and temporarily or permanently deprived of the protection of their family, 20 November 2019, NOR : SSAA1920987A available in French at : https://bit.ly/3TQYceK.

470 Ministry of Justice, Mission mineurs non accompagnés:. Online data, available in French at: https://bit.ly/2YLoFgw.

471 OFPRA, *Rapport d'activité 2022*, 3 July 2023, available at: https://bit.ly/3IRnyTs.

472 Practice-informed observations by Forum Réfugiés and partners, January 2024.

several civil society organisations, he brought the case before the Constitutional Court. The applicant claimed that the radiological examination of bones violated the principle of the 'best interests of the child'. Due to its margin of error it led to unaccompanied minors being excluded from the beneficial provisions designed to protect them. Although the Court confirmed the constitutional character of the principle of the 'best interest of the child', it stated that the existence of a margin of error does not make the use of the test unconstitutional.[473]

Since 2016, age assessment is mainly based on 'social evaluation".[474]

In 2019, a guide for the services in charge of age assessments was published by the authorities, in order to harmonise current practices of social evaluation.[475] In practice, age assessment is still carried out in a variety of ways depending on the territory, with severe shortcomings in some places.[476] In a report published in February 2022, the Ombudsman again regretted that bone age examinations were not prohibited by law.[477] In 2023, the UN Committee of the rights of the Child denounced some shortcomings of the current 'social evaluation' procedure applied in France.[478]

Moreover, Human Rights Watch published a report in 2019 relating to the treatment of unaccompanied children in the French **Hautes-Alpes** which demonstrated that France continues its practices of flawed age assessment procedures and summary returns of unaccompanied children at the border with Italy.[479] According to the report, the authorities do not comply with international standards and use various justifications to deny children protection. Research by HRW indicates that the flawed age assessment practice is common across the country. The research also testifies to previous reports of summary returns of unaccompanied migrant children by the French border police at the border between Italy and France. In the nine cases examined by HRW French authorities did not comply with the "entry refusal" procedure specific for children. The threat of summary returns pushes children to take ever more dangerous routes across the Alps, increasing the number of injuries and other health risks (see Access to the territory and push backs).[480] Similar situations have been reported at the French-Spanish border in 2021.[481]

Benefit of the doubt

Young people are entitled to the benefit of the doubt in the event that an evaluation cannot establish their exact age.[482]. Once again, practice is not uniform across the country in this regard. In some *Départements*,

473 Constitutional Court, Decision No 2018-768, 21 March 2019, available in French at: https://bit.ly/2ISAfiL.

474 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. Order relating to the methods of evaluating people presenting themselves as minors and temporarily or permanently deprived of the protection of their family, 20 November 2019, NOR : SSAA1920987A available in French at : https://bit.ly/3TQYceK.

475 Guide de bonnes pratiques en matière d'évaluation de la minorité et de l'isolement, December 2019, available in French at: https://bit.ly/37WQYeM.

476 See for example : Défenseur des droits, 'Décision No. 2021-070', 17 March 2021, available in French at: https://bit.ly/3uLbETI.

477 Défenseur des droits, 'Les mineurs non accompagnés au regard du droit', February 2022, available in French at: https://bit.ly/36qcvRj. For a complete overview of the situation see also: Infomie, 'Audition mission inter-inspection', January 2021, available in French at: https://bit.ly/3s7CrcL.

478 CRC, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 130/2020*, 6 March 2023, https://bit.ly/40Sm2XS.

479 Human Rights Watch, Subject to Whim - The Treatment of Unaccompanied Migrant Children in the French Hautes-Alpes, 5 September 2019, available at: https://bit.ly/395iBTk.

480 ECRE, 'France: Report documents continued denial of rights to migrant children', 5 September 2019, available at: https://bit.ly/2S3hldx.

481 See for example : ANAFE, 'L'Etat français renvoie illégalement un enfant à la frontière franco-espagnole', 10 February 2021, available in French at: https://bit.ly/34S0yDO.

482 Order relating to the methods of evaluating people presenting themselves as minors and temporarily or permanently deprived of the protection of their family, 20 November 2019, NOR: SSAA1920987A available in French at : https://bit.ly/3TQYceK.

assessment services assess very few young individuals as minors while in other *Départements,* evaluations lead to more positive decisions.[483]

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 State 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.

Young people who are not assessed as minors by *Départements* have the possibility to appeal to the juvenile judge in order to be protected as minors, but during this procedure they will not have access to specialised reception centres that provide adequate care to children. Moreover, while they have the possibility to reach out to emergency and homeless shelters for adults, they cannot be accommodated if they claim to be minors.

In any case, having been determined to be above 18 as a result of an age assessment procedure has a significant 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. Indeed, asylum authorities are not bound by the Childcare Protection services' assessment. But, 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 themselves 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 their claim before turning 18 or OFPRA suspends the processing of the asylum claim until they turn 18.[484]

Conversely, in other situations, the child manages to register their 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, they 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 14,782 young persons reported as unaccompanied minors were integrated in the national mechanism for childcare protection in 2022, a 31% increase compared to 11,315 in 2021.[485]

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".[486] A Decree of 30 January 2019 further detailed this database and the evaluation process for unaccompanied children.[487] 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. This new system is applied very differently depending on the competent department. In certain circumstances it

483 See e.g. Coordination nationale jeunes exiles en dangers, *Mineurs non accompagné.es refuse.es ou en recours de minorité : recensement national du 20/03/2024*, 9 April 2024, available in French at: https://bit.ly/4aFtiMG.

484 Very common practice observed by Forum Réfugiés and partners, January 2024.

485 Ministry of Justice, *Mission mineurs non accompagnés:. Online data*, available in French at: https://bit.ly/2YLoFgw.

486 Article L. 142-5 Ceseda.

487 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.

deteriorated the evaluation system by placing increased attention to control rather than protection needs, thus resulting in confusion for the young migrants and an unfavourable context for an assessment in confidence,[488] despite the guarantees set by the Constitutional court in July 2019: namely that tests must be decided by the judicial authority, and ordered only in the absence of valid identity documents. If there are doubts on the age, the person concerned, informed in a language they understand, must consent to the test (the refusal itself cannot be enough to prove the majority), taking into account the margin of error surrounding the conclusions of the radiological examination.[489]

2. Special procedural guarantees

Indicators: Special Procedural Guarantees	
1. Are there special procedural arrangements/guarantees for vulnerable people?	☐ Yes ☒ For certain categories ☐ No
❖ If for certain categories, specify which:	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.[490]

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:

- The presence of a third person during the interview with the OFPRA protection officer.[491] Even though this provision does not specifically concern vulnerable applicants, it can be particularly relevant and useful for these categories of asylum seekers;
- The possibility for an asylum seeker to ask that the interview be conducted by a protection officer and with an interpreter of a specific gender. This request has to be motivated and manifestly founded by the difficulty to express the grounds for their claim in presence of people from a certain gender (especially in situations of sexual violence);[492]
- The presence of a mental health professional for asylum seekers suffering from severe mental disease or disorder.[493]

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.[494]

OFPRA has set up 5 thematic groups (*groupes de référents thématiques*), around the following topics: sexual orientation and gender identity; unaccompanied children; torture; trafficking in human beings; and violence against women.[495] The thematic groups follow internal guidelines developed by the *référents* and revised every year. OFPRA has also established a position of Policy officer in charge of Vulnerability and Quality as of 2016.

These officials follow specialised training on the specific issues they deal with:[496]

- Officers dealing with claims from unaccompanied children must be specifically trained and certified. They are trained on the particularities of asylum claims lodged by young individuals and

488 Updated information on how this system is implemented are provided, department by department, by the NGO InfoMIE. The website is accessible in French at: https://bit.ly/37WGXOI.
489 Constitutional Court, Decision No. 2019-797, 26 July 2019, available in French at: https://bit.ly/2S9xRYe.
490 Article L.531-10 Ceseda.
491 Article L. 531-15 Ceseda.
492 Article L. 531-17 Ceseda.
493 Article L. 531-18 Ceseda.
494 Article L. 532-11 Ceseda.
495 OFPRA, 'Organisation – Les divisions d'appui', available in French at: https://bit.ly/3GJLhUW.
496 OFPRA, Guide des procedures à l'OFPRA, December 2022, available in French at: https://bit.ly/4cRUUzF.

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. In such cases, officers are trained based on internal training packs which refer to external sources e.g., TRACKS project or GRETA report for victims of trafficking.
- From 2013 to 2023, Forum réfugiés – Cosi and the Belgian NGO Ulysse 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, including testimonies recounting painful events during the interview process. It is particularly important as the lack of sensitive approaches to vulnerable applicants has further negative consequences. For instance, it has been raised that in some cases, no special precautions have been 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 showed no emotion when recalling the rape they had been subjected to or that the claimant seemed distant from the recollection of the abuses they were describing. Asylum seekers can be extremely distressed when they see such comments.

According to a recent report by the High Council on Equality, OFPRA has made notable improvements in terms of sensitivity and professionalism vis-à-vis asylum claims lodged by women.[497] In addition, by the end of 2019, more than 9,000 persons and 20,900 by the end of 2023[498] were under OFPRA protection on grounds of risk of female genital mutilation (FGM).[499]

According to CNDA, "new presidents and assessors as well as trainers are systematically trained in the specificities of asylum requests from vulnerable people, in particular people who have suffered discrimination or violence because of their gender".[500] However, trainings mentioned concern only one type of vulnerability (gender-based violence).

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 not to process the claim under the Accelerated Procedure on the basis of vulnerability or specific needs of the applicant. Yet, no more than 24 claims (0.06%) were exempted from the accelerated procedure out of a total of 37,759 claims under accelerated procedure in 2018.[501] An improvement was noted in 2019, when OFPRA rechannelled 206 cases into the regular procedure out of a total of 40,677 cases processed in the accelerated procedure.[502] More recent statistics were not available at the time of writing of this report.

In addition, three grounds for placing an asylum seeker under the accelerated procedure may not 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.[503]

Exemption from the border procedure

497 Haut-Conseil à l'Egalité, 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.
498 Information received from OFPRA on 16 May 2024.
499 OFPRA, 'Les premières données de l'asile 2019 à l'OFPRA', 21 January 2020, no longer available online.
500 CNDA, *2023 Activity report*, 31 January 2024, available in French at : https://bit.ly/3xeY7sM, 64.
501 OFPRA, 2018 Activity report, 2019, available in French at: https://bit.ly/3ohjNji, 21.
502 OFPRA, *2019 Activity report*, 2020, available in French at: https://bit.ly/3A1awhO, 22.
503 Article L. 531-30 Ceseda.

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.[504] 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,[505] 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:[506]

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 a ground to conduct a border procedure for this category of asylum seekers.[507] 56,8% of unaccompanied minors were granted entry in 2022, 60% in 2021 and 62.5% in 2020. This raises important concerns, taking into consideration that the border procedure should in principle only be applied exceptionally to unaccompanied minors but in practice UAM are often present in these places.[508]

OFPRA further developed a system to report vulnerabilities in waiting zones. Any person authorised to be present in waiting zones, including the NGOs accredited to that effect,[509] can alert OFPRA of the existence of vulnerabilities through a functional email address.[510] When a person is identified as vulnerable during the border procedure, OFPRA may request their release from the waiting zone.[511] This is marginally used in practice, as only a few referrals were made in recent years and because of the limited NGO presence (see legal assistance). In 2016, only 5 persons were released from the waiting zones due to their vulnerability;[512] and none in 2017.[513] More recent data are not available.

Overall, given the tight deadlines of the border procedure, which require OFPRA to issue an opinion to the Ministry of Interior within two working days, it is unlikely that vulnerable asylum seekers are able to benefit from "sufficient time" to put forward their claim. Moreover, practice suggests that applicants are not always released from waiting zones, even in cases where their vulnerability is reported by NGOs. The vulnerability of an 8-months pregnant woman was reported by Anafé to OFPRA in 2020, but she continued to be held in the transit zone. She further had to stand for an hour during the interview, as the latter was conducted through a wall mounted telephone.[514]

504 Article L. 351-3 Ceseda.

505 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.

506 Article L. 351-2 Ceseda.

507 Practice-informed observations by Forum Réfugiés and partners, January 2024.

508 See for example : ANAFE, Publication on Twitter, 25 February 2022; Publication on 23 June 2021.

509 Article L. 343-6 Ceseda.

510 ECRE/AIDA, Access to asylum and detention at France's borders, June 2018, available at: https://bit.ly/3jEbV53, 22.

511 Article L. 351-3 Ceseda.

512 OFPRA, Annual report 2016, 2017, available in French at: https://bit.ly/41DlyWB, 42.

513 ECRE/AIDA, Access to asylum and detention at France's borders, June 2018, available at: https://bit.ly/3jEbV53, 20.

514 Information provided by Anafé, 17 September 2020.

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.[515] In practice, such reports are considered in the light of the applicant's statements. Applicants often present medical certificates from specialised centres. 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) (see Access to health care).

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.[516] During the OFPRA interview, the woman applying for asylum in her own name will be asked to demonstrate the reasons why she fears to be subjected to FGM 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 a protection has been granted, the requirement of a medical certificate remains, as long as the risk exists and as long as the person concerned is under 18. OFPRA requires thus that a medical certificate be sent every five years, proving that the person has still not undergone FGM.[517] OFPRA may require a medical certificate at another time within that period if it has serious reasons to believe that sexual mutilation has been or could be practised. A Decree of February 2024 specifies the terms of this obligation, the list of authorised doctors, and consequences of refusal for parents.[518]

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.[519] On 10 April 2015, the Council of State applied the position of the ECtHR for the first time. 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 of return. 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 does not consider the elements as serious.[520] This significantly strengthens the consideration for psychological and physical wounds of asylum seekers and balances out the power of the CNDA compared to the asylum seeker.[521] Through a decision of 17 October 2016, the Council of State reiterated and reinforced this position.[522]

515 Article L. 531-11 Ceseda.
516 Articles L. 531-11 and L. 561-8 Ceseda.
517 Article L. 561-8 Ceseda
518 Decree NOR: IOMV2330687A of 6 February 2024, available in French at: https://bit.ly/3IV7foK.
519 ECtHR, RJ v France, Application No 10466/11, Judgment of 19 September 2013, available at: http://bit.ly/1HBYxIE.
520 Council of State, Decision No 372864, 10 April 2015, available in French at: http://bit.ly/1hjmyZ2.
521 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.
522 Council of State, Decision No 393852, 17 October 2016, available in French at: https://bit.ly/43GGP3e.

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:[523]

- 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 presented to the decision makers, they do not seem to draw conclusions as to the impact of the established wound on the capacity of the asylum seekers to tell their story in a convincing way.

This organisation still considered in 2021 that "the logic of torture is not compatible with that of proof, currently dominant in the current approach to the right of asylum in France".[524]

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 2022, 980 first asylum claims from unaccompanied children were registered by OFPRA, compared to 867 in 2021. Statistics on the year 2023 were not available at the time of writing. After having steadily decreased since 2011, the number of claims introduced by unaccompanied children has been increasing 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.

Unaccompanied children before OFPRA / reported to Childcare Protection					
	2018	2019	2020	2021	2022
Asylum claims lodged by UAM before OFPRA	742	755	653	867	980
UAM reported to Childcare Protection	17,022	16,760	9,524	11,315	14,782

Source: OFPRA, *Activity reports*, available in French at: https://bit.ly/3my3uOr; Ministry of Justice, Unaccompanied minors mission, *Annual Activity Report 2021*, 2022, available in French at: https://bit.ly/3MDTSfS.

In 2022, the unaccompanied children seeking asylum in France mainly came from **Afghanistan** (60.7% of all UAM asylum claims), followed at a distance by **Guinea** (5%), Somalia (4.4%) and Ivory Coast (4.4%). The socio-demographic characteristics of these asylum seekers show that 88% were between 16 and 17 years old and 84.2% were boys. In 2022, the recognition rate was 82.5% at OFPRA (95.4% when including protections granted in appeal), as opposed to a 29.2% first instance recognition rate overall.[525]

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:[526]

- 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.

523 Association Primo Lévi, Persécutés au pays, déboutés en France : Rapport sur les failles de notre procédure d'asile, November 2016, available in French at: https://bit.ly/3odqTFn.
524 Motin, Pierre, 'Certificat médical et demande d'asile. Le corps pris à témoin', Mémoires, vol. 80, no. 1, 2021, available in French at: https://bit.ly/3GNg17y, 8-9.
525 OFPRA, 2022 activity report, 2023, available in French at: https://bit.ly/3IRnyTs.
526 OFPRA, 2016 Activity report, 2017, available in French at: https://bit.ly/41DlyWB, 31.

- ❖ 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 with 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.

As unaccompanied children do not have any legal capacity as minors, they must be represented for any act under all asylum procedures. 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 Prosecutor, notified by the Prefecture, should appoint an *ad hoc* administrator (legal representative) who will represent them throughout the asylum procedure.[527] 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 in 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.[528]

As soon as possible after the unaccompanied child has introduced their asylum claim, the Prefecture shall engage in investigating to find the minor's family members, while protecting their best interests.[529]

At the border, an *ad hoc* administrator should be appointed "without delay" for any unaccompanied child held in a waiting zone.[530]

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 with OFPRA.[531]

At OFPRA level, the legal representative (tutor, 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 that the conduct of an interview in such circumstances as a violation of the fundamental guarantees applicable to asylum seekers.[532]

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

528 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.

529 Article L. 521-12 Ceseda.

530 Article L. 343-2 Ceseda.

531 Practice-informed observations by Forum Réfugiés and partners. See also Défenseur des Droits, Décision no. 2022-174, 5 September 2022, available in French at : https://bit.ly/3PEEFMl and APRADIS, 'L'exercice de l'administration ad hoc pour mineurs: difficultés et bienfaits.', February 2018, available in French at : https://bit.ly/3TRDziA.

532 CNDA, Mme Y, Decision No 14012645, 5 October 2016.

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No

2. Is a removal order suspended during the examination of a first subsequent application?
   - ❖ At first instance ☒ Yes ☐ No
   - ❖ At the appeal stage ☐ Yes ☒ No[533]

3. Is a removal order suspended during the examination of a second, third, subsequent application?
   - ❖ At first instance ☐ Yes ☒ No
   - ❖ At the appeal stage ☐ Yes ☒ No

An application is deemed as "subsequent" where it is made after:[534]

- ❖ The rejection of an asylum application by the CNDA or by OFPRA without appeal;
- ❖ The asylum seeker had previously withdrawn their asylum claim and did not ask for a reopening within 9 months;
- ❖ OFPRA has taken a decision to discontinue the processing of the claim and a 9-month period has elapsed;[535]
- ❖ The asylum seeker has left the French territory, including to go back to their 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 they must, as all asylum seekers, present themselves to the Prefecture to register their claim and obtain an asylum claim certificate.[536] Since March 2017, the person has to go back to the orientation platform (SPADA) to obtain an appointment at the GUDA like all asylum seekers.

The Prefecture can refuse to grant the asylum seeker the certificate 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.[537] In case of a subsequent application, the time 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 their subsequent claim before OFPRA.[538] 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 first subsequent application by OFPRA.[539]

The allocation of reception conditions is facultative for subsequent applications, and in practice almost systematically refused.[540]

Assessment of new facts or circumstances

When OFPRA receives the subsequent application, it conducts a preliminary examination within 8 days in order to determine whether the subsequent application is admissible or not.[541] The assessment of

533 No systematic suspensive effect.
534 Article L. 531-41 Ceseda.
535 Article L. 531-40 Ceseda. Note that this decision is appealed not before the CNDA but before the territorially competent Administrative Court: Council of State, Decision No 412292, 17 January 2018.
536 Article R. 531-35 Ceseda.
537 Article L. 542-2 Ceseda.
538 Article R. 531-4 Ceseda.
539 Article L. 541-3 Ceseda.
540 Practice-informed observations by Forum Réfugiés and partners, January 2024.
541 Article R. 531-38 Ceseda.

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-founded nature of the claim.[542]

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.[543]

To support their 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 they were informed of it only subsequently.[544]

In practice, it is difficult to provide evidence of new information and to prove its authenticity to substantiate subsequent claims. Asylum seekers often face 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 obliged 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 personal fears of persecution in case of return, it can declare the subsequent application inadmissible. The decision must be notified to the asylum seeker as well as information relevant to the procedure and deadlines for lodging an appeal.[545] 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 no longer has suspensive effect.[546] The CNDA will then have 5 weeks to issue a decision on the appeal.[547] Negative decisions "by order" (*ordonnance*) continue to be common practice.

