aida
Asylum Information Database

Country Report: France

2017
Update

forumréfugiés
www.forumrefugies.org

Cosi

ecre
European Council on Refugees and Exiles

Acknowledgements & Methodology

This report was written and updated by Claire Salignat, Advocacy Officer at Forum réfugiés – Cosi and edited by ECRE. The third update was written by Véronique Planès-Boissac, legal consultant for Forum réfugiés – Cosi, with the support of several Forum réfugiés-Cosi staff members. The fourth update was written by Barbara Joannon, Advocacy Officer at Forum réfugiés – Cosi. The 2016 updates was written by Raphaël Morlat, Legal Officer in charge of Training at Forum réfugiés – Cosi. The 2017 update was written by Chloé Viel, Legal Officer in charge of Training at Forum réfugiés – Cosi.

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

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

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

The information in this report is up-to-date as of 31 December 2017, unless otherwise stated.

The Asylum Information Database (AIDA)

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

ecre
European Council on Refugees and Exiles

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

Epim
European Programme for Integration and Migration

Table of Contents

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 where 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	Clear 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
ADDE	Lawyers for the Protection of Rights of Foreigners | Avocats pour la défense des droits des étrangers
AFP	Agence-France Presse
AME	State Medical Assistance | Aide médicale d'Etat
AMS	Monthyl subsistence allowance | Allocation mensuelle de subsistence
ANAFE	National Association of Border Assistance to Foreigners | Association nationale d'assistance aux frontières pour les étrangers
APS	Temporary residence permit | Autorisation provisoire de séjour
ASPR	Accueil aux médecins et personnels de santé réfugiés en France
ASSFAM	Association service social familial migrants
ATA	Temporary Waiting Allowance | Allocation temporaire d'attente
AT-SA	Temporary accommodation – asylum office | Accueil temporaire – service de l'asile
CADA	Reception Centre for Asylum Seekers | Centre d'accueil pour demandeurs d'asile
CAES	Reception and Administrative Situation Examination Centre | Centre d'accueil et d'examen de situation administrative
CAO	Reception and Orientation Centre | Centre d'accueil et d'orientation
CAOMIE	Reception and Orientation Centre for Unaccompanied Children | Centre d'accueil et d'orientation pour mineurs isolés étrangers
Caso	Reception, Care and Orientation Centre | Centre d'accueil, de soins et d'orientation
CASNAV	Academic Centres for Schooling of Foreign-Speaking Children | Centre académique pour la scolarisation des enfants allophones nouvellements arrivés et des enfants issus de familles itinérantes et de voyageurs
CDG	Charles de Gaulle Roissy Airport
Ceseda	Code on Entry and Residence of Foreigners and on Asylum | Code de l'entrée et du séjour des étrangers et du droit d'asile

CFDA	French Coordination on Asylum | Coordination française du droit d'asile
CGLPL	General Controller of Places of Detention | Contrôleur Général des lieux de privations de libertés
CIO	Information and Orientation Centre | Centre d'information et d'orientation
CJA	Code of Administrative Justice | Code de justice administrative
CMU	Universal medical coverage | Couverture maladie universelle
CNCDH	National Consultative Human Rights Commission | Commission nationale consultative des droits de l'homme
CNDA	National Court of Asylum | Cour nationale du droit d'asile
Comede	Medical Committee for Exiles | Comité médical pour les exilés
CPAM	Caisse primaire d'assurance maladie
CPH	Temporary shelter | Centre provisoire d'hébergement
CRA	Administrative Detention Centre | Centre de rétention administrative
Ctrav	Labour Code | Code du travail
DIRECCTE	Regional Directorates of Business, Competition, Consumers, Labour and Employment | Directions régionales des entreprises, de la concurrence, de la consommation, du travail et de l'emploi
DNA	National Reception Scheme | Dispositif national d'accueil
DPHRSP	Dispositif provisoire d'hébergement des réfugiés statutaires de Paris
DRC	Democratic Republic of Congo
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FLE	French as a foreign language | Français langue étrangère
FNARS	Federation of Solidarity Actors | Fédération des Acteurs de la Solidarité
GAS	Reception and Solidarity Group | Groupe accueil et solidarité
GISTI	Groupe d'information et de soutien des immigrés
GUDA	Single desk for asylum seekers l Guichet unique pour demandeur d'asile
HCSP	High Council of Public Health | Haut Conseil de la santé publique
HUDA	Emergency accommodation for asylum seekers | Hébergement d'urgence dédié aux demandeurs d'asile
IAC	Concerted Admission Board | Instance d'admisison concertée
INPES	National Prevention and Health Edcuation Institute | Institut national de prévention et d'éducation pour la santé
IOM	International Organisation for Migration
JLD	Judge of Freedom and Detention | Juge des libertés et de la détention
LRA	Place of Administrative Detention | Local de rétention administrative
MRAP	Mouvement contre le racisme et pour l'amitié entre les peuples
MSF	Médecins Sans Frontières
ODSE	Foreigners' Health Rights Observatory | Observatoire du droit à la santé des étrangers
OEE	Observatory on the Detention of Foreigners | Observatoire de l'enfermement des étrangers
OFII	French Office for Immigration and Integration | Office français de l'immigration