Out of the total 142,496 applications registered by OFPRA in 2023, approx. 16,830 were subsequent applications, thus representing 11.8% of the total number of applications registered, [548] compared to 12.3% in 2022 (16,090). Countries of nationality most represented in subsequent applications in 2022 (no data for 2023) were Türkyie (1,237), Albania (1,011), Haïti (1,009), Nigeria (986) and Pakistan (873).[549]

Starting from the notification of a negative decision by OFPRA on a first subsequent application, regardless of its admissibility or not, the Prefecture can refuse to deliver or renew the asylum claim certificate and can issue an order to leave French territory (OQTF).[550]

542 Council of State, Decision No 3979611, 26 January 2018; CNDA, Decision Nos 15025487 and 1502488, 7 January 2016.
543 Council of State, Decision No 406222, 3 October 2018.
544 Article L. 531-42 Ceseda.
545 Article L. 531-32 Ceseda.
546 Article L. 542-2 Ceseda.
547 Article L. 532-6 Ceseda.
548 OFPRA, 'Premières données de l'asile 2023 [chiffres provisoires]', 23 January 2024, available in French at: https://bit.ly/3xaPG1u.
549 OFPRA, 2022 Activity report, 2023.
550 Article L. 542-2 Ceseda.

F. The safe country concepts

Indicators: Safe Country Concepts		
1. Does national legislation allow for the use of "safe country of origin" concept?	☒ Yes	☐ No
❖ Is there a national list of safe countries of origin?	☒ Yes	☐ No
❖ Is the safe country of origin concept used in practice?	☒ Yes	☐ No
2. Does national legislation allow for the use of "safe third country" concept?	☐ Yes	☒ No
❖ Is the safe third country concept used in practice?	☐ Yes	☒ No
3. Does national legislation allow for the use of "first country of asylum" concept?	☒ Yes	☐ No

1. Safe country of origin

1.1 Definition and procedural consequences

The notion of safe countries of origin was introduced in French legislation by the Law of 10 December 2003.[551] The definition is completed by a 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 was further detailed 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.[552]

Applications from safe countries of origin are to be systematically processed by OFPRA within an Accelerated Procedure,[553] 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 their country is not be safe given their personal situation and the grounds of their claim.[554]

1.2 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 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.

551 Law n. 2003-1176 of 10 December 2003 on the right to asylum.
552 Article L. 121-13 Ceseda, as amended by Article 6 Law n. 2018-778 of 10 September 2018.
553 Article L. 531-24 Ceseda.
554 Article L. 531-28 Ceseda.

The board is made up of 16 members:[555]

- 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.[556]

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.'[557]
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 remain internal.

The list of countries considered to be safe countries of origin is public. At the end of 2022 it included the following 13 countries:[558]

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

Country	Withdrawal or suspension by OFPRA Management Board
Tanzania	October 2015 – Withdrawn
Croatia	June 2013 – Withdrawn
Georgia	November 2009 (previously withdrawn currently on the list)
Mali	December 2012 – Withdrawn
Ukraine	March 2014 – Withdrawn
Benin	September 2020 – Suspended for a year

555 Article L. 531-25 Ceseda.
556 Article L. 531-25 Ceseda.
557 Article L. 531-25 Ceseda.
558 OFPRA, *List of Safe Countries of Origin*, 9 October 2015, available at: https://bit.ly/41wDKkz.

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:

Country	Removal by Council of State
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)
Türkiye	July 2010
Benin, Senegal, Ghana	July 2021

In October 2019,[559] the Management Board of OFPRA decided to maintain the current list of safe countries of origin but added that the situation in Benin would be reviewed within six months.[560] In September 2020, the Management Board of OFPRA decided to suspend the placement of **Benin** as safe country of origin during 12 months.[561]

In a decision of 2 July 2021, the Council of State removed Benin, Senegal and Ghana from the list of safe countries of origin but maintained all other countries.[562] Regarding Benin, the Council considers that the temporary suspension decided by OFPRA was insufficient in view of the political deterioration in the country. For Ghana and Senegal, the withdrawal is motivated by the persecution against homosexuals. Some of the requests made by the NGOs were analysed in another decision, following a referral to another court formation. The Council of State considered in November 2021 that the other countries (Armenia, Georgia) could not be withdrawn but laid down a new principle on the assessment of the legality of these measures: the examination may be based on new circumstances subsequent to the establishment of the list.[563]

In 2022, 19,181 first-time applications (including minors) were lodged by persons originating from the 13 "safe countries of origin" (17% of all first asylum applications). In 2023, applicants from **Georgia** are in the top ten countries of origin of asylum seekers in France.[564]

2. Safe third country

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.[565]

559 For further details about previous withdrawals and challenges, see previous updates of this country report, available at: https://bit.ly/3KLYFJo.

560 OFPRA, 'Press release', 5 October 2019, available in French at: https://bit.ly/37MsAwD.

561 OFPRA, Decision of September 29, 2020 suspending the Republic of Benin from the list of safe countries of origin, available in French at: https://bit.ly/3ALPCUA.

562 Council of State, Decisions No. 437141, 437142, 437365, 2 July 2021, available in French at: https://bit.ly/3ohxtLk.

563 Council of State, Decision No. 437141, 19 November 2021, available in French at: https://bit.ly/3A5OsTo.

564 Ministry of Interior, 'Chiffres clés – Les demandes d'asile', 25 January 2024 available in French at: https://bit.ly/3xaPpvu.

565 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.

3. 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.[566] 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.[567]

Regarding the effective protection granted in a non-EU Member State, the Council of State only refers to effective protection without detailing what it is made of.[568]

In 2020, OFPRA took 368 inadmissibility decisions on this ground.[569] A detailed breakdown by nationality is not available, nor recent statistics on the year 2022.

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[570] ☐ No

The provision of information is codified in Article R. 521-16 Ceseda:

> "The asylum seeker receives an information document about the asylum procedure, their rights and obligations they must respect 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 before OFPRA. 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.[571] This information has been compiled under a general "Guide for asylum seekers in France" (*guide du demandeur d'asile en France*). The guide is supposed to be provided by the Prefecture, but there is no information as to whether this is effectively done in practice. The guide was updated in September 2020 and is available in French and 30 other languages.[572] 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.

566 Article L. 531-32 Ceseda.
567 Council of State, *Cimade et M.O.*, Decisions Nos 349735 and 349736, 13 November 2013, available in French at: https://bit.ly/3GQEZmy.
568 Council of State, *OFPRA v. M.S.*, Decision No 369021, 17 June 2015, available in French at: https://bit.ly/3MP5blj.
569 OFPRA, *2020 Activity report*, available in French at: https://bit.ly/3GPni7b, 60.
570 This largely depends on the knowledge and expertise of the social worker in charge of the unaccompanied child.
571 Article R. 521-16 Ceseda.
572 Ministry of Interior, 'Guide du demandeur d'asile', September 2020, available at: https://bit.ly/3uTut6A.

OFPRA however has published a guide on procedures which has shown to be very useful both for asylum seekers and for practitioners. This includes information on the regular procedure, inadmissibility and accelerated procedures, appeals, the interview, the content of protection etc. The last version was updated in December 2022.[573]

Moreover, in 2014 OFPRA published a guide on the right of asylum for unaccompanied minors in France which was subsequently updated in 2020.[574] The guide is quite comprehensive, describing the steps of the asylum procedure, the appeals and the procedure at the border. However, it is more used by professionals than by the minors themselves because it remains hard to understand. 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, however. In many regions, the prefecture agents encourage asylum seekers to download it on OFPRA's website.

1.1 Information on Dublin

Information provided about the Dublin procedure varies greatly from one Prefecture to another. When going to the prefecture to apply for asylum, all applicants are handed, at the desks, an information leaflet on the Dublin procedure (Leaflet A)[575] 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 receives a second information leaflet on the Dublin procedure (Leaflet B).[576] The Prefecture asks the applicant to sign a letter written in French which lists the information that has been provided to them as well the language in which this information was provided, as requested under Article 4 of the Dublin III Regulation.

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. 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.

1.2 Information at the border

In the waiting zones at the border, Forum réfugiés notes a serious lack of information as to the possibility of requesting admission to French territory on asylum grounds (see section on Border Procedure). When a person is arrested at the border, they are notified of an entry refusal, in theory with the presence of an interpreter if necessary.[577] 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 administrative detention procedure 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. The fact that asylum seekers may have no financial means of purchasing a phone card is therefore a restriction on this fundamental right.

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573 OFPRA, 'Guide des procedures à l'OFPRA', March 2024, available in French at: https://shorturl.at/RWuUS.

574 OFPRA, 'Guide de l'asile pour les mineurs isolés etrangers en France', January 2020, available in French at: https://bit.ly/3oekxpj.

575 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.

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

577 Article L. 343-1 Ceseda.

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?[578] ☒ 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, some nationalities obtain higher rates of protection than the average rate e.g., **Syria**, or **Afghanistan**. In 2020, the first instance recognition rate was for 75.9% for Syrians and 63.2% for Afghans. In 2021, this recognition rate was 80.9% for Syrians and 74.9% for Afghans. In 2022, this recognition rate was 89.8% for Syrians, and 69.1% for Afghans

Ukraine

For developments regarding access to asylum and caselaw regarding international protection for Ukrainian nationals, please see the Temporary Protection annex to this report.

Afghanistan

Starting from a CNDA judgment of March 2018, Afghan nationals widely benefitted from protection. The CNDA held that the situation of indiscriminate violence in Kabul was of such degree for Article 15(c) to be triggered by a person's mere presence.[579] However, in a Grand chamber decision of 19 November 2020, the CNDA changed its position, now considering that the level of violence in Kabul was not high enough to justify a protection for all people arriving at airports.[580] This meant that individual circumstances needed to be assessed again and put Afghan nationals at risk of return. Yet, in its country of origin report on the Security situation in Afghanistan of 28 September 2020, the European Asylum Support Office (EASO) – now European Union Asylum Agency (EUAA) – confirmed that the conflict in the country continued to be described as one of the deadliest in the world for civilians and adds that "several sources reported a spike in violence during the first six months of 2020, with an increase in the number of civilian casualties, particularly in the northern and north-eastern regions".[581]

The situation in Afghanistan changed in 2021 following the Taliban take over in mid-August. Following these events, France evacuated more than 2,600 Afghans who entered the asylum system and obtained protection. At the end of 2021, 2,228 asylum applications from these people have been registered by OFPRA and 1,642 decisions taken according protection at 99,9%.[582] No data is yet available for 2022.

However, this development of the situation also changed the case-law of the CNDA. In September 2021, CNDA decided that subsidiary protection based on the existence of a generalised conflict was no longer

578 Whether under the "safe country of origin" concept or otherwise.
579 CNDA, M. H., Decision No 17045561, 9 March 2018, available in French at: https://bit.ly/43ET4xb.
580 CNDA, Decision No. 19009476 R, 19 November 2020 available in French at: https://bit.ly/2KCsYXX; CNDA, Decision No. 18054661 R, 19 November 2020, available in French at: https://bit.ly/3d5uJsB.
581 EASO, Afghanistan Security situation – COI Report, September 2020, available at: https://bit.ly/3aixrJL.
582 OFPRA, 2021 Activity report, June 2022, available in French at: https://bit.ly/3KHmAKi, 45.

applicable as the Taliban takeover had put an end to this conflict.[583] Protection under the Geneva Convention was of course still possible (early 2023 it was granted for example for members of the Tadjike community from Panjshir province and from Andarab district in Baghlan province),[584] but more difficult to obtain.[585] Subsequently, the CNDA took another more nuanced decision: it granted subsidiary protection, for the risk of inhuman and degrading treatment, for a vulnerable young Afghan for whom the risks in the event of return are significant.[586] At the end of the year, CNDA specified that the mere stay in Europe was not sufficient to justify fears in the event of return and to obtain protection.[587] In 2023, the Court reversed its 2021 case law, finding that the situation in several provinces did fall under subsidiary protection (indiscriminate violence).[588]

In addition, the case law that prevented Dublin transfers of Afghan nationals to countries where their asylum applications have been rejected (because of the risk of chain refoulement) was overturned in 2021 by the Council of State which now considers these transfers possible (see Dublin: Suspension of Transfers).

Relocations

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 disembarkations in Italy, Malta and Spain, over 280 persons were relocated to France in 2018.[589] In October 2019, a member of the government stated that more than 600 people had been admitted in France through relocation within a year. At the end of 2019, 366 asylum seekers and 491 unaccompanied minors have been transferred from Greece to France as part of the 'voluntary relocation scheme from Greece to other European countries' that started in March 2020.[590] (see also Access to the territory).

All relocated persons have previously undergone interviews with OFPRA, which assesses their need for protection and potential threats to public order. No official data are available about this mechanism or the nationality of the selected persons. However, it appears through communication upon 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 are quickly received by OFII and granted refugee status by OFPRA.

Safe country concepts

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 9.5% in 2021, at first and second instance combined, but there are important variations from one country to another. For example, in 2021, **Kosovo** had a general protection rate of 16.7%, **Albania** had a rate of 16.5%, while **Bosnia** only 2.4%.

583 CNDA, 21 September 2021 M. A. No. 18037855 C+, available in French at: https://bit.ly/35msMGA.
584 CNDA, 20 January 2023, M.A., n°21034662.
585 See for example : CNDA, 5 November 2021 M. S. No. 20025121 C, available in French at: https://bit.ly/3sVOhpl; CNDA, 8 December 2021 Mme M. No. 21022972 C, available in French at: https://bit.ly/3se858s.
586 CNDA, 21 September 2021, No. 18037855, available in French at: https://bit.ly/3LRJaiV.
587 CNDA 29 November 2021 M. A. No. 21025924 C+, available in French at: https://bit.ly/3IjihCn.
588 CNDA, *Press release,* 10 March 2023, available in French at: https://bit.ly/3VployW.
589 Senate, Reply to written question n. 05842, 24 January 2019, available in French at: https://bit.ly/2GRdMII.
590 IOM, 'Voluntary relocation scheme from Greece to other European countries', Factsheet, 10 January 2022, available at: https://bit.ly/3t3CeGO.

Reception Conditions

Short overview of the reception system

OFII (*Office français de l'immigration et de l'intégration*) is the administration responsible for the reception of asylum seekers. All asylum seekers are referred to OFII after being registered as asylum seekers by *Prefectures.*

OFII interviews asylum seekers to assess whether they are eligible to reception conditions. If so, they will be directed to accommodation. In practice, the orientation of asylum seekers to accommodation takes place in the days or weeks following the OFII interview, but only half are accommodated in reception centres for asylum seekers. OFII is also in charge of setting and granting financial allowances. Payment starts after the registration of the asylum claim at OFPRA. The asylum claim must be sent to OFPRA in a maximum time of 21 days after registration by the *Prefecture*.

Asylum seekers are only accommodated when there is enough capacity. Yet, places are currently insufficient as a result of which OFII must prioritise cases based on individual circumstances and vulnerability. Persons entitled to reception following a decision from OFII can stay in the centre for 6 months after they are granted international protection or for 1 month after their claim is rejected.

Accommodation centres for asylum seekers provide rooms to sleep and cook (usually common kitchens) as well as assistance from social workers on legal and social issues. Each centre is different, ranging from large buildings with offices and bedrooms to apartments at different locations.
There are different types of accommodation centres:

- CAES (*centres d'accueil et d'évaluation des situations)*: these are transit centres which aim at providing a quick access to reception while evaluating ones' personal situation so that they can be re-directed accordingly;
- CADA (*centres d'accueil pour demandeurs d'asile*): these are accommodation centres for all asylum seekers, with the exception of those subject to a Dublin procedure;
- HUDA (*lieux d'hébergement d'urgence pour demandeurs d'asile*): these are centres for all applicants, including Dublin applicants.

On 18 December 2020, the Ministry of Interior published its 2021-2023 national reception plan for asylum seekers and the integration of refugees.[591] The plan should be renewed for the period 2024-27, but has not yet been finalized at the time of writing this report.

This plan makes it possible to adapt the reception policy to the migration context and to the specific characteristics of the regions, *inter alia* through a better distribution of asylum seekers across all French territory. It is based on two pillars: better accommodation and support.

Since 2021, this plan (governed by an order of 13 May 2022)[592] enabled better orientation from the Paris region. Over the years 2021 and 2022, 48,230 asylum seekers were offered accommodation in another region, 12,124 refused it, 36,106 asylum seekers accepted it and 30,402 actually reached their place of accommodation.[593] No data are available for 2023 at the time of writing this report. However, this plan had a negative impact on accommodation in these regions, as the local situation has not improved and it is now becoming almost easier to be accommodated from Paris than from other places. Moreover, it can lead to deprivation of all reception conditions for people who do not accept to go to another region.

591 Ministry of Interior, *Schema national d'accueil des demandeurs d'asile et d'intégration des réfugiés*, 18 Décembre 2020, available in French at: https://bit.ly/3piiYl0.

592 Arrêté du 13 mai 2022 pris en application de l'article L. 551-1 du code de l'entrée et du séjour des étrangers et du droit d'asile, NOR : CITC2212434A, available in French at: https://bit.ly/3xbZxnF.

593 Assemblée nationale, Rapport fait au nom de la Commission des finances sur l'orientation directive, 24 May 2023, available in French at: https://bit.ly/3PCMCS0.

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 allow for access to material reception conditions for asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Dublin procedure	☐ Yes	☒ Reduced material conditions	☐ No
❖ Border procedure	☐ Yes	☐ Reduced material conditions	☒ No
❖ Accelerated procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Appeal	☐ Yes	☒ Reduced material conditions	☐ No
❖ Subsequent application	☐ Yes	☒ Reduced material conditions	☐ 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 OFII.[594] 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. 551-9 Ceseda. This provision applies to all asylum seekers even if their claim is channelled under the accelerated or Dublin procedure. The only nuance is that asylum seekers under the Dublin procedure do not have access to reception centres for asylum seekers (CADA).

Reception conditions can be denied in the following cases:[595]

- Whey they refuse to go to their attributed region;
- When they refuse their accommodation option, either at the GUDA or by not showing up within 5 days;
- Subsequent applications;
- Claim registered 90 days after entering France without a valid reason.

In practice, OFII deny asylum seekers the benefit of reception conditions whenever it has the possibility to do so.[596]

After having registered their claim at the *Prefecture*, asylum seekers receive the asylum claim certificate that allows them to remain legally on 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, tailored 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.

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594 Article L. 551-1 Ceseda.
595 Article L. 551-15 Ceseda.
596 Practice-informed observations by Forum Réfugiés and partners, January 2024.

Asylum seekers' financial contribution

Accommodation fees for asylum seekers are covered 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), € 607,75 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 asylum seeker when they leave the reception facility. A Decree of 15 November 2016 states the deposit 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.[597] In practice, this deposit is not always requested (it is not obligatory) nor obtained (asylum seekers do not have the necessary sums).

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 asylum seekers as of 31 December 2023:
   - ❖ 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 receiving all family-related welfare benefits as the asylum claim certificate provided to asylum seekers is not listed in the residence permits that makes one eligible to these benefits.[598] Asylum seekers are also not eligible to receive 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)[599] is granted to asylum seekers above 18 years old,[600] who accept material conditions proposed by OFII and remain eligible for reception conditions. Only one allowance per household is allowed.[601] The payment of the allocation ends at the end of the month of the decision ending the right to remain on the territory.[602]

The amount of the ADA is calculated on the basis of resources, type of accommodation provided and age criteria. Family composition, in particular the number of children, is considered in the calculation of the ADA.[603] The total amount is re-evaluated once a year, if needed, to take into account the inflation rate.

597 Decree NOR: INTV1630817A of 15 November 2016 on the application of Article L.744-5 Ceseda, available in French at: https://bit.ly/41v8LoY.
598 Article 512-2 Social Security Code.
599 Article L. 553-1 Ceseda.
600 Article D. 553-3 Ceseda.
601 Article D. 744-25 Ceseda.
602 Article L. 553-7 Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.
603 *Ibid*.

The daily amount of the ADA is defined upon application of the following scale:[604]

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 €
9	34 €
10	37.40 €

An additional daily rate is paid to adult asylum seekers who have accepted material reception conditions but who cannot be accommodated through the national reception scheme due to lack of capacity. 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),[605] the current amount granted is € 7.40 per day.[606] This amount remains very low and renders access to accommodation on the private market almost impossible.