	et de l'intégration
OFPRA	French Office for the Protection of Refugees and Stateless Persons | Office français de protection des réfugiés et des apatrides
OQTF	Order to leave the French territory l Ordre de quitter le terrritoire français
PAOMIE	Reception and Advice Platform for Unaccompanied Children | Permanence d'accueil et d'orientation des mineurs isolés étrangers
PASS	Permanent Access to Health Care | Permanence d'accès aux soins de santé
PRAHDA	Programme for Reception and Accommodation of Asylum Seekers | d'accueil et d'hébergement des demandeurs d'asile
PUMA	Permanent Access to Health Care | Permanence d'accès aux soins de santé
RELOREF	Réseau pour l'emploi et le logement des réfugiés
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 2018, several months after the end of the reporting year.[1] Statistics on the second instance procedure are to be found in the National Court of Asylum (CNDA) annual reports, which are also published several months after the end of their reporting period.[2] However, thanks to "SI Asile", an information system established by the Ministry of Interior in 2016, some provisional data are available each year, in January.[3] It should be noted that the number of asylum applicants only covers those whose claims are referred to OFPRA, thereby excluding asylum seekers whose cases are channelled under a Dublin procedure by the Prefectures. Therefore data in the SI Asile, as well as Eurostat, are incomplete in this regard.[4]

Applications and granting of protection status at first instance: 2017

	Applicants in 2017	Pending at end 2017	Refugee status	Subsidiary protection	Rejection	Refugee rate	Subs. Prot. rate	Rejection rate
Total	100,412	:	13,020	10,985	65,302	14.5%	12.3%	73.2%
Breakdown by countries of origin of the total numbers								
Albania	7,630	:	:	:	:	:	:	:
Afghanistan	5,987	:	:	:	:	:	:	:
Haïti	4,934	:	:	:	:	:	:	:
Sudan	4,486	:	:	:	:	:	:	:
Guinea	3,780	:	:	:	:	:	:	:
Syria	3,249	:	:	:	:	:	:	:
Ivory Coast	3,243	:	:	:	:	:	:	:
DRC	2,941	:	:	:	:	:	:	:
Algeria	2,456	:	:	:	:	:	:	:
Bangladesh	2,410	:	:	:	:	:	:	:

Source: Minstry of Interior, *Chiffres clés – Les demandes d'asile,* 16 January 2018.

1 OFPRA, *Rapports d'activité,* available in French at: https://goo.gl/zA8i7X.
2 CNDA, *Rapports annuels,* available in French at: http://www.cnda.fr/La-CNDA/Donnees-chiffrees-et-bilans.
3 Ministry of Interior, *Chiffres clés – Les demandes d'asile*, available in French at: http://bit.ly/2DQrS3f.
4 *Ibid.*

Gender/age breakdown of the total number of applicants: 2017

Gender/age breakdown is not available for 2017.