The 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 the ADA (except in some cases where asylum seekers are overseas) and use the card.[607] Many problems have been raised by local stakeholders regarding the ADA, problems which persist in 2023. On many occasions, the allowance has been paid late. In addition, some asylum seekers are not used to 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 situations (e.g. 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 very difficult to interact with OFII, according to local NGOs, to resolve such problems. Despite the presence of local representations of OFII in regions, they usually do not intervene at the level of the allowance distribution (although it should be noted that there are some exceptions, where OFII's offices are accessible to asylum seekers in certain cities such as **Lyon**, **Clermont-Ferrand** or **Toulouse**).

The starting point of the calculation of the allowance is the date of signature of the document attesting that the asylum seeker accepts the material conditions offered by OFII, which occurs normally when applicants go to the GUDA for registration. The effective payment usually starts when the asylum seeker produces proof of their 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 in this regard as well. The amounts do not correspond to the aforementioned period or the first payments are provided at a very late stage. In

604 Annex 7-1 Ceseda.

605 Council of State, Decision No 394819, 23 December 2016, available in French at: https://bit.ly/41xRZWb; Decision No 410280, 17 January 2018, available in French at: https://bit.ly/41vRGLB.

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

607 Article D. 553-18 Ceseda.

addition, OFII sometimes requests late repayment of undue payments, and consequently puts asylum seekers in important financial difficulties.[608]

Moreover, the credit card on which the financial allowance is provided can no longer be used for cash withdrawals since November 2019. The card can only be used for payments, both online and in shops. This development restricts how asylum seekers can use their money and has been strongly criticized by NGOs. As a result, asylum seekers cannot buy food in local markets or small shops nor clothing in second hands shops, or pay for public transportation when there are no electronic means available, or pay a deposit in cash for a rent. Moreover, in the summer of 2020, all asylum seekers had to change their card due to a technical issue.

In case of a subsequent application or if the asylum claim has not been introduced within 90 days, the ADA can be refused.[609]

As of the end of December 2023, a total of 102,196 asylum seekers benefitted from the ADA (compared to 100,598 at the end of 2022, 111,901 at the end of 2021, 145,253 at the end of 2020 and 151,386 at the end of 2019).[610]

Overseas France: The situation in the oversea territory of Mayotte is very specific, where there are derogations to the legal framework applicable on the mainland. In March 2021, the Council of State ruled that the authorities had seriously breached the right to asylum by failing to provide a Burundian mother – deprived of any resources and living with her 11-year-old son in Mayotte – with adapted material reception conditions while her asylum application was pending.[611] The Council of State reiterated the State's obligation to provide adequate material reception conditions and assistance throughout the asylum procedure. At the time of the ruling, there were only 55 accommodation places in Mayotte, for about 3 000 asylum applicants.[612] The budget law for 2022, which provides significant financial support to asylum seekers in Mayotte (€ 3.1 million), indicates that 355 new places should be opened at the end of 2023.[613] A total of 450 places were available at the end of 2023.[614]

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

As of 2024, this will be affected by the provisions of the new asylum law: see Changes to the legal framework: new law of 26 January 2024.

Apart from the withdrawal of reception conditions following the end of the right to remain, specific conditions are foreseen in law to allow for the reduction or withdrawal of material reception conditions, both accommodation and ADA.

According to Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) Ceseda, as amended in 2018, material reception conditions can be refused or withdrawn where the applicant:

608 Practice-informed observations by Forum Réfugiés and partners, January 2024.
609 Article D. 551-20 Ceseda.
610 OFII, *Indicators December 2023*, published on OFII's official Twitter account.
611 Council of State, 12 March 2021, available in French at: https://bit.ly/3p9SiFY.
612 Forum réfugiés, 'Mayotte : vers une amélioration des conditions matérielles d'accueil ?', 9 April 2021, available in French at: https://bit.ly/3vcs8X6.
613 Strategic committee on national reception plan, meeting at ministry of Interior, 20 March 2023.
614 France Info, 'A Mayotte, la survie de demandeurs d'asile africains toujours plus nombreux, 6 December 2023', available in French at : https://bit.ly/3IVPi9Q.

1. Without legitimate reason, has not presented themselves to relevant authorities when required, has not responded to an information request or has not attended interviews related to the asylum application;[615]
2. Has provided false statements concerning their identity or personal situation, in particular their financial situation;[616]
3. Has made a subsequent application or, without legitimate reason, has not made an application within 90 days of entry into the French territory;[617]
4. Exhibits violent behaviour or serious disrespect of the house rules of the centre.[618]

OFII is competent to decide on the suspension, withdrawal or refusal of material reception conditions. As required by European law, recalled by the Council of State in 2019,[619] decisions on refusal or withdrawal of material reception conditions must be written and motivated.[620] In case of suspension, a letter stating the intention to suspend material reception conditions is sent to the asylum seeker, who then has 15 days to challenge this decision through an informal appeal (i.e., written observations). All decisions relating to the 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 of 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. It is also possible after these 15 days to lodge an appeal before the administrative court.[621]

The law describes the procedure to be followed by reception centres management and by the Prefect once a decision on the asylum claim which ends the right to remain has been adopted.[622] OFII informs the reception centre management where the asylum seeker is accommodated that the right to reception conditions has ended and that the provision of accommodation will be terminated upon a specific date. Rejected asylum seekers can formulate a request to remain 1 month in order to have time to plan their exit of the centre.

The management of reception centres has to inform OFII and the Prefect of the *Département* in case of a prolonged and non-motivated absence of an asylum seeker from the reception centre, as well as any violent behaviour or serious disrespect of the community life rules.[623]

In 2021, OFII took 31, 458 decisions of withdrawal of reception conditions and 16,877 such decisions were taken in the first 7 months of 2022.[624] There is no more recent data on this crucial issue as OFII does not communicate this figure (here obtained by parliamentarians). The reasons are not known, but the refusal of orientation in the framework of national reception scheme seems be the main explanation of these high figures: in 2021 and 2022, out of 48,230 people who were offered an orientation outside Ile-de-France (Paris region), 12,124 refused and 5,704 who accepted did not go to the designated accommodation, leading in total to a deprivation of reception conditions for 17,828 people.[625] This is also indirectly confirmed by the significant increase in 2021 and 2022 of refusal and cessation decisions based

615 Articles L.551-15 (refusal) and L. 551-16 (withdrawal) Ceseda.
616 Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) Ceseda.
617 Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) Ceseda.
618 Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) Ceseda.
619 Council of State, Decision 428530, 31 July 2019, available in French at: https://bit.ly/2GFaSiB.
620 Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) Ceseda.
621 Practice-informed observation by Forum Réfugiés and partners, January 2024.
622 Article R. 552-11 Ceseda.
623 Article R. 552-6 Ceseda.
624 Assemblée nationale, *Rapport fait au nom de la Commission des lois sur le projet de loi de finances 2023*, 6 October 2022, available in French at: https://bit.ly/3Zr39e5.
625 Assemblée nationale, *Rapport fait au nom de la Commission des finances sur l'orientation directive*, 24 May 2023, available in French at: https://bit.ly/3PCMCS0.

on the refusal of an accommodation proposal or departure from a reception centre (from 2,583 and 2,645 in 2019 and 2020 to 8,359 in 2021 and 11,907 in 2022),[626] although OFII claims it cannot differentiate this data between those who received such a decision and had received an orientation measure and those who received these decisions without having received an orientation measure.

The number of asylum seekers without material reception conditions is an increasingly important and worrying issue. If we compare the number of asylum applications pending at the end of 2023 according to Eurostat (146,175) and the number of asylum seekers benefitting from reception conditions at this date (102,196 persons in total at the end of December 2023 according to OFII),[627] this means more than 40,000 asylum seekers do not have reception conditions in France.

The assessment to deny or withdraw reception conditions does not take into account the risk of destitution. Asylum seekers should pay a part of accommodation cost when they have sufficient resources (very rare in practice).

In French law, there is no official possibility to limit 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 Detention of Asylum Seekers).

However, reception conditions are offered by OFII in a specific region where the asylum seeker is required to reside. 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 the asylum seeker, therefore it cannot be appealed. This assignment is only considered for those having registered their application in Île de France.[628]

Following the 2018 reform, allocation to a specific region can be conducted even if the applicant is not offered an accommodation place.[629] Non-compliance with the requirement to reside in the assigned region entails a termination of material reception conditions. Freedom of movement is therefore restricted to a region defined by OFII. In practice, these new measures are only applicable since January 2021 following the publication of a new national reception scheme.[630] However, the Ministry of Interior assured that this regional assignment would only be applied as long as accommodation is secured; and this commitment has been respected in practice since 2021. But an NGO noticed that accommodation proposals outside Paris region were sometimes formulated for people who had not requested accommodation, leading to an unjustified and penalizing deprivation of reception conditions.[631]

626 Ibid.
627 OFII, Publication on twitter, January 2024.
628 Assemblée nationale, *Rapport fait au nom de la Commission des finances sur l'orientation directive*, 24 May 2023, available in French at: https://bit.ly/3PCMCS0.
629 Article L. 551-4 Ceseda.
630 Ministry of Interior, 'Schéma national d'accueil des demandeurs d'asile et d'intégration des réfugiés 2021-2023', 17 December 2020, available in French at : https://bit.ly/3tOyhFK.
631 La Cimade, 'Vers un nouveau schéma national d'accueil : orientations directives et refus des conditions matérielles d'accueil', 12 March 2024, available in French at : https://bit.ly/3x4yNFx.

In practice, most asylum seekers are concentrated in the regions with the largest numbers of reception centres, namely in **Grand-Est**, **Auvergne-Rhône Alpes**, and **Ile de France**. The aim of the new scheme put forward in December 2020 is to better distribute asylum seekers across the territory, i.e., starting with the distribution from **Ile de France** to other regions. However, this plan had a negative impact on accommodation in these regions, as places were being mobilised for Parisian orientations, but local situations have not improved and it is now becoming almost easier to be accommodated from Paris than from other places.[632]

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

In 2021 and 2022, out of 48,230 people who were offered an orientation outside Ile-de-France (Paris region), 12,124 refused and 5,704 who accepted did not go to the designated accommodation, leading in total to a deprivation of reception conditions for 17,828 people.[633] The average rate of refusals of orientation was 17.8% in 2021 and 29.1 in 2022.[634] According to the parliamentarians authors of the report, the increase of the refusal rate in 2022 is to be explained by the larger proportion of Turkish and Bangladeshi nationals, who are among the nationalities that refuse the orientation the most.[635] Data for 2023 is not available at the time of this report.

Overseas France: The asylum request certificate only authorises stay in the territorial community where it was issued if it is Saint-Barthélemy, Saint-Martin, Wallis and Futuna Islands, and French Polynesia.[636]

Furthermore, the holder of this certificate issued in an overseas department (Guyana, Mayotte, Martinique, Réunion, Guadeloupe) is not exempt from a “Schengen” visa to enter the Schengen area, therefore to travel to mainland France.

Finally, when a person obtains a residence permit linked to their international protection in Mayotte, they cannot leave this territory where residence permits are "territorialised".

632 Forum refugies, Hébergement : un double dispositif de répartition qui impacte les régions d’accueil, 10 October 2023, available in French at : https://bit.ly/3IQA7Pb.

633 Assemblée nationale, *Rapport fait au nom de la Commission des finances sur l’orientation directive*, 24 May 2023, available in French at: https://bit.ly/3PCMCS0.

634 Ibid

635 Ibid.

636 Articles L.441-1 to L.446-5 Ceseda

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres: Not available

2. Total number of places funded in the reception centres at the end of 2023:[637]
   - ❖ CADA : 49,242
   - ❖ HUDA 52,950
   - ❖ CAES 6,622

3. Total number of places in private accommodation: Not applicable

4. Type of accommodation most frequently used in a regular procedure:
   ☒ Reception centre ☐ Hotel or hostel ☒ Emergency shelter ☐ Private housing ☐ Other

5. Type of accommodation most frequently used in an accelerated procedure:
   ☒ Reception centre ☒ Hotel or hostel ☒ Emergency shelter ☐ Private housing ☐ 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 consultation with the Director of the place of accommodation. The specific situation of the asylum seeker must be taken into account.

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

- ❖ Accommodation centres for asylum seekers (CADA);
- ❖ Emergency accommodation for asylum seekers (HUDA, AT-SA, PRAHDA, Reception and orientation centres (CAO, *Centre d'accueil et d'orientation*));
- ❖ Reception and administrative situation examination centres (CAES).

Asylum seekers accommodated in these facilities receive an address certificate (*attestation de domiciliation*).[638] This certificate 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.

According to the national reception scheme principle, an asylum seeker who has registered their claim in a specific *Prefecture* might not necessarily be accommodated in the same region. The asylum seeker has to present themselves 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 further 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 tender, such as Forum réfugiés, France terre d'asile, l'Ordre de Malte, Coallia, French Red Cross, etc. These centres fall under French social initiatives (*action sociale*) and are funded by the State. Their financial management is entrusted to the Prefect.

637 As noted below, it should be highlighted that not all of these are actually available.
638 Article R. 551-7 to R. 552-3 Ceseda.

Number of funded accommodation places by type : 2020-2024					
Type of accommodation	2020	2021	2022	2023	2024
CADA	43,602	46,632	46,632	49,242	49,742
HUDA	51,826	52,160	52,160	52,950	52,950
CAES	3,136	5,122	6,622	6,622	7,122
Total	98,564	103,914	105,414	108,814	109,814

Source: Ministry of Interior, '*Debate on immigration: Press kit,* 6 December 2022, available in French at: https://bit.ly/3ZBgeBs. Budget law 2024, Annex on Immigration, Asylum, Integration, October 2023, available in French at: https://bit.ly/4ct0VT5.

In 2023, the number of asylum seekers accommodated remained far below the number of persons registering an application. At the end of the year, the Ministry of Interior stated that 59% of asylum seekers eligible to material reception conditions – i.e., 102,196 persons in total at the end of December 2023 according to OFII[639] – were effectively accommodated compared to 58% at the end of 2022.[640] If we add asylum seekers who do not benefit from reception conditions, we can consider that 84,971 asylum seekers were not accommodated in dedicated places in France (excluding overseas) as of the end of 2023 (according to Eurostat,146,175 asylum application were pending in France at the end of 2023 and about 61,204 asylum seekers were accommodated at this date according to OFII[641] excluding CAES considered as temporary accommodation before orientation) - a part of them (unknown) however did not express the need to be accommodated

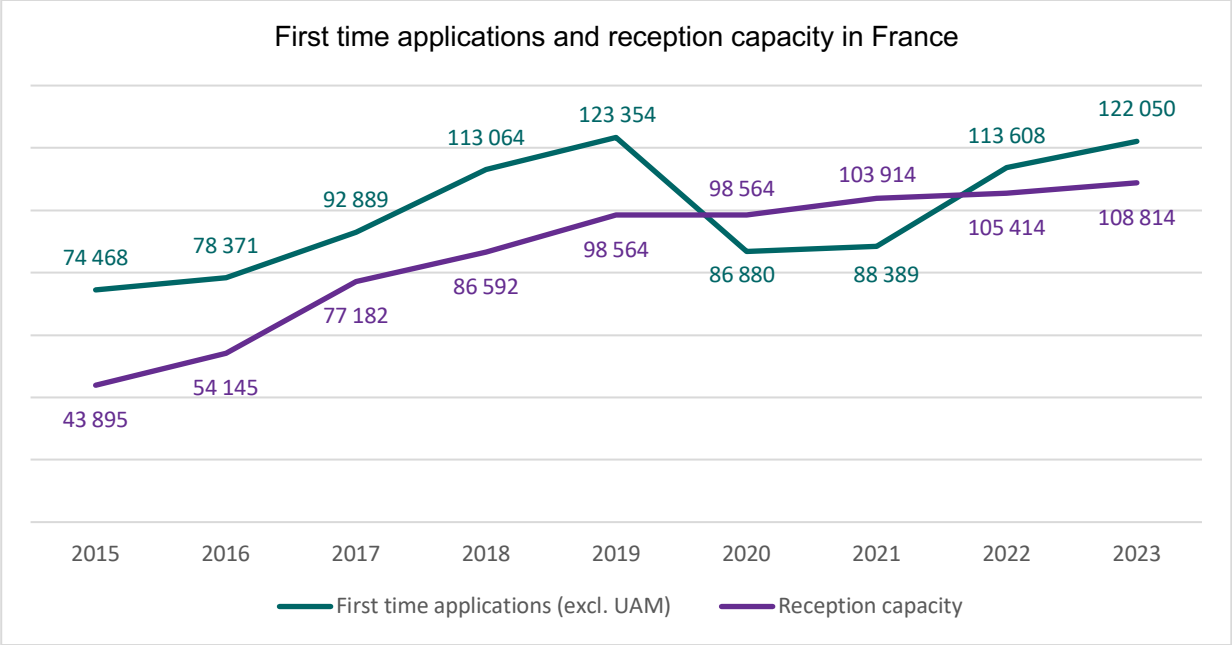
ECRE's report on the reception conditions of refugees and asylum seekers in Europe demonstrates that France has consistently fallen short of its obligations to provide accommodation to all asylum seekers on its territory, despite a considerable expansion of its reception infrastructure and a proliferation of types of accommodation.[642] The following figures provides an overview of the evolution of first-time asylum applicants registered with OFPRA and capacity in France. However, it should be noted that this graph present first-time applicants during the year, to which must also be added those with ongoing proceedings having applied in years prior.

639 OFII, Publication on twitter, January 2024.

640 French Government, Budget law 2024, Annex. October 2023, available in French at: https://bit.ly/4ct0VT5.

641 Figures obtained by La Cimade and published in : La Cimade, 'Vers un nouveau schéma national d'accueil : orientations directives et refus des conditions matérielles d'accueil', 12 March 2024, available in French at : https://bit.ly/3TTEm2z.

642 ECRE, *Housing out of reach? The reception of refugees and asylum seekers in Europe*, April 2019, available at: https://bit.ly/2RK0ivp, 13.



Source : for first time applications excluding UMs from 2015 to 2022, see OFPRA, Annual Reports, available in French at: https://bit.ly/49F0YbF; first time applications excluding UMs for 2023 is based on the preliminary number published by OFPRA (OFPRA, 'Premières données de l'asile 2023 [Chiffres provisoires], 23 January 2024, available in French at: https://bit.ly/3xEGiDz) to which the number of applications by UMs in France per Eurostat was substracted (subsequent applications by UMs are extremely rare due to the high protection rate and length of proceedings); for reception capacity, see table above.

It shows that a substantial number of applicants were left out of accommodation every year. These persisting issues raise questions of compliance with the Reception Conditions Directive as reception conditions should ensure an adequate standard of living for applicants. The decrease of first-time applicants in 2020 is largely due to the impact of COVID-19 and further does not reflect the fact that reception capacity was still very much lacking, given that many other asylum seekers were already present on the territory.

In practice, there is a discrepancy between the type of places available and the reality of asylum seekers in France. Many reception centres have been organised so as to receive families or couples, thereby making it difficult for single men or women to be accommodated. A parliamentary report contrasts this with the fact that, at least in the context of regional orientation, 61.8% of asylum seekers were single men, 27.1% families and 11.1% single women, while of the 3,000 empty accommodation units available in July 2021 (corresponding to 5,000 people), 71% were places designed to accommodate families.[643]
Moreover, if the asylum seeker has not succeeded in getting access to a reception centre before lodging their 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.

At the end of 2023, 18.6% of the places occupied in accommodation centres (excluding overseas and CAES) were occupied by individuals who were no longer authorised to occupy these places such as rejected asylum applicants or beneficiaries of international protection after the period of authorised

643 Assemblée nationale, *Rapport fait au nom de la Commission des finances sur l'orientation directive*, 24 May 2023, available in French at: https://bit.ly/3PCMCS0.

presence,[644]. Moreover, 2.65% of the places were not occupied (e.g., due to works, delays in orientation etc.).[645]

1,000 new places (500 in CADA and 500 in CAES) could be opened for asylum seekers in 2024.[646]

Overseas France: At the end of 2023, there were 727 places in **Guiana**, 500 places in **Mayotte**, 95 in **Réunion Island**, 30 in **Martinique**, and 22 in **Guadeloupe,** all in emergency shelter (HUDA) – total 1,374 places in overseas territories.[647]

1.1 Reception centres for asylum seekers (CADA)

Asylum seekers having registered an application for international protection 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. A place in the centres for asylum seekers is offered by OFII once the application has been made.