Comparison between first instance and appeal decision rates: 2017

	First instance		Appeal	
	Number	**Percentage**	**Number**	**Percentage**
Total number of decisions	89,307	-	47,814	-
Positive decisions	24,005	26.8%	8,006	16.7%
• *Refugee status*	13,020	14.5%	5,402	11.3%
• *Subsidiary protection*	10,985	12.3%	2,604	5.4%
Negative decisions	65,302	73.2%	39,808	83.3%

Source: Minstry of Interior, *Chiffres clés – Les demandes d'asile,* 16 January 2018.

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, as modified by Law n. 2015-925 of 29 July 2015 on the reform of asylum law and Law n. 2016-274 of 7 March 2016 on the reform of immigration law	Code de l'entrée et du séjour des étrangers et du droit d'asile, tel que modifié par la loi n° 2015-925 du 29 juillet 2015 relative à la réforme du droit d'asile et par la loi n°2016-274 du 7 mars 2016 relative au droit des étrangers	Ceseda	http://bit.ly/1GQm3uQ (FR) http://bit.ly/1Vwt38q (FR) http://bit.ly/1p81tFc (FR)
Relevant decrees:	*Décrets pertinents :*		
Decree n. 2015-1166 of 21 September 2015 on the implementation of Law n. 2015-925 on the reform of asylum law	Décret n° 2015-1166 du 21 septembre 2015 pris pour l'application de la loi du 29 juillet 2015 relative à la réforme du droit d'asile	Asylum Reform Decree	http://bit.ly/1M0s3J1 (FR)
Decree n.2015-1329 of 21 October 2015 on the allowance for asylum seekers	Décret n° 2015-1329 du 21 octobre 2015 relatif à l'allocation pour demandeurs d'asile	ADA Decree	http://bit.ly/1PS9mJW (FR)
Decree n.2015-1364 of 28 October 2015 on the implementation of articles 13, 16 and 20 of the Law on the reform of asylum law and modifying the Code of Administrative Justice	Décret n° 2015-1364 du 28 octobre 2015 pris pour l'application des articles 13, 16 et 20 de la loi du 29 juillet 2015 relative à la réforme du droit d'asile et modifiant le code de justice administrative		http://bit.ly/1Okn32P (FR)
Decree n. 2016-1457 of 28 October 2016 on the implementation of Law n. 2016-274 and introducing provisions to fight against irregular immigration	Décret n° 2016-1457 du 28 octobre 2016 pris pour l'application de la loi n° 2016-274 du 7 mars 2016 relative au droit des étrangers en France et portant diverses dispositions relatives à la lutte contre l'immigration irrégulière	Immigration Reform Decree	http://bit.ly/2jwzGgk (FR)
Law n. 2016-297 of 14 March 2016 relating to child protection	Loi n° 2016-297 du 14 mars 2016 relative à la protection de l'enfance	Child Protection Law	http://bit.ly/2jd6t9b (FR)

Law n. 2016-1827 of 23 December 2016 on the Social Welfare funding for 2017	Loi n° 2016-1827 du 23 décembre 2016 de financement de la sécurité sociale pour 2017		http://bit.ly/2jH5Gkh (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 decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