At the end of 2023, out of a total 44,812 people accommodated in CADA:[648]

- 11,775 were beneficiaries of international protection including 5,969 in unauthorized stay
- 4,466 were rejected asylum seekers including 3,196 in unauthorized stay

1.2 Emergency reception centres

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

- A decentralised emergency reception scheme: emergency accommodation for asylum seekers (*hébergement d'urgence dédié aux demandeurs d'asile*, HUDA), counting 47,599 emergency accommodation places at the end of 2023 (including 1,374 places in overseas). Capacities provided by this scheme evolve quickly depending on the number of asylum claims and capacities of regular reception centres. Some of these places are in hotel rooms.
- The reception and accommodation programme for asylum seekers (*programme regional d'accueil et d'hébergement des demandeurs d'asile*, PRAHDA), managed at the 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.

Asylum seekers who fall under the Dublin procedure in France can in theory benefit from emergency accommodation up until effective 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 (applicants or returnees) live on the streets or in squats because of the overall lack of places. At the end of 2023, only 10,909 out of 36,917 asylum seekers under Dublin procedure were accommodated (29,6%).[649]

644 French Government, Budget law 2023, Annex, October 2022, available in French at: https://bit.ly/3JYVSMD.

645 Figures obtained by La Cimade and published in : La Cimade, 'Vers un nouveau schéma national d'accueil : orientations directives et refus des conditions matérielles d'accueil', 12 March 2024, available in French at : https://bit.ly/3TTEm2z.

646 French Government, Budget law 2024, Annex, October 2023, available in French at: https://bit.ly/4ct0VT5;

647 Instruction du 19 avril 2023 relative au pilotage du parc d'hébergement des demandeurs d'asile et des Réfugiés en 2023 NOR : IOMV2305068J, available in French at: https://bit.ly/4azAutf;

648 Figures obtained by La Cimade and published in : La Cimade, 'Vers un nouveau schéma national d'accueil: orientations directives et refus des conditions matérielles d'accueil', 12 March 2024, available in French at : https://bit.ly/3TTEm2z.

649 Figures obtained by La Cimade and published in : La Cimade, 'Vers un nouveau schéma national d'accueil: orientations directives et refus des conditions matérielles d'accueil', 12 March 2024, available in French at : https://bit.ly/3TTEm2z.

1.3 Reception and administrative situation examination centres (CAES)

A new form of accommodation emerged in 2017 called Reception and Administrative Situation Examination Centres (*centres d'accueil et d'examen de situation administrative*, CAES). They combine accommodation with an examination of the person's administrative situation, in order to direct the individual to other accommodation depending on where they fall between an asylum procedure, a Dublin procedure or a return procedure. Almost 3,000 places in such shelters were created in 2018 and many other places in the following years. There were a total of 6,622 places funded at the end of 2023 (5,474 available). In some regions, CAES are designed for people coming from camps in and around Paris, while in others they benefit vulnerable asylum seekers whose application has been registered, pending referral to CADA or emergency reception.

In 2023, a new accommodation system with 500 places called 'SAS d'accueil' régionaux' has been set up to allow the accommodation of homeless people evacuated from Paris to other regions, but it is not specifically dedicated to asylum seekers (in practice, many asylum seekers are accommodated there).[650] It also allows an examination of the situation before referral to the appropriate device. During the first six months of activity, the media reported that 1,600 people were referred to these SAS, but 20% of them left without having been transferred to a durable solution corresponding to their administrative situation.[651] According to La Cimade, based on official figures, out of 6,500 invitations to go to these places, 2,572 people refused outright or did not show up for the bus taking them there. Among the 3,928 people admitted, 2,200 people were asylum seekers, 1,021 were refugees, 511 were in an irregular situation and 196 were in another situation. 42% of referrals were made to the national reception system for asylum seekers and 43% to the emergency accommodation system and 15% left before the end. Among those housed in the general system, 36% are still in the system, 30% were no longer supported, 16% had left it, 13% had been referred to another accommodation.[652]

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 59% of asylum seekers eligible for material reception conditions were accommodated at the end of 2023. The shortcomings of the French reception system were condemned in December 2022 by the UN Committee on the elimination of racial discrimination.[653] People have no choice but to turn to squalid living conditions, including in informal camps, which are regularly dismantled by the authorities, with or without a planned accommodation solution.

In **Paris**, from 2019 to end of 2021, 27,508 migrants were evacuated from camps and accommodated through109 operations carried out by the authorities, [654] including a violent evacuation in November 2020 widely condemned by NGOs, media and politicians.[655] In 2022, 6,668 persons were evacuated from the

650 Lignes directrices pour la prise en charge administrative et l'orientation des personnes mises à l'abri au sein de sas d'accueil temporaire, NOR : IOMK2305900, 13 March 2023, available in French at: https://bit.ly/3xdml6C.

651 France Info, 'ENQUETE. JO 2024 : comment les migrants à la rue sont évacués de Paris vers des "sas d'accueil temporaires régionaux"', 14 September 2023, available in French at: https://bit.ly/4cB1Dxu.

652 La Cimade, 'Vers un nouveau schéma national d'accueil: orientations directives et refus des conditions matérielles d'accueil', 12 March 2024, available in French at : https://bit.ly/3TTEm2z.

653 CERD/C/FRA/CO/22-23, 14 December 2022, available in French at : https://bit.ly/3NqoyBG, para. 19.

654 Assemblée nationale, Rapport fait au nom de la Commission des lois sur le projet de loi de finances 2023, 6 October 2022, available in French at: https://bit.ly/3Zr39e5.

655 Le Monde, 'Le point sur l'évacuation du camp de migrants à Paris : coups de matraque et « chasse à l'homme », indignation politique et enquêtes de l'IGPN', 24 November 2020, available in French at: https://bit.ly/3rVwdKr.

Parisians camps.[656] In 2023, 6,443 persons were evacuated.[657] A coordination unit to deal with these situations was set up in January 2021, bringing together the authorities and associations.[658] The implementation of a national reception scheme, allowing better orientation from the Paris region to accommodation in other regions, enabled the orientation of 36,106 migrants in 2021 and 2022. However, some NGOs report numerous cases of people who could not be accommodated following these operations or who were placed in detention.[659]

In **Calais**, regular dismantlement operations have been carried out since 2015, as described in the previous updates of this report.[660] Yet, hundreds of migrants were still living in makeshift camps in Calais area throughout 2023. Early 2023, NGOs stated that about 800 migrants were in Calais and its surroundings.[661] Following a visit to the informal camp in Calais in September 2020, carried out upon the request from 13 NGOs, the Ombudsman noted sub-standard living conditions. [662] A report published by Human Rights Watch in 2021 stated that people living in camps in Calais and surroundings have still an insufficient access to basic needs, such as access to water point, food supply, health care, and sanitary facilities.[663]

Furthermore, in reaction to the sinking of a small boat during the Channel crossing on 24 November 2021, in which 27 persons died, the Ombudsman reiterated its previous recommendations made in 2015 and 2018. It asked for the halt of systematic dismantlement in Calais, which appears to be done in complete violation of migrant's fundamental rights. It also underlined that every dismantlement should strictly respect procedures, human dignity and research for durable accommodations.[664]

In its annual report published in June 2022, Human Rights Observer (HRO), an organisation which monitors police evictions in northern France, stated that 1,226 dismantlement operations took place in **Calais** and 61 in **Grande-Synthe** throughout 2021.[665] During all these operations, HRO stated that 10,121 tents were seized, 205 people were arrested, and 127 migrants were victims of police brutality.[666] During a dismantlement at the end of December 2021, confrontations were reported between police officers and migrants. During the operation, 15 police officers and 3 migrants were injured. At the beginning of January 2022, a substantial police operation was organised in the same place, to complete the dismantlement. About 100 police officers were deployed in order to evacuate a camp of 50 migrants.[667] An investigation published by a journalist at the beginning of 2023 confirms the persistence of violence and police

656 Préfecture de la région Ile-de-France, Press release, 9 February 2023, available in French at : https://bit.ly/3PDfvxF.

657 Préfecture de la région Ile-de-France, Press release, 12 December 2023, available in French at : https://bit.ly/3TQIHnh.

658 Préfecture de la région Ile-de-France, Communiqué de presse : Installation de la cellule de coordination pour l'accueil et l'accompagnement des migrants, 18 January 2021, available in French at: https://bit.ly/34aJ2Kz.

659 See e.g., Utopia 56, 'Paris : réponse sécuritaire à une urgence humanitaire', Press release, 29 October 2021, available in French at: https://bit.ly/3IEVa5j.

660 See e.g. : Le Monde, 'A Calais et à Dunkerque, plusieurs camps de migrants évacués par la police', 30 November 2023, available in French at : https://bit.ly/3Ts2M1O. See also, previous AIDA Country Reports: France, available at : https://bit.ly/3KLYFJo.

661 Le Monde, 'A Calais, la frontière bunker avec l'Angleterre repousse les migrants vers la mer', 3 February 2023, available in French at: https://bit.ly/3zx6C0c.

662 Défenseur des droits, Decision No. 2020-179, 18 September 2020, available in French at: https://bit.ly/3rTYmkP.

663 Human Rights Watch, Infliger la détresse : Le traitement dégradant des enfants et des adultes migrants dans le nord de la France, October 2021, available in French at: https://bit.ly/3t2NAfw.

664 Défenseur des droits, Communiqué de presse. Calais : la Défenseure des droits rappelle l'urgence d'une politique d'accueil respectant les droits fondamentaux des personnes exilées, 25 November 2021, available in French at: https://bit.ly/3JcutHd.

665 Human Rights Observer, Activity report 2021, June 2022, available at: https://bit.ly/3UGtBPQ.

666 Human Rights Observer, Data for 2021, available in French at: https://bit.ly/3xdcEF8.

667 France 3 Région, 2 janvier 2022, « Calais : après les affrontements de jeudi, les policiers reviennent en force pour déloger les migrants du même camp », available in French at: https://bit.ly/3KBmzpr.

harassment in the Calais region in order to avoid the establishment of camps.[668] In 2023 (until December), 16,041 persons were, in some cases forcibly, evacuated or evicted by authorities in this region.[669]

On 16 November 2021, one of the largest dismantlement operations happened in **Grande-Synthe**. Approximately 1,200 persons were evacuated, during a substantial operation involving more than 300 police officers. NGOs stated that this large operation has led to placements in accommodations centres for all the persons involved, but under duress, and without any interpreter to inform them of the implication of this procedure.[670]

On 30 November 2023, 1,244 persons were evacuated from camps in the North of France.[671] Some NGOs denounced repressive action which did not take into account the wishes of the people and did not constitute a lasting solution.[672]

In recent years, courts have also condemned the situation in **Calais**. In July 2017, the Council of State ruled that State deficiencies in Calais exposed migrants to degrading treatment and ordered the State to set up several arrangements for access to drinking water and sanitary facilities.[673] 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”.[674] On 21 June 2019, the Council of State ordered the northern prefecture of France to adopt important sanitary measures to support around 700 migrants living near a sport hall in the commune of **Grande-Synthe**. The application for interim measures had been filed by 9 civil-society organisations and the commune of **Grande-Synthe**. It demonstrated that both the inhumane living conditions of the migrants and the failure to act of the Government were a violation of the migrant’s fundamental rights.[675] Following the decision of the Council of State, the French prefect had 8 days to adopt numerous sanitary measures such as installing water points, showers and toilets, but also to provide information to migrants on their rights in a language they understand.

In 2022 and early 2023, actions by the authorities to limit the distribution of water or food have been observed, such as the blocking vehicle access to water and food distribution sites with equipment (rocks, etc.)[676] and the limiting authorised distributions only to organisations funded by the State.[677] However, these late limitations were considered illegal by the Administrative court in October 2022, a position reiterated in July 2023 (situation in Ouistreham),[678] and October 2023 (situation in Paris)[679].

On 10 February 2021, the National Consultative Commission on Human Rights (CNCDH) issued an opinion where it stated that, five years after its previous visit on site, the dignity of the people exiled in

668 L. Witter, ‘La battue’, February 2023, Le Seuil.
669 France Bleu, ‘La police évacue deux camps de migrants à Calais et Dunkerque’, 30 November 2023, available in French at : https://bit.ly/3VBa1Hj.
670 Utopia 56, ‘Open letter to those responsible for the last expulsions in Grande-Synthe’, 24 November 2021, available in French at: https://bit.ly/3KBBn7o.
671 See e.g ; : Le Monde, ‘A Calais et à Dunkerque, plusieurs camps de migrants évacués par la police‘, 30 November 2023, available in French at : https://bit.ly/3Ts2M1O.
672 France 3, ‘Importante opération d'évacuation dans des camps de migrants à Calais et à Loon-Plage’, 30 November 2023, available in French at: https://bit.ly/3IUYr2c.
673 Council of State, Order No 412125, 31 July 2017, available in French at: https://bit.ly/3ULoNci.
674 Ombudsman, ‘Exilés et droits fondamentaux, trois ans après le rapport Calais’, 19 December 2018, available at: https://bit.ly/3TSm3uy.
675 France TV Info, ‘Nord : la préfecture condamnée à prendre des mesures sanitaires et à organiser des maraudes pour les migrants à Grande-Synthe’, 21 June 2019, available in French at: https://bit.ly/2w0zPTL.
676 France 3, ‘À Calais, des rochers déposés par les autorités restreignent l'accès des exilés à un point de distribution d'eau’, 1st March 2023, available in French at: https://bit.ly/3MgU8RH.
677 Infomigrants, ‘Calais : l'arrêté interdisant la distribution de nourriture aux migrants reconduit’, 18 August 2022, available in French at: https://bit.ly/3K8HSQA.
678 La Cimade, ‘Campement de Ouistreham: le conseil d’etat confirme l’ordonnance du tribunal administratif de Caen – une victoire pour le droit à l’eau des personnes exilées’, 6 july 2023, available in french at: https://bit.ly/3IWofei.
679 Administrative Court of Paris, 17 October 2023, available in French at: https://bit.ly/4auaOOG.

Calais and **Grande-Synthe** was still being violated. It confirmed that in 2020 more than 1,000 evictions were carried out in **Calais**, and 33 evictions in **Grande Synthe**. Access to drinking water, food, showers, toilets as well as basic health services is not guaranteed. It called for the re-establishment of dialogue and cooperation between all the stakeholders involved in order to ensure the protection and dignity of the concerned individuals. It also recalled the best interest of the child and the necessity to introduce guarantees for unaccompanied minors as well as vulnerable groups such as women or victims of human trafficking.[680]

In reaction to the living conditions of migrants in Calais, 3 human rights activists started a hunger strike on 11 October 2021 for a period of 38 days. They asked for the suspension of dismantlement operations, at least during the winter period, and to stop seizing tents and migrant's personal effects.[681] A mediator was sent in Calais by the government to hold discussions with the activists. He offered systematic accommodation for migrants after the dismantlement operations, as well as the end of unannounced dismantlement operations. Migrants would thus be informed in advance of dismantlement operations to allow them to collect their personal effects.[682]

As a result, an accommodation centre with a capacity of 300 places opened in Calais in November 2021, but NGOs stated that this proposal was not tailored to the reality of migrant's situation. This accommodation closed its doors quickly after its opening as the government announced the creation of a similar structure elsewhere in the region.[683]

In some other cities (**Nantes, Grande Synthe, Lyon, Bordeaux, 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. The issue of homelessness in France has also been scrutinised by the European Court of Human Rights (ECtHR). On 2 July 2020, the ECtHR published its judgment in *N.H. and others v France* concerning the living conditions of homeless asylum applicants as a result of the failures of the French authorities. The case concerns 5 single men of Afghan, Iranian, Georgian and Russian nationality who arrived in France on separate occasions. After submitting their asylum applications, they were unable to receive material and financial support and were therefore forced into homelessness. The applicants slept in tents or in other precarious circumstances and lived without material or financial support, in the form of Temporary Allowance, for a substantial period of time. All of the applicants complained, *inter alia,* that their living conditions were incompatible with Article 3 ECHR.[684] However, in the case of *B.G. and others v. France*, the ECtHR unanimously ruled on 10 September 2020 that, *inter alia*, the living conditions in a French tent camp on a carpark did not violate Article 3 ECHR.[685]

Overseas France: In **Guiana**, authorities have implemented an 'official' camp with about 400 persons.[686] In **Mayotte**, hundreds of asylum seekers and refugees had set up camp at the Cavani stadium in Mamoudzou. 308 refugees were evacuated on February 25, 2024 to be transferred to the mainland, with 410 people remaining there.[687]

680 CNCDH, 'Calais et Grande-Synthe Les atteintes à la dignité et aux droits fondamentaux des personnes exilées doivent cesser', 11 February 2021, available in French at: https://bit.ly/3A35TDZ.

681 France 3 Région, « Calais : après la grève de la faim, une nouvelle action de longue durée pour rendre visible le sort des réfugiés », 15 janvier 2022, available in French at: https://bit.ly/3t2uxC5.

682 Le Monde, « Didier Leschi : l'action des grévistes de la faim a fait apparaître une incohérence dans la politique mise en œuvre », 1er novembre 2021, available in French at: https://bit.ly/43Cxppz.

683 La voix du nord, 17 novembre 2021, « Migrants à Calais : le couple de militants arrête sa grève de la faim », available in French at: https://bit.ly/3HWQSoQ.

684 European Court of Human Rights published, N.H. and others v France (Application No. 28820/13), 2 July 2020, see EDAL summary at: https://bit.ly/3ppxQhw.

685 ECtHR, B.G. and others v. France (Application no. 63141/13), 10 September 2020, see EDAL summary at: https://bit.ly/37eckGi.

686 La Cimade, 'En Guyane, un camp pour les demandeurs d'asile géré par l'État', 11 December 2023, available in French at : https://bit.ly/4a87qch.

687 Préfet de Mayotte, 'Operation de demantelement du stade de Cavani', 26 february 2024, available in French at: https://bit.ly/3TSNa8N.

1.5 Evolution of the capacity of the different types of accommodation

Although the capacity of CADA – the main form of reception for asylum seekers - has been steadily developed throughout the years, France has exponentially increased the capacity of emergency accommodation through the creation of PRAHDA and the expansion of local HUDA from 11,829 places in mid-2016 to 51,796 places at the end of 2021.[688]

This means that the emergency accommodation network (PRAHDA, HUDA) is more important than the CADA and formally forms part of the national reception system. It appears therefore that "emergency accommodation" in France no longer serves the purpose of temporarily covering shortages in the normal reception system. In fact, as already explained, it is the default form of accommodation for certain categories of asylum seekers such as those under a Dublin procedure, since they are excluded altogether from CADA.[689]

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?	473 days (2021)
3. Are unaccompanied children ever accommodated with adults in practice?	☐ Yes ☒ No
4. Are single women and men accommodated separately?	☐ Yes ☒ No

The activities and tasks entrusted to all reception centres are defined in a decree of December 2018 and include:[690]

- 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

Although the use of other types of accommodation has consistently increased throughout recent years (see Evolution of the capacity of the different types of accommodation) 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. At the end of 2023, there were 49,242 places funded in CADA spread across the French territory, therefore the following description is a general assessment that cannot cover the specific situation 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

688 *Ibid.*
689 *Ibid.*
690 Article R. 552-10 Ceseda.

to respect a minimum of 7.5 m^2 per person.[691] 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 / residents 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.

Since the 2018 reform, the staff also has the obligation to organise a medical check-up upon arrival in the reception centre.[692]

Awareness-raising sessions are sometimes organised in the reception centres and "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.

The average length of stay in CADA in 2022 was 524 days.[693] The average length of stay in CADA in 2023 was not available by the time of writing of this report.