Title in English	Original Title (FR)	Abbreviation	Web Link
Decree n. 2017-665 of 27 April 2017 on the processing of personal data of management of asylum seeker material conditions of reception, entitled DNA	Décret n° 2017-665 du 27 avril 2017 relatif au traitement de données à caractère personnel de gestion des conditions matérielles d'accueil des demandeurs d'asile, dénommé DNA		http://bit.ly/2Fi7ecL (FR)
Decision of 11 April 2017 fixing for the year 2017 the objectives of proportionate distribution of the reception of the minors deprived temporarily or definitively of the protection of their family	Décision du 11 avril 2017 fixant pour l'année 2017 les objectifs de répartition proportionnée des accueils des mineurs privés temporairement ou définitivement de la protection de leur famille		http://bit.ly/2maami0 (FR)
Information NOR: INTV1732719J of 4 December 2017 about the evolution of the housing of asylum seekers and refugees	Information NOR : INTV1732719J du 4 décembre 2017 relative à l'évolution du parc d'hébergement des demandeurs d'asile et des réfugiés		http://bit.ly/2AJA3eo (FR)
OFPRA Decision of 30 July 2015 on organisational modalities for the interview, implementing Article L.723-6 Ceseda	Décision OFPRA du 30 juillet 2015 fixant les modalités d'organisation de l'entretien en application de l'article L.723-6 du Ceseda		http://bit.ly/1M0s3J1 (FR)
Instruction NOR: INT/V/17/30666/J of 20 November 2017 on the objectives and priorities in the fight against irregular immigration	Instruction NOR : INT/V/17/30666/J du 20 novembre 2017 relative aux objectifs et priorités en matière de lutte contre l'immigration irrégulière		http://bit.ly/2mbcFBf (FR)
OFPRA Decision NOR: INTV1723025S of 11 October 2017 setting the list of approved premises intended to receive asylum seekers, applicants for stateless persons, refugees or beneficiaries of	Décision OFPRA NOR : INTV1723025S du 11 octobre 2017 fixant la liste des locaux agréés destinés à recevoir des demandeurs d'asile, demandeurs du statut d'apatride, réfugiés ou bénéficiaires de la protection		http://bit.ly/2CJZLRP (FR)

subsidiary protection heard in a professional interview conducted by OFPRA by an audiovisual communication procedure	subsidiaire entendus dans le cadre d'un entretien professionnel mené par l'OFPRA par un moyen de communication audiovisuelle		
Circular of 2 November 2015 on the implementation of the reform of asylum law	Circulaire NOR : INTV1525995J du 2 novembre 2015 sur la mise en oeuvre de la réforme de l'asile		http://bit.ly/1RaHGPQ (FR)
Decree NOR: INTV1525115A of 29 October 2015 on general rules of functioning of CADAs	Arrêté NOR : INTV1525115A du 29 octobre 2015 relatif au règlement de fonctionnement type des CADAs		http://bit.ly/1Ieo9fm (FR)
Decree NOR: INTV1525116A of 29 October 2015 on residence contract in CADAs	Arrêté NOR : INTV1525116A du 29 octobre 2015 relatif au contrat de séjour type des CADAs		http://bit.ly/1YxQ0eJ (FR)
Decree NOR: INTV1525114A of 29 October 2015 on missions' statement of CADAs	Arrêté NOR : INTV1525114A du 29 octobre 2015 relatif au cahier des charges des centres d'accueil pour demandeurs d'asile	CADA Mission Decree	http://bit.ly/1jnCQB6 (FR)
Decree n. 2015-1364 of 28 October 2015 on the implementation of articles 13, 16 and 20 of the Law on the reform of asylum law and modifying the Code of Administrative Justice	Décret n° 2015-1364 du 28 octobre 2015 pris pour l'application des articles 13, 16 et 20 de la loi du 29 juillet 2015 relative à la réforme du droit d'asile et modifiant le code de justice administrative		http://bit.ly/1Okn32P (FR)
Decree NOR: INTV1523959A of 23 October 2015 on the questionnaire for assessing vulnerabilities of asylum seekers	Arrêté NOR : INTV1523959A du 23 octobre 2015 relatif au questionnaire de détection des vulnérabilités des demandeurs d'asile		http://bit.ly/1RaHNen (FR)
Decree n. 2015-1329 of 21 October 2015 on the allowance for asylum seekers	Décret n° 2015-1329 du 21 octobre 2015 relatif à l'allocation pour demandeurs d'asile	ADA Decree	http://bit.ly/1PS9mJW (FR)
Decree n. 2017-430 of 29 March 2017 on various provisions about the asylum seeker allowance	Décret n° 2017-430 du 29 mars 2017 portant diverses dispositions relatives à l'allocation pour demandeur d'asile		http://bit.ly/2CTQ6fE (FR)
Decree NOR: INTV1709507A of 2 May 2017 establishing the ceiling for deductions in case of undue payment of the asylum seeker allowance	Arrêté NOR : INTV1709507A du 2 mai 2017 fixant le plafond des retenues en cas de versement indu de l'allocation pour demandeur d'asile		http://bit.ly/2En0Qj6 (FR)
Decree NOR: INTV1524994A of 20 October 2015 on the form to declare the asylum seeker's address	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)
Decree of 16 October 2015 on the procedure	Décret n°2015-1298 du 16 octobre 2015 relatif à la	CNDA	http://bit.ly/1Ncl2R2 (FR)

related to the CNDA	procédure applicable devant la Cour nationale du droit d'asile	Procedure Decree	
Decree NOR: INTV1524094A of 9 October 2015 on the validity of the asylum claim certification	Arrêté NOR : INTV1524049A du 9 octobre 2015 fixant la durée de validité de l'attestation de demande d'asile		http://bit.ly/1jnCZEL (FR)
Decree n. 2015-1166 of 21 September 2015 on the implementation of Law n. 2015-925 on the reform of asylum law	Décret n° 2015-1166 du 21 septembre 2015 pris pour l'application de la loi du 29 juillet 2015 relative à la réforme du droit d'asile		http://bit.ly/1M0s3J1 (FR)
OFPRA Decision of 30 July 2015 on organisational modalities for the interview, implementing Article L.723-6 Ceseda	Décision du 30 juillet 2015 fixant les modalités d'organisation de l'entretien en application de l'article L.723-6 du Ceseda		http://bit.ly/1M0s3J1 (FR)
Circular on the management of the emergency scheme for asylum seekers	Circulaire n° IOCL1113932C du 24 Mai 2011 sur le pilotage du dispositif d'hébergement d'urgence		http://bit.ly/1GQ3TdJ (FR)
Circular on the implementation of alternatives to administrative detention of families	Circulaire NOR : INTK1207283C 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		http://bit.ly/1RTunjM (FR)
Decision on the list of associations entitled to send representatives to access administrative detention facilities	Décision NOR : INTV1305938S du 1er mars 2013 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder aux lieux de rétention		http://bit.ly/1LWBUwu (FR)
Decree on the access of associations to administrative detention facilities	Décret NOR : INTV1406903D n° 2014-676 du 24 juin 2014 relatif à l'accès des associations humanitaires aux lieux de rétention		http://bit.ly/1UbVrP8 (FR)
Circular on third country nationals who voluntarily obstruct their identification with unusable fingerprints	Circulaire IMI/A /1000106/C du 2 avril 2010 relative à la jurisprudence du Conseil d'État en matière de refus d'admission au séjour au titre de l'asile - sur les étrangers qui rendent volontairement impossible l'identification de leurs empreintes digitales		http://bit.ly/1GQ4coY (FR)
Decision of 3 June 2015 on the list of associations entitled to propose representatives for access to waiting areas	Arrêté NOR : INTV1511516A du 3 juin 2015 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente		http://bit.ly/1MVozUH (FR)

Circular on the organisation of education for migrant children	Circulaire REDE1236614C n° 2012-143 du 2 octobre 2012 sur l'organisation des Centres Académiques pour la scolarisation des nouveaux arrivants et des enfants du voyage (Casnav)		http://bit.ly/1KuFVuE (FR)
Decree setting the technical characteristics of the communication means to be used at the CNDA	Arrêté NOR : JUSE1314361A 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		http://bit.ly/1dA3rba (FR)
Decree NOR: INTV1630817A relating to the implementation of article L.744-5 Ceseda	Arrêté NOR: INTV1630817A du 15 novembre 2016 portant application de l'article L. 744-5 du code de l'entrée et du séjour des étrangers et du droit d'asile		http://bit.ly/2jGFPbS (FR)
Decree n.2016-11 of 12 January 2016 on the compensation for the missions of Legal aid	Décret n° 2016-11 du 12 janvier 2016 relatif au montant de l'aide juridictionnelle		http://bit.ly/2karOEf (FR)
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	Instruction NOR : INTV1618837J 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		http://bit.ly/2k3SdQ8 (FR)
Circular NOR :JUSF1602101C of 25 January 2016 relating to State resources mobilisation for minors temporarily or definitely deprived from their family protection	Circulaire interministérielle NOR : JUSF1602101C du 25 janvier 2016 relative à la mobilisation des services de l'Etat auprès des conseils départementaux concernant les mineurs privés temporairement ou définitivement de la protection de leur famille et les personnes se présentant comme tels		http://bit.ly/2jghM16 (FR)
Circular NOR: INTV1633435J of 19 December 2016 relating to the creation of new places in centres of accommodation for asylum seekers	Information NOR : INTV1633435J du 19 décembre 2016 relative à la creation de nouvelles places en CADA en 2017		http://bit.ly/2jfWdgF (FR)
Circular NOR: INTK1615585J of 29 June 2016 relating to the creation of new places in reception and orientation centres	Instruction NOR : INTK1615585J du 29 juin 2016 relative à la création de nouvelles places de centres d'accueil et d'orientation pour migrants		http://bit.ly/2ixjrNK (FR)