Average length of stay in CADA (in days)					
2017	2018	2019	2020	2021	2022
424	451	524	533	591	524

2.2 Conditions in emergency centres

In 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.[694]

Where centres are overcrowded, applicants can also be accommodated in hotel rooms. To illustrate, 13% of places in HUDA were in hotel rooms at the end of 2020,[695] but no data is available for 2021 and 2022. The conditions of accommodation and support in hotels can vary greatly, but we do not have precise visibility on these practices (which tend to decrease significantly).[696]

A 2019 inter-ministerial instruction obliges emergency accommodation centres for homeless persons (which differs from emergency centres for asylum seekers) to communicate the list of people accommodated there to the OFII.[697] This measure risks calling into question the principle of unconditional reception of migrants, as undocumented migrants may no longer dare approach emergency shelters if they know that they will be flagged to the authorities. The CNCDH requested the withdrawal of this instruction on the same legal grounds, further contending that it violates the country's international obligations relating to human rights of migrants.[698] According to the Ministry of Interior, information transmission "*remains insufficient and heterogeneous, especially in Ile-de-France region*" as only 2,204 asylum seekers had been identified in emergency accommodation centres from October 2019 to

691 Arrêté du 15 Juin 2019 sur le cahier des charges CADA, available in French at: https://bit.ly/2RIU2FW.
692 *Ibid*.
693 OFII, 2022 Activity report, October 2023, available in French at: https://bit.ly/3PDKtWa, 27.
694 Arrêté du 15 février 2019 sur le cahier des charges HUDA, available in French at: https://bit.ly/2F52kAi.
695 Ministry of Interior, 'Information relating to the management of the accommodation facilities for asylum seekers and refugees', 15 January 2021, available in French at: https://bit.ly/2ZjKsfP.
696 Practice based observation by Forum Réfugiés and partners, January 2024.
697 Inter-ministerial instruction of 4 July 2019 on the cooperation between Integrated reception and orientation services (SIAO) and the OFII as regards the reception of asylum seekers and beneficiaries of international protection, available in French at: https://bit.ly/4cUhUhv.
698 CNCDH, 'Cooperation between emergency centres and the OFII', available in French at: https://bit.ly/41W8o7p.

December 2020.[699] There is no more recent data at national level but, according to our own experience, this transmission remains limited, in particular due to the conditions set by the Council of State in a decision of November 6, 2019,[700] which sets some safeguards (the information collected should only be used to streamline the accommodation system, people may refuse to respond to requests for information on their situation, etc.).

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?	☒ Yes ☐ No
❖ If yes, when do asylum seekers have access the labour market?	6 months
2. Does the law allow access to employment only following a labour market test?	☒ Yes ☐ No
3. Does the law only allow asylum seekers to work in specific sectors?	☐ Yes ☒ No
❖ If yes, specify which sectors:	Defined by Prefectures
4. Does the law limit asylum seekers' employment to a maximum working time?	☐ Yes ☒ No
❖ If yes, specify the number of days per year	
5. Are there restrictions to accessing employment in practice?	☒ Yes ☐ No

Since March 2019, access to the labour market is 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.[701] 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. When they do have access, asylum seekers are subject to the law applicable to third-country national workers for the issuance of a temporary work permit.[702]

The Council of State limited the scope of these provisions by indicating in 2020 that the right to work could only be requested between the date beyond which OFPRA exceeded the 6-month period and the decision of the OFPRA, and not during the appeals stage even if the conditions are fulfilled.[703] On the other hand, the Council of State specified in 2022 that asylum seekers under a Dublin procedure were also covered by the deadline imposed by European law and, in the absence of provisions in French law on this issue, should be able to access the labour market beyond 9 months after the first introduction of their application in France.[704] In practice, no change has been observed.

In practice, 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 at the Ministry of Labour.

699 Ministry of Interior, 'Schéma national d'accueil des demandeurs d'asile et d'intégration des réfugiés 2021-2023', 17 December 2020, available in French at: https://bit.ly/3tOyhFK, 14.
700 Conseil d'État, 2ème - 7ème chambres réunies, 06 November 2019, 434376, available in French at: https://bit.ly/3PFQvWu.
701 Article L. 554-1 Ceseda.
702 Article R. 571-1 Ceseda.
703 CE, 15 July 2020, 428881.
704 CE, 24 February 2022, 450285.

In any case, the employment situation also constrains this right. In accordance with Article R.5221-20 of the Labour Code (Ctrav), the Prefect may take into account for instance "the current and future employment situation in the profession required by the foreign worker and the geographical area where they intend 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.[705] In practice, Prefectures use these lists of sectors facing recruitment difficulties.

Recent data on asylum seekers being able to work were not available until recently even to members of Parliament,[706] but the legislative process regarding a bill proposed early 2023 has provided some recent figures: in 2022, out of 4,254 work permit applications submitted by asylum seekers, 1,148 were approved (27% of submissions but it represents only 0.8% of the first asylum applications recorded in *prefectures* in 2022).[707]

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,[708] this permit is delivered to unaccompanied children, and the employment situation cannot constrain them if they meet certain criteria, except when they are in asylum procedure due to limitations applied to all asylum seekers.[709] Thus, it is more difficult for a child asylum seeker to obtain a permit. 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.[710]

Asylum seekers they may also be concerned by more general obstacles to access to work which affect all migrants, such as language, qualifications, distance, labour market discrimination, overqualification, labour exploitation etc.

2. Access to education

Indicators: Access to Education		
1.	Does the law provide for access to education for asylum-seeking children?	☒ Yes ☐ No
2.	Are children able to access education in practice?	☒ Yes ☐ No

Regarding care opportunities before the legal age to go to school (3 years old), asylum seekers have equal access with French nationals to the crèche system,[711] although capacity is limited across the country, and parents can receive significant financial assistance to pay for a childminder.

While no provision of the Education Code covers the particular case of children of asylum seekers, the law provides that all children are subject to compulsory education as long as they are between 3 and 16 years old.[712] Kindergarten and primary school enrolment can be done at the local town hall. Enrolment into secondary school is made directly at the institution closest to the place of residence of the child. Education for asylum seeking children is provided in regular schools.

705 Ministerial Order NOR IMID0800328A of 18 January 2008 on the issuance of work permits to third-country national workers, available in French at: https://bit.ly/3A21d1l.

706 Assemblée nationale, 'Rapport d'information relatif à l'intégration professionnelles des demandeurs d'asile et des réfugiés', J.N Barrot & S. Dupont, September 2020, available in French at: https://bit.ly/3KsjmIJ, 37.

707 Sénat, 'Rapport n°433 (2022-2023) sur le projet de loi pour contrôler l'immigration', améliorer l'intégration, 15 March 2023, available in French at: https://bit.ly/4cxSqWK.

708 Article L. 5221-5 Ctrav.

709 They do not have the right to work except if the length of the procedure is more than 6 months.

710 Article L. 554-2 Ceseda, as amended by Article 49 Law n. 2018-778 of 10 September 2018.

711 See e.g. Ministère de l'économie, *Les inégalités d'accès aux crèches et leurs enjeux économiques*, January 2023, available in French at : https://bit.ly/4aVDbVX.

712 Article L. 131-1 Education Code.

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).[713] The test results will enable teachers to integrate the child within the dedicated schemes e.g. training in French tailored to non-native speakers (*français langue étrangère*, FLE) or initiation classes.

Barriers to an effective access to education are various. Beyond the issue of language, there are also a limited number of specialised language training or initiation classes and limited resources dedicated to these schemes. This problem is even more acute for reception centres in rural areas which simply do not have such classes close by. Moreover, 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, 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 France 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.
Regarding universities, asylum seekers have the possibility in theory to enrol in a course but several practical obstacles remain such as the need to have a diploma at the end of the school course and/or another university diploma recognised by France. In practice, very few asylum seekers are enrolled in University.

Overseas France: During a visit to Mayotte in October 2023, the Ombudsman noted that the right to schooling is not assured for thousands of children: more than 15,000 children would not have access to traditional schooling, including many migrants.[714]

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
   ☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
   ☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
   ☐ Yes ☒ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
   ☒ Yes ☐ Limited ☐ No

Asylum seekers under the regular procedure, like any other third-country nationals below a certain income level, have access to healthcare thanks to the Universal Health Protection Scheme (PUMA).[715] Since January 2020, the 3-month residence requirement applies to all adult asylum seekers without

713 See Circular NOR: 2012-143 of 2 October 2012.
714 Défenseure des droits, 'La Défenseure des droits à Mayotte : l'exigence du respect des droits de tous', Press release, 31 October 2023, available in French at: https://bit.ly/3PAHApa.
715 Article L. 380-1 Social Security Code.

exception.[716] During the first three months, they only have access to emergency health coverage (*Dispositif Soins Urgents et Vitaux*). Children have access to health care coverage upon arrival. After this 3-month period, asylum seekers benefit from the PUMA.

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 3-month residence requirement, the legality of their stay in France, their marital status and the level of their resources. As a result, during this 3-month period asylum seekers cannot see a doctor for free, except in hospitals in case of emergency, which means a postponement of treatment. Similarly, because of the 3-month residence requirement, the compulsory examination upon entry into the accommodation centres cannot be set up, psychological care is not accessible and vulnerability assessments are rendered more complicated. These 3 months without proper coverage impacts asylum seekers that also need to request a permit for medical reasons, as they are supposed to apply for that permit within exactly three months[717] (if they apply later without new circumstances, the application can be denied purely based on tardiness): during this period they must provide information on their medical situation and therefore consult a health professional for this, which is very complicated without health insurance.

Persons who have no right to remain on the territory, including rejected asylum seekers, benefit from the PUMA for six months after the end of validity of the asylum claim certificate. Before 2020, the time period was one year. After this period, State Medical Aid (AME) enables them to receive free treatments in hospitals as well as in any doctors' offices.[718]

Individuals with low income and still awaiting health insurance and needing healthcare quickly can turn to the Open and free centres for Access to Health Care (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 public health insurance. According to the law, all public hospitals are required to offer PASS services

As a general rule, difficulties and delays for effective access to health care vary from one city to another in France.

The period of validity of PUMA is one year. At the end of this period it only be renewed if the person has a valid asylum claim certificate.

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[719] even though these refusals of care can in theory be punished.[720]

Lastly, asylum seekers are affected by general shortcomings of the healthcare system, with "social and regional inequalities",[721] and saturation of emergency medical services.[722]

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716 Decree No. 2019-1531 of 30 December 2019 relating to the residence requirement applicable to asylum seekers for covering their health expenses, available in French at: https://bit.ly/2tcEvoe.

717 Article D.431-7 Ceseda.

718 Sercice public, 'What is state medical assistance (AME)?', verified 1 April 2024, available at: https://bit.ly/3xwJv7Z.

719 Slate, 'Pour obtenir un rendez-vous médical, mieux vaut ne pas être bénéficiaire d'une aide à la santé', 2 November 2022, available in French at: https://bit.ly/40J4v5i.

720 Circular DSS n. 2001-81, 12 February 2001 on the care refusal for beneficiaries of the CMU.

721 CNCDH, 'Contribution to the 4th cycle of the universal periodic review of France', January 2023, available at: https://bit.ly/3ITaJIs.

722 France Inter, 'Urgences : une saturation mortelle ?, 26 February 2024, available in French at: https://bit.ly/3IV4YKs.

Mental health

In a study published in July 2023, the French NGO *France terre d'asile* reported that there are multiple factors at the origin of the significant psychological distress of exiled persons, and many care needs are noted by both the exiles themselves and the socio-educational teams who support them. However, in parallel they face many barriers in accessing mental health services, such as the lack of knowledge of their rights and the available services, the lack of adaptation of the health's system organisation, the language barrier, etc. There is generally difficulty in accessing the public system, as well as an unequal associative offer in level of care and geographically (urban vs rural area). The virtual absence of care provision for children is also noted.[723]

National legislation does not provide any specific guarantee for access to care related to mental health issues. Asylum seekers can theoretically benefit from psychiatric or psychological counselling thanks to their health care coverage (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 the 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 LeviCentre and Comede in **Paris** as well as the Comede and Osiris centres in **Marseille**, Mana in **Bordeaux**, Forum réfugiés – Cosi Essor Centre in **Lyon and Clermont Ferrand**, Parole Sans Frontière à **Strasbourg**, Comede in the Loire departement and lastly in **Guyane**, in overseas France. 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 aggravated by the geographical locations of some reception centres where accessing mental health specialists would entail several hours of travel.
The general health system cannot currently cope with this adapted care for victims of torture and political violence. Regular structures lack time for consultations, funds for interpreters and training for professionals.

Health care access systems are available in detention centre and transit zones, for all people in these places (including asylum seekers). It is thus possible to ask for a medical examination and to see a doctor. Access is effective in practice.

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 are to be specifically trained on identification of vulnerability (see Identification).[724]

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, LGBTQI+ persons face important difficulties when OFII does not provide them with housing, as most of the time they cannot find support in their national communities. So far, places in CADA are mostly allocated to vulnerable asylum seekers but whose vulnerability is "obvious" and visible (e.g., families with young children, pregnant women and elderly asylum seekers). The questionnaire that is used by OFII officers as part of the vulnerability

723 France terre d'asile, 'Répondre aux besoins en santé mentale des demandeurs d'asile : une étude qualitative', July 2023, available in French at: https://bit.ly/3vqtwI7.
724 Article L. 552-2 Ceseda.

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 accommodation centres to notify OFII of the personal situation of an asylum seeker presenting a particular vulnerability and to ask for their re-orientation to a more suitable centre. In many occasions, social workers have reported the fact that the orientation carried out by OFII did not take into account the vulnerability of some asylum seekers. For example, asylum seekers in a wheelchair have been offered accommodated in a centre without any specific access for disabled persons. However, such monitoring is impossible for almost half of asylum seekers, who are not accommodated by the State.

The main difficulty for accommodation staff is however the identification of solutions to respond to certain needs (see section on Health Care on the limited access to mental health care for instance). Therefore, the obligation for 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.[725] 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 such as trainings and provisions of tools to social workers are still lacking to allow this system to be implemented.

In the specifications of different types of accommodation centres (CADA[726], HUDA[727]), it is mentioned that each adult should have an individual space of at least 7.5 m2 preserving privacy in shared or private room. There is no formal policy to prevent mixed sex accommodation but in practice single women are not accommodated in the same rooms as single men. Toilets and bathrooms are not necessarily separated, depending on the place available in the accommodation centre.

For the year 2019, the Ministry of Interior had requested that Prefectures develop places for asylum seekers with disabilities, but there is no further information about whether this was implemented in practice. It had further announced the opening of places dedicated to women victims of violence or trafficking:[728] in practice, about 300 dedicated places were created in 2019, and were operating as of 2020. They are located in Auvergne Rhône Alpes, Ile-de-France, Provence-Alpes-Côte d’Azur, Nouvelle Aquitaine and Occitanie. Moreover, 200 places dedicated to LGBTI asylum seekers places were opened in 2022, but no additional budget has been planned for these additional missions.

As mentioned above, a governmental plan on vulnerability, including specific actions for asylum seekers, will be published in early 2021 to increase the identification of vulnerable groups and better address their needs. At the beginning of 2022, the Ministry of the Interior launched a training on vulnerability addressed to many asylum actors (authorities, NGOs, etc.). At the end of 2021, a ‘’health appointment’ has been established in some GUDA by OFII: at the first step of the asylum process, OFII suggest a visit with a doctor to identify health problems and refer to appropriate services.[729] It is free and not mandatory. In 2022, 3,371 appointments took place in 13 GUDA.[730]

725 Article L. 522-4 Ceseda.

726 Arrêté du 19 juin 2019 relatif au cahier des charges des centres d'accueil pour demandeurs d'asile, NOR : INTV1916144A, available in French at : https://bit.ly/3PBRKpq.

727 Arrêté du 19 juin 2019 relatif au cahier des charges des lieux d'hébergement d'urgence pour demandeurs d'asile, NOR : INTV1916145A, available in French at: https://bit.ly/43CRRH5.

728 Ministry of Interior, Circular NOR: INTV1900071J, 31 December 2018, available in French at: https://bit.ly/3L4ZcHP, 7.

729 OFII, ‘Le rendez-vous santé à l’OFII, pourquoi, pour qui, où ?’, August 2022, available in French at: https://bit.ly/3zA8ftU.

730 Strategic committee on national reception plan, meeting at ministry of Interior, 20 March 2023.

Care system ("*prise en charge*") for unaccompanied children regardless of status

The term unaccompanied child has no explicit definition in French law.[731] The protection of young persons 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. Following the age assessment procedure (see Age assessment of unaccompanied children), unaccompanied minors are accommodated and accompanied by social services of these local authorities (during the social evaluation, they benefit from 5 days of accommodation in emergency services). 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.

The distribution mechanism is set out in law.[732] The geographical distribution is done according to criteria defined by way of decree:[733]

- The population of the department, compared to the national population;
- 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.
- Local socio-economic specifities
- The number of young people accompanied after 18 years old

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.

In a report sent to the United Nations Committee on the Rights of the Child in July 2020, the Ombudsman pointed out several shortcomings in the childcare system concerning migrant children with families and unaccompanied children.[734] This included using former hotels to accommodate children, in substandard living conditions and with limited prospects of integration. It further highlighted that the lack of adequate services and the long distance between hotels and these services was likely to lead to children dropping out of school. In practice, however, little has changed and similar issues continue to be reported, albeit less frequently. In two reports published in October 2021 and February 2022 respectively, the Ombudsman reported persistent shortcomings in social services for unaccompanied children, including burdensome procedures at prefectures and obstacles to accessing education.[735]

A new law on child protection was adopted on 25 January 2022. It prohibits, inter alia, the accommodation of children in hotels as of 2024.[736] Until 2024, children can only be placed in hotels for a maximum of two months and under reinforced security measures.

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731 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.

732 Law n. 2016-297 relating to childhood protection, 14 March 2016, available in French at: http://bit.ly/2jPyjYW.

733 Code de l'action sociale et des familles, article R.221-13. Arrêté du 1er février 2024 pris en application de l'article R. 221-13 du code de l'action sociale et des familles et modifiant l'arrêté du 28 juin 2016 modifié relatif aux modalités de calcul de la clé de répartition des orientations des mineurs privés temporairement ou définitivement de la protection de leur famille, NOR : JUSF2328970A, available in French at: https://bit.ly/3VvU7hx.

734 Défenseur des droits, 'Rapport au Comité des droits de l'enfant', 10 July 2020, available in French at: https://bit.ly/3TST6yE.

735 Defenseur des droits, 'Avis 21-15 du 15 octobre 2021 relatif au projet de loi sur la protection des enfants', available in French at: https://bit.ly/3pQo5w0; Défenseur des droits, 'Les mineurs non accompagnés au regard du droit', 3 February 2022, available in French at: https://bit.ly/3hPHSHB.

736 Loi No. 2022-140 du 7 février 2022 relative à la protection des enfants, available at: https://bit.ly/3qnGiRo.

Regarding asylum procedures, when unaccompanied children go to the Prefecture in order to lodge an asylum application, the authorities only verify 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). In practice, several workers regularly report that some Prefectures still do not accept to register the asylum claims of unaccompanied children.[737] Asylum-seeking children are sometimes channelled to the common law procedure for unaccompanied minors and they are prevented from registering their asylum claim.

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.[738] These are managed by the *conseils départementaux*. They may also be accommodated in foster families. Due to the lack of places, children are often accommodated in hotels in practice.

However, none of these centres are designed for asylum-seeking children specifically. 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 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.[739] When children are not accommodated in specialised centres, legal support depends on available services provided by NGOs in the geographical area.

Moreover, on 28 February 2019, the ECtHR ruled in case *Khan v. France* that the failure of the French authorities to provide care for an unaccompanied minor in the Calais refugee camp was in breach of Article 3 of the Convention.[740] In September 2020, the French Ombudsman sent a communication to the Committee of Ministers concerning this case, highlighting several difficulties in accessing protection for unaccompanied minors in France.[741] On 2-4 December 2020, the Council of Europe Committee of Ministers invited the French authorities to adopt specific measures to protect unaccompanied minors in transit in light of the Khan judgement.[742]

737 Practice-informed observation and based on exchanges with other asylum professionals, Forum Réfugiés, January 2023; see also Défenseur des droits, 'Les mineurs non accompagnés au regard du droit', 2022, available in French at: https://bit.ly/3KETLhz, 22.

738 Information on the various schemes for unaccompanied children is available at: http://bit.ly/1JP5kiG.

739 OFPRA, 'Guide de l'asile pour les mineurs isolés étrangers en France', December 2019. 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).

740 ECtHR, Khan v. France, Application no. 12267/16, 28 February 2019, summary available at EDAL at: https://bit.ly/3PAK4E0.

741 Committee of Ministers, 'Communication from an NHRI (Défenseur des droits de la République Française) (27/07/2020) concerning the case of Khan v. France (Application No. 12267/16), available in French at: https://bit.ly/2OsmAV0.

742 Committee of Ministers, '1390th meeting, 1-3 December 2020 (DH) - H46-9 Khan v. France (Application No. 12267/16) - Supervision of the execution of the European Court's judgments', available at: https://bit.ly/2Z7SDM8.

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.[743]

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 centres[744] and HUDA centres.[745] Upon admission in the centres, the manager has to provide the asylum seeker with any useful information regarding the conditions of their stay in the centre, in a language that they understand 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 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 they sign 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 some reception centres (e.g., those managed by Forum refugees – Cosi).

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 persons accommodated in the centres and to other stakeholders within the limits set by the house rules, usually subject to prior notification of the centre 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.

743 Article R. 552-10 Ceseda.
744 Arrêté du 19 juin 2019 sur le cahier des charges CADA, available in French at: https://bit.ly/3aWbLRH.
745 Arrêté du 19 juin 2019 sur le cahier des charges HUDA, available in French at: https://bit.ly/2uNOQHM.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention	
1. Asylum seekers lodging a claim in detention in 2023:	798
2. Number of asylum seekers in detention at the end of 2023:	Not available
3. Number of detention centres (excl. waiting zones):	
❖ Administrative detention centres (CRA):	26
❖ Administrative detention places (LRA):	22
4. Total capacity of CRA (excl. overseas territory) in December 2023:	1,717[746]

French law does not allow 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) awaiting removal, as well as those detained pending a transfer under the Dublin Regulation. The decision ordering the detention of asylum seekers is always taken by the *Prefecture*.

In 2023, 798 third-country nationals lodged a first asylum application while already in administrative detention, [747] i.e., less than 2% of the total of persons administratively detained in 2022 (45,565, no data available for 2023). Moreover, some rejected asylum seekers asked for a subsequent examination of their asylum claim while being detained (no statistics available on subsequent applications in detention since 2020).

At the same time, newly arrived asylum seekers can be placed in administrative detention, when they have started their registration process but are arrested while official confirmation of registration is still pending, since these procedures can sometimes take several weeks.

There are 26 CRA[748] and 27 administrative detention places (LRA)[749] on French territory (including in overseas departments).[750] The capacity of CRA amounts to a total of 1,946 places at the end of 2022, including 229 places in overseas territories. The capacity of LRA is 154 places[751]. Moreover, the French government announced in October 2023 that they will bring the capacity of CRA to a total of 3,000 places in 2027 and the capacity of LRA to a total of 174 places at the end of 2024.[752]

Article R. 744-5 Ceseda foresees that each centre's capacity should not exceed 140 places.[753] 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.

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

746 Cour des Comptes, *La politique de lutte contre l'immigration irréguière,* January 2024, available in French at: https://bit.ly/3xksFsW.

747 Ministry of Interior, *Chiffres clés – Les demandes d'asile*, 25 January 2024, available in French at: https://bit.ly/4al6CBc.

748 The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefect.

749 Forum Réfugiés et al, *Rapport annuel sur la rétention administrative*, 2022, available in French at: https://bit.ly/43C9ZkG.

750 Cour des Comptes, *La politique de lutte contre l'immigration irréguière,* January 2024, available in French at: https://bit.ly/3xksFsW.

751 Forum Réfugiés et al, *Rapport annuel sur la rétention administrative*, 2022, available in French at: https://bit.ly/43C9ZkG.

752 Ministry of Interior, 'Augmentation de la capacité des centres de rétention administrative : 3000 places d'ici 2027', Press release, available in French at : https://bit.ly/4aC1I2f.

753 Article R. 552-1 Ceseda.

has only been introduced to prevent a notified or imminent order of removal.[754] The decision to maintain an asylum seeker in administrative detention after an asylum claim can be challenged before administrative courts within 48 hours, and has suspensive effect on the return procedure of the foreign nationals who introduced a claim from administrative detention. In principle, they are then released, given an asylum claim certificate and their claim will be processed normally.[755] In practice, this assessment always leads the Prefects to consider that the applications must always be examined under the accelerated detention procedure.[756]

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.[757] This extremely brief period of time drastically reduces the chances of benefiting from an in-depth examination of the claim. 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, they will not benefit from a suspensive effect of their appeal of a negative decision given by OFPRA before the CNDA. They can thus be removed to their country of origin even though the CNDA has not issued its final decision on the case. Should the person be removed before the decision is issued, the Court then rules there is no more case to adjudicate upon and does not look at substance.[758] Consequently, the asylum seeker in detention does not benefit from an effective remedy nor from an in-depth examination of their claim.

Detention at the border

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 distinguished from CRA but also classified as places of deprivation of liberty, as asylum seekers cannot leave these areas (except to voluntarily return to their country or be admitted into a third country) until an authorisation to let them enter French territory or a decision to return them is taken.

However, in the context of border controls in the area of **Alpes-Maritimes** throughout recent years and including in 2022 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.[759]

***Overseas France**:* In Mayotte, many foreigners coming from Comoros are arrested and detained when they arrive on the island,. They are often quickly returned, with limited possibilities to exercise their rights, including to seek asylum (in 2022, only 3,019 out of the 26,020 people detained met Solidarité Mayotte, the association approved to provide legal laid there).[760]

754 Article, L.754-3 Ceseda.
755 Decree n. 2015-1166 of 21 September 2015.
756 Practice-informed observation of Forum Réfugiés also based on exchanges with other professionals, January 2023.
757 Article L. 531-29 Ceseda.
758 Practice-informed observations by Forum Réfugiés and partners.
759 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.
760 Forum Réfugiés et al, *Rapport annuel sur la rétention administrative*, 2022, available in French at: https://bit.ly/43C9ZkG.

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

As of 2024, this will be affected by the provisions of the new asylum law: see Changes to the legal framework: new law of 26 January 2024.

1.1 Pre-removal detention

Asylum seekers are not placed in administrative detention centres for the purpose of the asylum procedure. Persons who claim asylum during their administrative detention for the purpose of removal 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 imminent removal.[761]

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.[762]

At the same time, newly arrived asylum seekers are sometimes placed in administrative detention. This can happen when they have started the registration process of their asylum claim and have then been arrested pending the official confirmation of this registration. Indeed, in the **Ile de France** region, these procedures can take several weeks while 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, the person is placed in administrative detention and their claim may be processed from there. In practice, certain Administrative Courts order the release of such asylum seekers upon presentation of proof of steps taken to have their claim registered,[763] but this is far from automatic.

Overseas France: The main difference of legislation in overseas territories is that the appeal against return decisions is not suspensive (suspensive effect can be requested).[764]

761 Article L. 754-3 Ceseda.

762 See e.g. Administrative Court of Nice, Decision No 2102005, 15 April 2021; Administrative Court of Nice, Decision No 2103174, 15 June 2021; Administrative Court of Nice, Decision No 2104929, 28 September 2021; Administrative Court of Lyon, Decision No 2110022-2110152, 29 December 2021; Administrative Court of Montpellier, Decision No 2200239, 25 January 2022; Administrative Court of Appeal of Lyon, Decision No 22LY01895, 7 July 2022 .

763 See e.g. Administrative Court of Paris, 6 July 2021 decision NO. 20PA01400; Administrative Court of Lille, Decision No 1804330, 7 June 2018; Administrative Court of Marseille, Decision No 1703152, 18 May 2017.

764 Articles L.651-1 to 656-2 Ceseda.

1.2 Detention under the Dublin Regulation

As of 2024, this will be affected by the provisions of the new asylum law: see Changes to the legal framework: new law of 26 January 2024.

Asylum seekers under the Dublin procedure can be placed in administrative detention to enforce their transfer once the transfer decision has been notified, where there is a "significant risk of absconding".[765] 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.[766]

In response to this ruling, the Ceseda was amended in March 2018 to include the following criteria to determine the existence of a "significant risk of absconding", where an applicant:[767]

- Has previously absconded from the Dublin procedure in another country;
- Has received a rejection decision in the responsible Member State;
- Has been found again on French territory following the execution of a transfer;
- Has evaded the execution of a previous removal measure;
- Has falsified a document with the aim of staying on French territory;
- Has concealed elements of their identity, route, family composition or previous asylum applications;
- Does not benefit from material reception conditions and cannot prove their place of actual or permanent residence;
- Cannot prove their place of residence after refusing a proposal for accommodation by OFII, or after abandoning their place of accommodation without legitimate reason;
- Does not respond to requests from authorities without legitimate reason;
- Has previously evaded a house arrest measure;
- Has explicitly declared their intention not to comply with the Dublin procedure.

The law went 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.

2,264 asylum seekers were detained in view of their removal to another EU country under the Dublin procedure in 2022, compared to 3,384 in 2021. Data for 2023 is not yet available.

Detention under the Dublin Regulation						
2016	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**
2,208	3,723	3,456	5,160	2,317	3,384	2,264

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.[768] If a person makes an asylum application at the border, they are automatically maintained in the waiting zone for the duration of the border procedure.

However, in the context of border controls in the area of **Alpes-Maritimes** throughout recent years and including in 2022 the Border Police has detained newly arrived asylum seekers without formal order in a

765 Article 28(2) Dublin III Regulation.
766 Court of Cassation, Decision No 1130, 27 September 2017. See also Court of Cassation, Decision No 17-14866, 7 February 2018.
767 Article L.751-10 Ceseda.
768 Article L. 341-1 Ceseda.

"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.[769] 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".[770] The Council of State 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.[771] However, the Prefect's decision to forbid access of NGOs (i.e., access to medical care and legal assistance) to the place of detention in **Menton** in September 2020, was ruled illegal by the Administrative Court of **Nice** in November 2020.[772] Local authorities attempted to issue a new decision on 29 December 2020 upholding the ban on NGOs but with some adjustments for the decision to be considered legal.[773] However, the Administrative Court of Nice ruled again in March 2021 that this decision was illegal under European law and the French Constitution.[774]

2. Alternatives to detention

Indicators: Alternatives to Detention		
1.	Which alternatives to detention have been laid down in the law?	☐ Reporting duties ☒ Surrendering documents ☐ Financial guarantee ☒ Residence restrictions
2.	Are alternatives to detention used in practice?	☒ Yes ☐ No

The Prefecture is responsible for assessing alternatives to detention, which can also be imposed by the courts if they consider the prefecture's assessment was wrong. The Ceseda lays down house arrest (*assignation à résidence*) as the only alternative to administrative detention. This measure can take different forms:

- House arrest where there is no reasonable prospects of removal:[775] 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 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 in medium or long term.
- House arrest as an alternative to administrative detention: the Prefect can put persons 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, accompanied by minor children, do not have a stable address (decent housing within legal conditions), it is possible to envisage house arrest in hotel-like facilities.
- House arrest with electronic monitoring for parents of minor children residing in France for 45 days. This measure is not implemented as far as we are aware. It seems to have been taken out of the CESEDA since the new codification of 2021.[776]

House arrest can be decided for up to 6 months and 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.

769 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.
770 Administrative Court of Nice, Order No 1702161, 8 June 2017.
771 Council of State, Order No 411575, 5 July 2017.
772 Administrative Court of Nice, Order No 2004690, 30 November 2020, available in French at: https://bit.ly/2NVcNqH.
773 Franceinfo, 'Frontière italienne : les associations d'aide aux migrants ne pourront pas visiter le local de mise à l'abri à Menton', 7 January 2021, available at: https://bit.ly/3pB1sZk.
774 Administrative Court of Nice, Order No 2101086, 4 March 2021, available in French at: https://bit.ly/2OnsN4D.
775 Article L. 751-6 Ceseda.
776 Former Article L.562-2 Ceseda, not present in the new code.

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.[777] This is only a possibility left to the discretion of the administration.

Despite previous ministerial instructions to the contrary,[778] in 2023 many Prefectures continued to systematically impose 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.[779]

It is further possible to detain third-country nationals accompanied by minor children if they do not respect house arrest prescriptions.[780] It is also possible for the authorities to request the use of police force to ensure implementation of a 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 French territory. This use of police force has to be approved by the Judge of Freedoms and Detention (*juge des libertés et de la detention*). The judge has to make a motivated decision within 24 hours after a request.[781]

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. 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

Detention of unaccompanied minors until 2023 and of all minors since February 2024, is prohibited by law, without consideration of their status as asylum seekers. Other vulnerabilities can be reported to OFPRA which can decide to reclassify the procedure leading to an end to detention, or to the judicial judge (JLD) who can end the detention if it is not suitable.

3.1 Detention of unaccompanied children

In theory, unaccompanied children cannot be returned and therefore cannot be detained as a consequence. A person declaring themselves to be an unaccompanied minor must first be referred to child protection services for an assessment of their age: placement in detention is therefore only possible when a person is considered an adult.

777 Practice-informed observation by Forum Réfugiés and partners, January 2023.
778 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.
779 Practice-informed observations by Forum Réfugiés and partners.
780 Article L.741-5 Ceseda.
781 Article L. 733-9 Ceseda.

Nevertheless, it is important to stress that in 2022, the six NGOs working in administrative detention centres met 129 detained persons who declared themselves to be children (77% were released by the judge).[782] 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.

Moreover, unaccompanied children 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 children about their situation and rights; providing them more space to speak and to be heard; establishing separate spaces for children in the waiting zone; and informing the Prosecutor (*Procureur de la République*) of all unaccompanied children in these locations.[783] Moreover, the legal representation of unaccompanied minors in waiting zone is not always efficient in practice.[784] For more information on whether children can be held in these locations, see Border procedure.

Overseas France: In Mayotte, practices are regularly observed of linking minors with adults who are not their parents in order to make their detention legal.[785] In 2020, the Ombudsman expressed concerns about these practices which, according to the author of this report, persist to date.[786]

3.2 Detention of families with children

There has been a steady increase in detained families with children from 2013 to 2019. In 2020, the Ombudsman reported that the widespread use of immigration detention of children with families, and instances of keeping the child in pre-removal detention alone while the parents are not held (particularly in **Mayotte**), remained problematic issues.[787]

The legislation is the same on this aspect in mainland France and in overseas but in practice, detention of families with children is mostly used in Mayotte.

In 2022, 94 children were detained on the mainland (57 families) compared to 76 in 2021, 122 in 2020 and 279 in 2019.[788] Between 2012[789] and 2022,[790] France has been condemned 9 times by the ECtHR for detaining children in situation not compatible with article 3 of the ECHR (length of detention too long and/or very young children and/or unsuitable place of detention).

Overseas France: Almost all the children detained with their family in France are in Mayotte. In 2022, 2,905 children with families have been detained, compared to 3,135 in 2021.[791]

782 ASSFAM-groupe SOS Solidarités, Forum réfugiés-Cosi, France terre d'asile, La Cimade, 2023, available in French at: https://bit.ly/43C9ZkG.
783 Ombudsman, Decision No 2017-144, 26 June 2017, available in French at: http://bit.ly/2Dko1v7.
784 ANAFE, *Les administrateurs ad hoc en zone d'attente Un système au service de la violation des droits des enfants,* March 2022, available in French at: https://bit.ly/3m7MK0m
785 Administrative court of Mayotte, 27 June 2019, n°1901417; ECtHR 25 June 2020, *Moustahi c.France*, § 62.
786 Défenseur des droits, '*Rapport au Comité des droits de l'enfant*', 10 July 2020, available in French at: https://bit.ly/3TST6yE.
787 Défenseur des droits, *Rapport au Comité des droits de l'enfant*, 10 July 2020, available in French at: https://bit.ly/3TST6yE.
788 ASSFAM-groupe SOS Solidarités, Forum réfugiés-Cosi, France terre d'asile, La Cimade, 2023, available in French at: https://bit.ly/43C9ZkG.
789 ECtHR, *Popov v. France*, 19 January 2012, No. 39472/07.
790 ECtHR, *N.B. and others v. France*, 31 March 2022, No. 49775/20.
791 ASSFAM-groupe SOS Solidarités, Forum réfugiés-Cosi, France terre d'asile, La Cimade, 2023, available in French at: https://bit.ly/43C9ZkG.

3.3 Detention of victims of trafficking

Detention places are not meant to guarantee protection for victims of trafficking 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?	Not available[792]

4.1 Duration of detention in CRA

A person can remain in administrative detention for a maximum of 90 days.[793] Prior to the 2018 reform, the maximum time limit was 45 days.

The initial decision of placement in administrative detention taken by the authorities is valid for 2 days. Beyond this period, a request before the JLD has to be lodged by the Prefect to prolong the administrative detention.[794] 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,[795] or where despite the goodwill of the executing administration, the removal measure has not yet been finalised. Beyond this period of 90 days, any foreigner who has not been removed must be released.

In practice, the length of stay of asylum seekers who have claimed asylum while in CRA is difficult to assess. On average, third-country nationals remained 23 days in administrative detention centres of mainland France in 2022 (22 days in 2021).[796]

Overseas France: In Mayotte, where 60% of detentions detention in France take place, the duration of detention is very short (often less than 2 days797) due to the absence of suspensive effect of appeals against return decisions and ease of returns to the neighbouring island of Comoros, where most people come from.

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,[798] and the same duration of detention rules apply. This is respected in practice.[799]

792 Statistics on the average detention of asylum seekers specifically is not available. However, regarding third-country nationals in general, statistics indicate an average detention of 22 days in 2021.

793 Article L.742-5 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.

794 Article L.742-1 Ceseda.

795 Article L.742-4 et L.742-5 Ceseda.

796 ASSFAM-groupe SOS Solidarités, Forum réfugiés-Cosi, France terre d'asile, La Cimade, *Centres et locaux de retention administrative*, 2023, available in French at: https://bit.ly/43C9ZkG.

797 Le Monde, 'Dans le centre de rétention de Mayotte, « ce ne sont que des pauvres qui essayent de s'en sortir »', 26 April 2023, available in French at : https://bit.ly/3TIKidv.

798 Article R. 744-9 Ceseda.

799 Practice-informed observations by Forum Réfugiés and partners, January 2024.

4.3 Duration of detention in waiting zones

The placement in waiting zones is ordered for an initial period of 4 days.[800] It can then be extended by the JLD for a period of 8 days,[801] and in exceptional cases or where the person obstructs their departure, for 8 additional days.[802] 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**.[803]

A final exceptional prolongation is applicable to 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.[804] 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

Overseas France: In Mayotte, in April 2023, as part of an operation aimed at expelling illegal foreigners, destroying shanty towns and fighting crime, the authorities created several temporary detention facilities (LRA), which the courts considered illegal following appeals from several NGOs. [805]

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 prisoners.

By 2022, there were 25 CRA on French territory, including in overseas departments. For statistics on the occupancy of the CRA in mainland, see Annual Report on administrative detention.[806]

800 Article L. 341-2 Ceseda.
801 Article L. 342-1 Ceseda.
802 Article L. 342-4 Ceseda.
803 ECRE, *Access to asylum and detention at France's borders*, June 2018, available at: https://bit.ly/3oamVxg, 8.
804 Article L. 342-4 Ceseda.
805 Administrative court of Mayotte, Decision No 2302123, 29 April 2023.
806 Forum Réfugiés et al., *Rapport annuel sur la rétention administrative*, available in French at: https://bit.ly/43C9ZkG.

Some CRA have specific places for women and families, including **Hendaye** (6 out of 30 places), **Lyon** (12 out of 104 places), **Mesnil-Amelot** (40 out of 240), **Rennes** (10 out of 70 places), **Rouen-Oissel** (19 out of 72 places) and **Guyane** (12 out of 38 places).

1.2 Places of administrative detention (LRA)

There are 22 administrative detention places (LRA) in France.[807] According to the Ministry of Interior, about 2,426 foreigners have been detained in LRA in 2019, but a detailed breakdown of statistics per LRA is not available.[808] More recent statistics are not available.

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.[809]

There is no public data on the exact number of waiting zones in France and their capacity. Recent information quoted by ECRE referred to asylum applications registered in 12 waiting zones in airports, located in:[810]

- Paris Roissy CDG Airport
- Paris Orly Airport
- Paris Beauvais Airport
- Marseille Airport
- Lyon – Saint Exupéry Airport
- Toulouse Blagnac Airport
- Bâle-Mulhouse Airport
- Bordeaux Airport
- Nantes Airport
- Nice Airport
- Strasbourg Airport
- La Réunion

Some other waiting zones are located in ports (Marseille, Dunkerque etc.) or in train stations with international lines (e.g. Modane, Paris-Gare du Nord), but here is no detailed list. In the annual meeting on waiting zones with NGOs and authorities in 2021, the figure of 98 waiting zones in 2020 has been mentioned.[811]

Waiting zones may include "hotel-type services" accommodation as is currently 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, 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).

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.

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807 The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefet.

808 Assemblée nationale, 'Rapport sur le projet de loi de finances 2021', 8 October 2020, available in French at: https://bit.ly/3u6oZoy, 33.

809 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.