Circular NOR: INTV1621861A of 29 July 2016 on the accreditation of representatives of an NGO to access to the border zone	Arrêté NOR : INTV1621861A du 29 juillet 2016 portant habilitation d'une association à proposer des représentants en vue d'accéder en zone d'attente,		http://bit.ly/2k7FJH6 (FR)
Decision NOR: INT1706306S of 2 March 2017 establishing the list of organisations competent for proposing representatives to accompany asylum seekers or refugees or beneficiaries of subsidiary protection to a personal interview held by OFPRA	Décision NOR : INT1706306S du 2 mars 2017 fixant la liste des associations habilitées à proposer des représentants en vue d'accompagner le demandeur d'asile ou le réfugié ou le bénéficiaire de la protection subsidiaire à un entretien personnel mené par l'OFPRA		http://bit.ly/2CHqlWs (FR)
Decree n. 2016-840 of 24 June 2016 relating to reception and minority assessment conditions of minors temporarily or definitely deprived from the protection of their family	Décret n° 2016-840 du 24 juin 2016 pris en application de l'article L. 221-2-2 du code de l'action sociale et des familles et relatif à l'accueil et aux conditions d'évaluation de la situation des mineurs privés temporairement ou définitivement de la protection de leur famille		http://bit.ly/2k8fmBd (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)
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)

Overview of the main changes since the previous report update

The previous update of the report was published in **February 2017**.

Asylum procedure

- **Push backs:** Massive and unlawful push backs of migrants have taken place at the Italian border throughout 2017 and led to condemnation by courts. To circumvent the controls set up in Menton, migratory routes have shifted towards riskier journeys through the Alps, near Briançon. Once again police checks and unlawful summary returns have been documented.

- **Registration:** Problems in the registration of asylum applications at the "single desks" have not improved from 2016. In most areas, the Prefectures have been unable to register claims within the 3 working day deadline set by the law. To restore the 3-day time limit, the Minister of Interior published a Circular on 12 January 2018 which plans to increase the staff in Prefectures and OFII and to reorganise services. This plan envisages fully open "single desks" every day of the week, as well as overbooking to compensate for 'no show' appointments.

Reception conditions

- **Capacity:** Reception capacity is still insufficient, despite the creation of 25,000 additional accommodation places in 2017, bringing the total number to more than 80,000. Many asylum seekers still live on the streets, especially in Paris. New forms of accommodation have been developed, such as the reception and accommodation programme for asylum seekers (PRAHDA).