810 ECRE, *Access to asylum and detention at France's borders*, June 2018, 16, available at: https://bit.ly/3oamVxg.

811 Operations of waiting zones, annual meeting with NGOs, 21 November 2021.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities		
1. Do detainees have access to health care in practice?	☒ Yes	☐ No
❖ If yes, is it limited to emergency health care?	☐ Yes	☒ No

Police staff working in CRAs do not receive 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. 744-6 Ceseda sets out the conditions administrative detention centres must meet, notably in terms of crowdedness, sanitary installations, food, premises for private and legal-related visits.[812]
Centres in which families may be detained must provide specific rooms, including nursery equipment.[813]
Men and women held in detention centres must 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**: a detention centre cannot exceed a 140 places capacity, must 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.[814]

Overall, administrative detention conditions are deemed adequate in France but there are important differences between centres. In a report on detention conditions in the context of immigration in France, published in March 2020, the European committee for the prevention of torture (CPT) noted several points: lack of specialised training for staff, no systematic health examination before admission, almost total absence of activities and little contact with staff, prison-like environment, almost no activities in most of the places visited, information notices on rights which often only exist in French, no consultation with a psychologist, but also good practice of wide access to outdoor courtyards.[815]

At the beginning of summer 2023, the General Controller of places of deprivation of liberty (CGLPL) indicated, after having visited all places of detention in recent years, that the conditions there, in the majority cases, “seriously undermine the dignity and fundamental rights of those detained", which leads her to conclude that "there is an urgent need to profoundly modify the current approach to the care of foreigners placed in CRA”.[816]

In mainland France in 2022, women represented 4,8% of all people detained. Difficulties in accessing hygiene items are sometimes noted. The association present at the Mayotte retention centre indicates that in 2022 ‘the possibility of having sanitary napkins is almost a luxury”’.[817]

Overseas France: Conditions in each detention centre, including overseas, are described in the annual report published by NGOs.[818]

812 Voir further details see see article on Legifrance at: https://bit.ly/42iCpy1.
813 Article R. 744-6 Ceseda.
814 Ibid.
815 Council of Europe, CPT, *Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 23 au 30 novembre2018,* 24 March 2020, available in French at: https://bit.ly/39rfnJw.
816 Contrôleur général des lieux de privation de liberté, ‘Recommandations du 19 mai 2023 relatives aux centres de rétention administrative de Lyon 2 (Rhône), du Mesnil-Amelot (Seine-et-Marne), de Metz (Moselle) et de Sète (Hérault)’, NOR : CPLX2317016X. Available in French at : https://bit.ly/3TZTvzj.
817 Forum Réfugiés et al., *Rapport annuel sur la rétention administrative*, 2023, available in French at: https://bit.ly/43C9ZkG.
818 Forum Réfugiés et al., *Rapport annuel sur la rétention administrative*, available in French at: https://bit.ly/43C9ZkG.

2.1 Conditions in CRA

Overall living conditions

The previous versions of this country report[819] provided a detailed overview on the overall living conditions in the different CRA based on the annual Detention report prepared by several NGOs.

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 education.

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. Depending on the CRA, there may be a TV room (sometimes out of order or only broadcasting programmes in French), a few board games, a table football or even several ping pong tables but this is still insufficient, especially considering the length of detention which can go up to 90 days.[820] Lack of activities and boredom are the day to day reality of persons held in these centres. The detainees can in principle keep their mobile phones, but only 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 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 independent hospital staff. They are grouped in medical administrative detention centres (UMCRA).[821] 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 upon 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 person's health with administrative detention – but this is not automatic and this recommendation is not always followed by the Prefect.[822]

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.[823] Moreover, in a report published after an unannounced visit to an administrative detention centre in Lyon, the CGLPL highlighted a number of shortcomings in the detention conditions. These included insufficient information on house rules, no

819 See updates until 2020 Update included, available here: https://bit.ly/3KLYFJo.

820 *Ibid*.

821 Ministry of Interior, *The Centres of Administrative Detention*, available in French at: http://bit.ly/1dM8BkC.

822 Ministère de l'Intérieur, ministère des Solidarités et de la Santé, Instruction du Gouvernement du 11 février 2022 relative aux centres de rétention administrative – organisation de la prise en charge sanitaire des personnes retenues NOR : INTV2119176J. Available in French at : https://bit.ly/44hm4eN.

823 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.

systematic medical checks upon admission, and limited access to a psychiatrist.[824] In practice, however, nothing has changed since 2019.

The practical problems observed regarding access to healthcare relate to a lack of consideration for psychological or psychiatric problems of detainees, as highlighted by CGLPL.[825] 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 has a detainee been released for medical reasons whereas many of them suffer from physical or psychological pathologies.

In 2019, more than 20 civil society organisations sent an open letter to the Minister of the Interior, raising concerns about the increasing number of suicides, hunger strikes and self-harm in immigration detention centres; the increase in the occupancy rate of the centres; and the difficulties in accessing care, especially psychiatric care.[826] In practice, however, the issues remained unanswered.

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.[827] Recent figures are not available but similar issues continue to be reported.

The six NGOs working in detention centres have also identified an important issue regarding victims of human trafficking. In some cases, these victims are properly orientated and supported by the medical unit and the police, in **Lille** for example. Nevertheless, most victims of trafficking were not provided with specific support according to the same NGOs. Their number in detention centres is increasing, namely in **Coquelles**, **Metz** or **Sète**.

2.2 Conditions in waiting zones

Conditions in waiting zones differ considerably from one area to another.

Roissy is the most structured and organised waiting zone in France,[828] insofar as it provides tailored 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 is 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.

Access to civil society is more problematic in other waiting zones: NGOs do not have the capacity to regularly access them and people detained can thus establish contact only by phone in order to obtain legal aid. Waiting zones are also usually very small and the police is not trained accordingly.

824 CGLPL, *Rapport de la troisième visite du centre de rétention administrative de Lyon Saint-Exupéry*, available in French at: https://bit.ly/3clFbE1.
825 *Ibid*.
826 The open letter is available in French at: https://bit.ly/2W32Dps.
827 *Ibid*.
828 Anafé*, Aux frontières des vulnérabilités*, February 2018, 35.

3. Access to detention facilities

Indicators: Access to Detention Facilities			
1. Is access to detention centres allowed to			
❖ Lawyers:	☒ Yes	☐ Limited	☐ No
❖ NGOs:	☒ Yes	☐ Limited	☐ No
❖ UNHCR:	☐ Yes	☐ Limited	☒ No
❖ Family members:	☐ Yes	☒ Limited	☐ 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).[829] Their mission is not extended to LRAs. The following NGOs lead this mission in CRA:

- Lot 1 (Bordeaux, Nantes, Rennes, Toulouse, Hendaye): **La Cimade**;
- Lot 2 (Lille 1 and 2, Metz, Geispolsheim): **SOS Solidarités ASSFAM-Groupe SOS**,
- Lot 3 (Lyon, Marseille and Nice): **Forum réfugiés**;
- Lot 4 (Nîmes, Perpignan and Sète): **Forum réfugiés**;
- 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-Groupe SOS**;
- Mayotte: **Solidarité Mayotte**.

Representatives of other accredited humanitarians NGOs can have access to all administrative detention places. Accessible rooms and facilities are listed:[830] 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 reschedule 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[831];
- The French representation of UNHCR;[832]
- The General Controller of places of freedom deprivation[833];
- The Prefects;
- Public prosecutors; and
- JLD.

Others have more limited access: consulate staff; lawyers; families of persons held.[834] Only families (or friends) are subject to restricted hours. Since the asylum law reform, representatives from UNHCR have access to the administrative detention centres in France under the same conditions as for waiting zones,

829 Article R.744-20 Ceseda

830 Décret du 24 juin 2014 modifiant les articles R. 744-27 à R. 744-32 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.

831 Article L. 744-12 Ceseda

832 Article L. 744-13 Ceseda

833 Loi n° 2007-1545 du 30 octobre 2007 instituant un Contrôleur général des lieux de privation de liberté, NOR : JUSX0758488L.

834 Ministry of Interior, Persons having *access to centres and locations of administrative detention*, available in French at: http://bit.ly/1SanmeE.

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 for asylum in France.[835]

The law also allows journalists access to administrative detention centres.[836] This access must be authorised by the Prefect.[837] In case of denial of access, the decision has to be motivated.[838] Their presence must be compatible with the detainees' dignity, security measures and the functioning of centre.[839] 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 all circumstances. This condition does not apply to adults giving their authorisation for their identity to be revealed.[840] The reform 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.[841]

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 June 2021 and will be valid until June 2024.[842] It includes 9 organisations:

- Association nationale d'assistance aux frontières pour les étrangers (Anafé);
- La Cimade;
- Croix-Rouge française;
- France terre d'asile;
- Forum réfugiés;
- 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)

Only **Anafé** provides support regularly in the waiting zone of **Roissy** airport, being present in their office for few days each week. In other waiting zones, NGOs conduct visits based on the availability of their volunteers and/or when someone calls them from waiting zones. Indeed, when a foreigner is detained in a waiting zone, they must be given a list of contacts by the police including NGOs available in the area.

835 Article R. 744-26 Ceseda.
836 Article L. 744-15 Ceseda.
837 Article R. 744-34 Ceseda.
838 Article R. 744-35 Ceseda.
839 Article L. 744-15 Ceseda.
840 Ibid.
841 Article R. 744-39 Ceseda.
842 Arrêté du 1er juin 2021 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/3pu3Kwb.

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?	☒ Yes	☐ 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. 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.[843] According to the law,[844] this notification should be made (orally) to the foreigner in a language they understand. 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.[845]

The law foresees a judicial review of the lawfulness of the administrative detention of 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 if 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 was taken by the Prefect before the placement in detention. The Civil Court i.e., the JLD intervenes two days after this placement.

Overseas France: Since the 1st of March 2019, the first review by the judge (JLD) in Mayotte is at the fifth day.[846]

1.1 Administrative Court: Legality of administrative decisions of removal and house arrest

The Administrative Court intervenes upon request of the 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.[847] Removal and house arrest orders must be challenged within 48 hours. This period starts from the notification of the measure, and not from the arrival at the administrative detention centre. 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. In sum, the court has to decide on the reasons why a foreigner has been placed in detention.

Moreover, the French Constitutional Court ruled on 4 October 2019 that the administrative court is competent to assess the legality of a decision to maintain a person in administrative detention if, based

843 Article L.744-6 Ceseda; Article R.744-17 Ceseda.
844 Articles L. 141-2 et L.141-3 Ceseda.
845 Article L.754-1 Ceseda.
846 Loi relative au délai d'intervention du juge des libertés et de la détention en rétention administrative à Mayotte (n° 2019-161 du 1er mars 2019)
847 Article L.741-10 Ceseda

on a motivated and written decision, the Prefect considers that the asylum claim has only been lodged to prevent a notified or imminent order of removal.[848]

The judge can also verify if the Prefect's decision of house arrest does not contravene the best interests of the foreigner and if the measure is proportionate. The administrative court must decide within 72 hours.[849]

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 their claim has not been submitted only in order to thwart the removal measure. The court has to decide within 72 hours after the claim has been lodged.[850]

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, people are deprived of an effective appeal.[851]

1.2 Judge of Freedoms and Detention (JLD): Conformity of deprivation of liberty

The JLD, whose competence is set out in Article 66 of the Constitution, intervenes in the procedure by request of the Prefect at the end of the first 2 days of administrative detention in order to authorise a prolongation of the detention, after having examined its lawfulness. As stated by the Constitutional Court in its ruling of 4 October 2019, however, the competence of the administrative court to assess the legality of an order to maintain people who ask for asylum in detention does not violate the French Constitution.

As regards the mandate of the JLD, they will check whether the police 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 examine whether the custody is compatible with the personal situation of the detainee. 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 requested to intervene 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 ever considered admissible.[852] Appeals lodged against the measure of removal or house arrest have suspensive effect over its execution.[853] It also possible for the foreigner to call upon the JLD at any moment during the first 48 hours through a motivated request.[854]

The law enables foreigners to challenge the removal decision from the moment of its notification. This implies it would be impossible, theoretically, to remove someone before they have been in a position to call upon the judge, either administrative or civil.

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.[855] These have been denounced by NGOs on the ground that individuals are not provided with the minimum guarantees set out in the law,

848 Constitutional Court, Decision 2019-807, 4 October 2019, available in French at: https://bit.ly/2UGAELy.
849 Ibid.
850 Ibid
851 Practice-informed observations by Forum Réfugiés and partners.
852 Article L.743-18 Ceseda.
853 Article L.722-8 Ceseda.
854 Articles R.741-3 and L.742-8 Ceseda.
855 See e.g. Observatoire de l'enfermement des étrangers, '*Justice hors la loi ! Une audience illégale au sein du centre de rétention de Toulouse*", Press Release, 4 February 2019.

namely the fact that the hearing must be accessible to the public.[856] Some other cases have been reported in 2019, e.g. in **Hendaye**.[857] The use of videoconference has been further developed during the health crisis in the context of COVID-19.[858] Many court hearings have been carried out via videoconferencing since March 2020, thus raising fears that it becomes a standard practice after the health crisis. Concerns raised include the fact that it may render communication more difficult, especially in light of technical problems already reported in practice, and risk of undermining the rights of the defence. In **Mesnil-Amelot** near Paris, on the other hand, 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,[859] renewable once.[860] 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."[861] The administrative authority must lodge a request with 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**, since end of 2017, hearings take place in an annex of the Court (TGI) of Bobigny. NGOs have 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.[862]

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. As they are informed of all arrivals in the centres, they inform the detainees and help them exercise their rights during the detention procedure (hearings in front of the judge, filing of an appeal, request for legal aid etc.). 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 for free by a lawyer for their appeals (during the hearing) in front of the administrative court or for their presentation in front of the JLD. In practice, detainees can benefit from this assistance

856 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.
857 Le Figaro, 'Polémique après l'audience d'étrangers en visioconférence dans un commissariat'. 10 October 2019, available in French at: https://bit.ly/37zim4q.
858 InfoMigrants, 'Avec le recours aux visioconférences, une justice expéditive pour des étrangers en rétention', 20 August 2020, available in French at: https://bit.ly/3saR5NF.
859 Article L. 342-1 Ceseda.
860 Article L. 342-4 Ceseda.
861 Article L. 342-5 Ceseda.
862 ECRE, Access to asylum and detention at France's borders, June 2018, 9.

provided for free, before both the administrative[863] and civil courts.[864] They can choose their own or request one be appointed.

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 centres, as they 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), this last exception does not apply.[865]

863 Article R. 776-22 CJA.
864 Article R. 552-6 Ceseda.
865 Article L. 551-3 Ceseda.

Content of International Protection

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

As of 2024, this will be affected by the provisions of the new asylum law: see Changes to the legal framework: new law of 26 January 2024.

Residence permits are granted to **refugees** for 10 years (*Carte de resident*).[866] The same permit is also granted *ipso jure* to their family, in particular to:

- ❖ Spouses, legal partners (PACS) or *de facto* partners (*concubinage*) if they arrived with them or at least before registration of the asylum claim and if they are of the same nationality (they actually benefit from the same protection status as their family member, through the principle of family unity);
- ❖ Spouses, legal partners (PACS) or *de facto* partners (*concubinage*) if they have been admitted to join them under the family reunification procedure;
- ❖ Spouses, legal partners (PACS) or *de facto* partners (*concubinage*) where their union was sealed after the asylum application, under the condition it has been lasting for at least 1 year, and if they are genuinely living together;
- ❖ Children up to their 19th birthday regardless of the conditions of arrival;[867]
- ❖ For minor refugees: their parents and underaged brothers and sisters. The date retained to determine if the refugee is or was a minor for this purpose is the date of the lodging of the asylum claim.

Since 1 March 2019, residence permits delivered to **subsidiary protection** beneficiaries are valid for four years (*Carte de séjour pluriannuelle*).[868] The same residence permits are granted to their family according to the same rules as for refugees.[869]

Refugees may encounter difficulties to get their residence permits issued or renewed.[870] Their residence permits have to be issued within the next 3 months following their request for such documentation. The same goes for the subsidiary protection beneficiaries.[871] However, OFPRA may take longer than expected to deliver the necessary documentation that has to be submitted for the issuance of their permits, namely the OFPRA birth certificates (see Civil registration). Without them, prefectures refuse to deliver the residence permits and only provide certificates that a request for a residence permit has been lodged (*attestation de prolongation d'instruction - API*). It is one of the main obstacle to integration in 2023. As of September 30, 2023, the average time for establishing documents was 14.5 months, a constant increase in recent years (10,3 months in 2022, 8 months in 2021),[872] and around 60,000 people were waiting for these procedures at the end of 2023.[873] OFPRA reconstructed nearly 64,900 civil status documents in

866 Article L. 424-3 Ceseda.
867 For those who get the card for the first time while they are under 19, presence in France for 10 years with the residence card initially issued will allow them to renew their residence permit.
868 Article L. 424-9 Ceseda, inserted by Article 1 Law n. 2018-778 of 10 September 2018.
869 *Ibid*.
870 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.
871 Article R. 424-7 Ceseda.
872 OFPRA, *Rapport d'activité 2022*, available in French at : https://bit.ly/49eglrk.
873 Administrative Court of Melun, Decision No 2400178, 11 March 2024.

2023,[874] compared to 43,550 in 2022, but the number of beneficiaries of international protection has also increased significantly in recent years. While waiting for this document, refugees cannot be issued their residence document and are simply given a document called "certificate of extension of instruction" (*Attestation de prolongation* d'instruction, API) by the prefectures which is not considered sufficient by many actors to access rights or services necessary for integration (bank account, housing, employment, etc.).[875] In March 2024, however, an administrative court considered that it was not necessary to oblige OFPRA to reduce its deadlines because the provisional certificate of family composition issued by OFPRA and valid until the issuance civil status documents must, in principle, allow access to all social rights**.** [876]

According to provisional Ministry of Interior statistics, France granted 32,630 residence permits to refugees and stateless persons and 11,600 to subsidiary protection beneficiaries in 2023 (compared to 27,137 and 10,727 respectively in 2022).[877]

2. Civil registration

When protection is granted, a "family reference form" is sent to the beneficiary of international protection by OFPRA, either with the OFPRA protection decision or later, notably when 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 its process for the drawing up of the civil status documents. For 2022, OFPRA reported a 10.3 months 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 prioritises the issuance of civil status documents for some categories of persons, for instance unaccompanied children, girls at risk of FGM and relocated/resettled refugees.[878] Additional resources have been allocated to this mission of OFPRA (8 FTE in 2023[879] and 16 FTE in 2024[880]), but this has not yet produced a significant effect in a context of increasing asylum claims, still in 2023.[881]

OFPRA considers the potential documents provided by the beneficiary of international protection in their asylum application file if any, namely foreign civil status documents, identity or travel documents (national identity card, passport). However, the beneficiary need not have these documents. Statements of the beneficiary when filing their 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 be ruled by the laws of their country of origin for all rights acquired before the granting of international protection. For instance, a prior 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 international protection in two cases: (a) French law prevails 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.

874 OFPRA, *Premières données de l'asile 2023 [chiffres provisoires]*, 23 January 2024, available in French at: https://bit.ly/3xaPG1u.

875 Forum réfugiés, *L'intégration des réfugiés freinée par les délais excessifs de délivrance des actes d'état civil*, 10 Juillet 2023, available in French at : https://bit.ly/3VCXpQ4.

876 Administrative Court of Melun, Decision No 2400178, 11 March 2024.

877 Ministry of Interior, *Chiffres clés – titres de séjour*, 25 January 2024, available in French at: https://bit.ly/3VJhPqK.

878 OFPRA, *2017 Activity report*, 56.

879 OFPRA, *Rapport d'activité 2022*, available in French at : https://bit.ly/49eglrk.

880 Budget law 2024, Annex on Immigration, Asylum, Integration, October 2023, available in French at: https://bit.ly/4ct0VT5.

881 Practice-based observation by Forum Réfugiés and partners, January 2024.

French law applies to all events subsequent to the granting of international protection. The beneficiary may therefore marry, enter into a civil union (PACS) or divorce according to French law.[882] BIPs register any child born during and after the asylum procedure with the general French civil registration service, like any other person present in France regardless of status.

3. Long-term residence

Indicators: Long-Term Residence	
1. Number of long-term residence permits issued to beneficiaries in 2022:	44,230[883]

According to French law, **refugees** obtain a long-term resident status from the moment they are granted asylum. At the first renewal, they may *ipso jure* be issued permanent resident status.[884] This requires however proving their proficiency in French,[885] and their presence must not be a threat to the public order.[886]

The threat to the public order is assessed in practice through the potential criminal sentences passed against the 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 listed by legal provisions, asks for it. Prefectures, at 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 2022:	3,622[887]

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 having arrived in France before turning 13 years old. Otherwise, these children will either have to lodge an asylum claim of their own (which they would get either automatically as the children of their parent or in their own right based on individual risk) or submit a residence permit request as family of refugees. 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,[888] as follows:

- Five years of previous regular residence;[889]

882 OFPRA, *Guide of procedures*, available in French at: https://bit.ly/40dlrjd.
883 This refers to the total number of residence permits delivered to refugees, subsidiary protection and stateless persons.
884 Article L. 426-4 Ceseda.
885 *Ibid*. and Article L.413-7 Ceseda.
886 Article L. 412-5 Ceseda.
887 OFPRA, *Rapport d'activité 2022*, available in French at : https://bit.ly/49eglrk.
888 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.
889 Article 21-17 Civil Code.

- Strong knowledge of French: the candidate can produce a diploma or any document certifying of their linguistic skills, proving they are able to have a conversation about any topic of their interest;[890]
- Strong knowledge of the History of France and its institutions, culture, and place in the world, as well as strong knowledge of the rights and obligations associated with French citizenship;[891]
- The candidate must not have been sentenced during their stay in France to a penalty of 6 months or more of imprisonment;[892]
- The candidature must subscribe entirely to the values and symbols of French Republic.[893]

A leaflet is issued to any candidate to citizenship. This document describes the criteria to meet to be deemed eligible. The law establishes integration in the French society as a compulsory condition. This leaflet is thus not distributed in other languages. Along with the leaflet, the candidates are issued the list of documents they have to produce.[894] 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.[895] 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 university, if they render an exceptional service to France or if they can demonstrate they are particularly well-integrated.[896]

The citizenship application has to be lodged at the Prefecture. The prefecture has 6 month to process the claim,[897] during which an interview is conducted to assess the level of integration of the candidate, regarding especially their knowledge of the language and of the French "culture".[898] If the Prefecture takes a positive decision, it is sent to the Ministry of Interior in charge of adopting a decree relating to the acquisition of citizenship by the candidate.[899] The Ministry has to make its decision within 18 months following the transfer of the notice by the prefecture.[900] These deadlines can be extended once for three months on the basis of a written and motivated decision.[901]

In practice, refugees encounter many difficulties beyond the mere ones linked to the language requirement. The interview also aims to determine the level of integration into 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 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.[902]

890 Article 37(1) Decree n. 93-1362.
891 Article 37(2) Decree n. 93-1362.
892 Article 21-23 Civil Code.
893 Article 21-24 Civil Code.
894 Article 37-1 Decree n. 93-1362.
895 Article 21-19 Civil Code.
896 Article 21-18 Civil Code.
897 Article 41 Decree n. 93-1362.
898 Article 46 Decree n. 93-1362.
899 *Ibid.*
900 Article 21-25-1 Civil Code.
901 *Ibid.*
902 Practice-informed observations by Forum Réfugiés and partners.

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

In 2022, OFPRA took 953 decisions ended protection (compared to 864 in 2021), including 592 related to refugee status and 166 to subsidiary protection[903] Statistics on the year 2023 were not available at the time of writing of this report.

5.1 Grounds for cessation

Regarding **refugees**, the law reflects the cessation grounds set out in Article 1C of the Refugee Convention.[904]

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.[905]

In 2022, 405 cessations of protection for refugees were due to the application of article 1-C of the Geneva Convention (end of fears of persecutions) mainly for people from **Russia**, **DRC**, **Sri Lanka** and **Türkiye**.[906] These are the same main nationalities affected by cessation procedures since 2019. Information on the number of cessations in 2023 was not available at the time of writing (March 2024).

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 principle of family unity, a child benefitting from the same refugee status as their 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.[907] 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.[908] 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.[909]

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

903 OFPRA, *2022 Activity report*, July 2023, available in French at: https://bit.ly/49eglrk, 72.
904 Article L. 511-8 Ceseda.
905 Article L.512-3 Ceseda.
906 OFPRA, *2022 Activity report*, July 2023, available in French at: https://bit.ly/49eglrk, 72.
907 CNDA, *M. O.*, Decision No 17013391, 31 December 2018.
908 CNDA, *M. D.*, Decision No 14018479, 25 February 2016.
909 CNDA, *M. K.*, Decision No 18001386, 17 October 2018 (DRC); *M. L.*, Decision No 17047809, 25 May 2018 (Sri Lanka).

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 L. 561-8 Ceseda, to conclude that there was no change of circumstances.[910]

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:

- **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 their Travel Document does not allow travel to that country, and who obtained authorisation to travel from the country's consular authorities in France;[911]
- **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.[912]

5.2 Cessation procedure

The cessation decision can be made without any interview by OFPRA. OFPRA has however the obligation to notify the refugee or beneficiary of subsidiary protection of the decision to initiate cessation proceedings and the grounds for this decision.[913] The beneficiary is therefore able to formulate observations against this decision.[914] They may be summoned to an interview at OFPRA similar to the regular procedure scheme.

The cessation decision taken 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 will 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[915] confirmed by the CNDA in 2018.[916]

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the beneficiaries of international protection in most cases conducted in practice in the withdrawal procedure? ☒ Yes ☐ No[917]
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 rendered withdrawal of international protection mandatory, whereas it was previously only optional for OFPRA.

910 CNDA, *Mme S* and *Mme F.*, Decision Nos 17038232 and 17039171, 26 November 2018.
911 CNDA, *M. Q.*, Decision No 16032301, 6 July 2017.
912 CNDA, *M. H.*, Decision No 16029914, 14 September 2018.
913 Article L.562-1 Ceseda
914 Article L.562-2 Ceseda
915 Council of State, Decision No 404756, 28 December 2017.
916 CNDA, *M. M.*, Decision No 15003496, 28 November 2018.
917 According to OFPRA, interviews are conducted 'for a good proportion of the cases', however no statistics are available: information received from OFPRA on 16 May 2024.

According to the law, as amended in 2018, refugee status shall be withdrawn where the refugee:[918]

- Should have been excluded from refugee status under Articles 1D, E and F of the Convention;
- Obtained status by fraud;
- On the basis of circumstances arising after the grant of protection, must be excluded under Articles 1D, E and F of the Convention;
- There are serious reasons to consider that the presence in France of the person concerned constitutes a serious threat to state security;
- 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 apology of terrorism[919] 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 L. 511-8 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.[920]

In 2022, 187 withdrawal decisions affecting refugees were taken on the ground of article L. 511-7 CESEDA, i.e. a public order threat. Statistics on the year 2023 were not available at the time of writing.[921]

Subsidiary protection shall no longer be granted in the event where:[922]

- 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;
- Subsidiary protection was obtained by fraud;
- On the basis of circumstances arising after the grant of protection, the beneficiary must be excluded from protection;
- There are serious reasons to believe that its activity on the territory constitutes a serious threat to public order, public security or State security.

The procedure is the same as for Cessation.

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918 Articles L.511-8 and L. 511-7 Ceseda, as amended by Article 5 Law n. 2018-778 of 10 September 2018.

919 Added by by law n°2021-1109 of 24th August 2021.

920 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 Türkiye.

921 OFPRA, *2022 Activity report*, July 2023, available in French at: https://bit.ly/49eglrk, 72.

922 Articles L.512-3 and L. 512-2 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 allowed for:[923]

- ❖ Spouses or partners (PACS) – including from same sex - with whom they were in a relationship prior to lodging their asylum claim if they are at least 18 years old;
- ❖ De facto partners (concubinage) – including from same sex - who are at least 18 years old with whom they were and remain in a durable and steady relationship, including living under the same roof;
- ❖ Children until their 19th birthday; the date to determine this is the date of lodging of the parent's application as mentioned by the Council of State in June 2023.[924]
- ❖ For minor refugees: their first degree parents and their parents' dependent children; the date chosen to determine if the refugee is or was a minor for the purpose of this procedure is the date of lodging of the asylum claim. A constitutional challenge concerning the possibility to include the minor BIP's siblings was blocked by the Council of State. Currently, the law still requires that the minor BIP be unmarried to benefit from this provision, despite a CJEU ruling highlighting the illegality of such a requirement in Belgium.[925]

The application for family reunification is not time-limited. Family reunification is not subjected to income or health insurance requirements,[926] even if the requested is lodged after 3 months contrary to the possibility offered by EU law to then have refugees go through the normal procedure for foreigners which has such requirements.

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.[927] There is a fee of the equivalent of EUR 99 in local currency that must be paid per person applying, regardless of the outcome. The embassy communicates to OFPRA the elements collected and asks for certification of the declarations. If the information collected by the embassy corresponds to the declarations the beneficiary made to OFPRA both at the beginning of their asylum claim and when asked during the family reunification procedure, the family members must be issued a visa without delay.[928] The visa is valid for three months and then the family has to ask for a permit to stay within two months.

In practice, beneficiaries and their family members face difficulties in gathering the documentation proving their family ties (which add to the difficulties related to the complexity of the visa form). In case of traditional

923 Article L. 561-2 Ceseda, as amended by Article 3 Law n. 2018-778 of 10 September 2018.
924 Council of State, 29 June 2023, Decision No 472495 A, available in English at: https://bit.ly/4cGKx1l.
925 CJEU, Case C-230/21, *X v. Belgium*, 17 November 2022, available at: https://bit.ly/3UbGMZB.
926 Article L. 561-2 Ceseda.
927 Article L. 561-5 Ceseda.
928 Articles L. 561-14 to L. 561-16 Ceseda.

or religious unions, they do not to have any certificate of the celebration and cannot then prove they are married or partners. They must then prove a stable and durable relationship, which requires much more documents. 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. DNA testing is generally not used: moreover, they would only be considered as valid if ordered by a French judge, not initiated by the family or BIP.

When family member cannot obtain a passport, consulate can issue a document called “laissez-passer” which replaces the visa.

If the administration does not respond to the visa request within two months, it is considered an implicit refusal, unless the diplomatic representation informed the family and applicant that they were extending the procedure for necessary verifications of civil status documents (4 months renewable once). The implicit refusal can be contested as a negative decision. In practice all these steps usually takes more than one year.

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 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 French territory. They are not restricted to specific areas.

The law states that the duration of validity of their 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**.[929] French law does not provide for duration of validity of non-biometric travel documents. In practice, whereas the law is clear on the 5-year duration, Prefectures issue only 2-year travel documents for refugees.

Overseas territories: when a person obtains a residence permit linked to their international protection in Mayotte, they cannot leave this territory where residence permits are "territorialised".

2. Travel documents

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.[930] Failure to respect these limitations may lead to the Cessation of the protection grant, as confirmed by a 2017 ruling of the CNDA.[931]

929 Article L.753-4 Ceseda.
930 Articles L. 561-9 and L. 561-10 Ceseda.
931 CNDA, *M. Q.*, Decision No 16032301, 6 July 2017.

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. This procedure was recently digitalised through the ANEF portal, meaning BIPs must file applications to receive travel documents online: rather than helping, these seems to have worsened the situation, with very long delays.[932]

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 Dec 2022	Not available

Beneficiaries are allowed to stay in reception centres 3 months following the positive OFPRA decision.[933] This period can be renewed for 3 months with the express agreement of OFII.[934] No exception are provided for vulnerable people.

During their stay in the centre, beneficiaries are helped in finding accommodation according to the mechanisms adopted by the local authorities. At the end of 2022, 20,464 BIPs were housed within the National Reception Scheme out of a total of 101,886 places listed by OFII (which differs from the total listed by the Ministry of Interior).[935] According to OFII, beneficiaries of international protection stayed an average of 274 days in reception centres after having received a protection status in 2022.[936]

Beneficiaries can be sent 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 once for a 3-month period.[937]

At the end of 2023, there were 10,655 places in CPH spread across the different regions as follows:

Capacity of CPH per region: 2023	
Region	Maximum capacity
Auvergne Rhône-Alpes	1,253
Bourgogne Franche-Comté	520
Bretagne	559
Centre-Val-de-Loire	428
Grand Est	909
Hauts de France	559
Ile de France	3,103
Normandie	516
Nouvelle Aquitaine	849
Occitanie	679

932 Practice-informed observation by Forum Réfugiés, January 2023.
933 Article R. 552-11 Ceseda.
934 *Ibid*.
935 Figures obtained by La Cimade and published in : La Cimade, *Vers un nouveau schéma national d'accueil : orientations directives et refus des conditions matérielles d'accueil*, 12 March 2024, available in French at : https://bit.ly/3TTEm2z.
936 OFII, *2022 Activity report*, available in French at: https://bit.ly/3J2lp7C, 25.
937 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.

Provence-Alpes-Côte d'Azur	601
Pays de la Loire	679
Total	**10,655**

Source: La Cimade, disseminating OFII data. [938]

Among the CPH places, 66 are dedicated to vulnerable women who are victims of violence or human trafficking. These are the only accommodation places dedicated to vulnerable BIPs.

Integration mechanisms

Beneficiaries have to sign a republican integration contract in which they commit to respecting French fundamental values and to complying with French legal obligations.[939]

The implementation of integration mechanisms relies on Prefectures and local authorities. They sign an agreement with stakeholders to support and assist beneficiaries with their integration.[940] The agreement between Prefectures and local stakeholders determines the role of each actor and their obligations towards the beneficiaries.[941] The organisations running centres for BIPs (CPH, mentioned above) have to house the beneficiaries but also support them throughout their integration process. They have to assist them in accessing French classes, funded by the French State, and accompany them in choosing their professional orientation. At the end of their stay in CPH, beneficiaries fall under the general rules applicable to foreigners and have to integrate 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 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.

In 2022, the government introduced a new global programme, named AGIR. This programme was influenced in large part by the ACCELAIR programme of Forum Refugiés implemented from 2002 to 2022 in Lyon and then in other regions (Occitanie, Auvergne). It aims to provide global support for refugee integration concerning housing, employment and benefits.[942] This programme, launched in 2022, continued its deployment and 52 departments were to be covered by the end of 2023. As of August 31, 2023, 40 programs were operational, making it possible to support more than 8,300 people. It should generalised to the entire national territory in 2024.[943]

Moreover, several integration projects have been developed through the country in 2019 such as HOPE, a program run by AFPA (a public institution) which provides professional training and accomodation for refugees in many departements.

Another example of proactive support is the national platform for the housing of refugees, introduced as a pilot project by the Inter-Ministerial Delegation for Accommodation and Access to Housing (*Délégation*

938 Figures obtained by La Cimade and published in : La Cimade, *Vers un nouveau schéma national d'accueil : orientations directives et refus des conditions matérielles d'accueil*, 12 March 2024, available in French at : https://bit.ly/3TTEm2z.

939 Article L. 413-2 Ceseda.

940 Article L. 561-14 Ceseda.

941 This agreement is attached by to Decree n. 2016-253 of 2 March 2016.

942 Ministry of Interior, 15 décembre 2021, "Lancement d'AGIR", available in French at: https://bit.ly/3CvZykO.

943 Budget law 2024, Annex on Immigration, Asylum, Integration, October 2023, available in French at: https://bit.ly/4ct0VT5.

interministérielle à l'hébergement et à l'accès au logement, DIHAL).[944] The platform maps out available accommodation options outside large cities and matches beneficiaries of international protection with a spot. In 2022, 12,532 housing places were mobilised for refugees thanks to this programme for 23,354 persons (compared to 12,796 places for 22,846 persones in 2021).[945] Figures on the year 2023 are not available.

Destitution

However, despite several measures taken to further beneficiaries' access to accommodation, a high numbers of status holders leave reception centres with nowhere to go.

Moreover, many beneficiaries of protection live in the streets or in camps. In Paris, amongst thousands of migrants living in camps that are regularly dismantled, 15 to 20% are refugees.[946]

Overseas France: No specific policies for refugees are implemented in overseas territories (no CPH, no AGIR programs etc.)

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 CPH or those running integration programmes such AGIR (see above about Housing) are funded to support beneficiaries in choosing their professional path and facilitating their integration in the labour market.[947] 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.

Some organisations have been created in recent years to carry out actions specifically promoting refugees' access to employment, such as Kodiko, Action Emploi Réfugiés, or Refugee Food.

In practice, it is more difficult for them to find a job. The first obstacle is obviously the language. Even if the law provides that the French State provides French classes,[948] the current 400 hours of classes is rarely sufficient for beneficiaries to obtain adequate command of the language in order to get a job.[949]

944 DIHAL, Plateforme nationale pour le logement des réfugiés, May 2018, available in French at: https://bit.ly/2VLkDRp.

945 Ministry of Interior, *'Comité stratégique : schéma national d'accueil des demandeurs d'asile et d'intégration des réfugiés',* Meeting of March 20, 2023

946 Francetvinfo, *Évacuation de campements de migrants à Paris : "Une partie des personnes se sont évaporées dans Paris", d'après l'adjointe à la mairie chargée de la solidarité*, 7 November 2019, available in French at: https://bit.ly/2wpLmMy. See also, InfoMigrants, '*Dans le nord de Paris, près de 400 personnes évacuées d'un campement',* 10 october 2023, available in French at : https://bit.ly/4cHdAC4.

947 Article 8 Standard Agreement relating to the functioning of CPH, attached to the Decree of 2 March 2016 relating to temporary accommodation centres for refuges and beneficiaries of subsidiary protection, available in French at: http://bit.ly/2jNt1xD.

948 Article L.311-9 Ceseda.

949 AFP, *Intégration des réfugiés : « sur la langue on perd un temps fou », selon un rapport*, 13 January 2018, available in French at: https://bit.ly/3ARFmtD.

Therefore, they often turn to their native community to be supported in their professional path, which might complicate their integration.

In the countryside, they also have difficulties because of 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, beneficiaries 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 major obstacles to enter 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.[950]

A study published in 2022 revealed that one year after obtaining their status, 42% of refugees settled in France manage to find a job, but this often falls short of their real skills, acquired in their country of origin.[951] Another study published in January 2024, which follows people who were protected in 2018, indicates that 4 years after obtaining their status 63% were employed but also with a finding of professional downgrading.[952]

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 access 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.

According to the OFII, 3,482 beneficiaries of international protection received a student scholarship in 2020.[953] No data was available for following years. For the 2022-2023 academic year, 1,291 students under international protection status benefit from a university scholarship.[954]

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 (PUMA), 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.

950 Practice-informed observations by Forum Réfugiés and partners, January 2024.
951 IFRI, *L'emploi des personnes réfugiées : des trajectoires professionnelles aux politiques de recrutement des entreprises*, February 2022, available in French at: https://bit.ly/43KBWGI.
952 Ministry of Interior, *Le pacrous d'intégration des réfugiés,* ELIPA 2, January 2024, available in French at : https://bit.ly/3U1G4PF.
953 OFII on Twitter.
954 CROUS, *Rapport d'activité des œuvres scolaires et universitaires* July 2023, available in French at : https://bit.ly/3PJfxDW.

The Court of Cassation 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.[955] 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. 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 faced by nationals and are linked to the inadequacies and shortcomings of the French system, which is sometimes dysfunctional (e.g., access to counter sometimes difficult, delay for payments etc.). 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.[956]

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).

In the context of COVID-19, testing and vaccine campaigns did not provide for any distinction according to nationality and legal status and have therefore been available for BIPs if they meet priority criteria.[957]

955 Cour de Cassation, Decision NO. 09-69986, 13 January 2011, available in French at: https://bit.ly/2waAemF.
956 Practice-informed observations by Forum Réfugiés and partners, January 2024.
957 Ministry of solidarity and health, *La stratégie vaccinale et la liste des publics prioritaires*, no longer available online.

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)

All legal standards of the CEAS have been transposed in French legislation and the transposition has been considered correct in national litigation on this aspect. Doubt remains, however, regarding the conformity of several provisions:

- **Receptions conditions limited to adults** (Article D. 553-3 CESEDA): Unaccompanied minors are accommodated in the child protection system when their minority is assessed: if not, they can ask for asylum as minors but they are not eligible to reception conditions.

- **Financial allowance for asylum seekers** (Decree 2018-426 of 31 May 2018): The Council of State requested an increase of the amount of the allowance twice, in order to comply with the case law of the CJEU.[958] The last amount decided by Decree was not challenged before the Council of State, but there are doubts as regards compliance with this case law.

- **Access to health care** (Decree 2019-1531 of 30 December 2019): During the first three months upon arrival in France, access to health care for all asylum seekers (including vulnerable persons) is limited to urgent care.

[958] CJEU, C-79/13, *Saciri and Others*, Judgement of 27 February 2014.