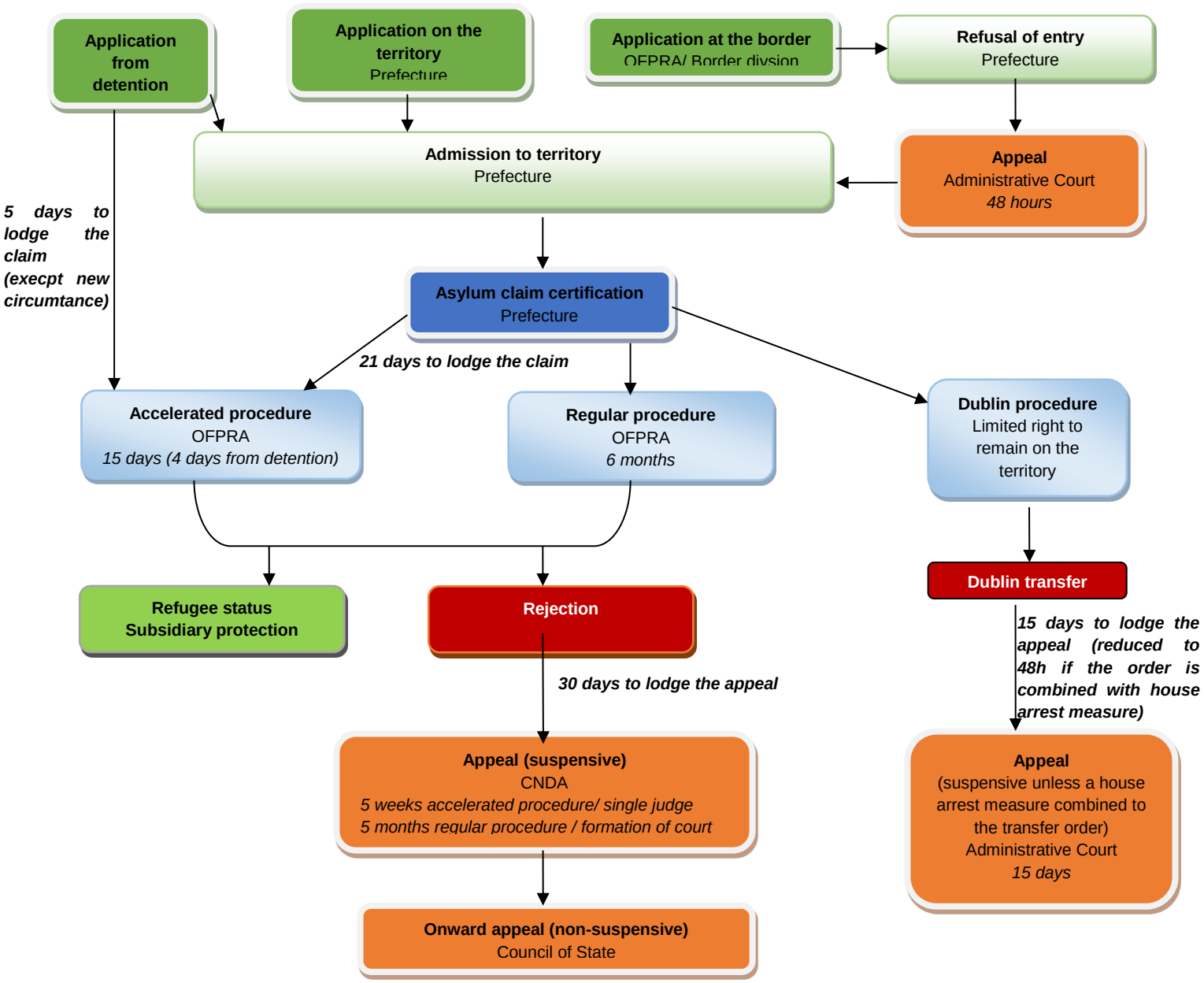
Detention of asylum seekers

- **Dublin detention:** Following the *Al Chodor* ruling of the CJEU, the Court of Cassation ruled that the detention of asylum seekers under the Dublin procedure is illegal due to the absence of legally defined criteria for a "significant risk of absconding". In practice, however, some Prefectures continue to order detention of asylum seekers under a Dublin procedure.

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:[5] ☒ Yes ☐ No
  - ▪ Fast-track processing:[6] ☒ Yes ☐ No
- ❖ Dublin procedure: ☒ Yes ☐ No
- ❖ Admissibility procedure: ☒ Yes ☐ No
- ❖ Border procedure: ☒ Yes ☐ No
- ❖ Accelerated procedure:[7] ☒ Yes ☐ No
- ❖ Other:

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

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

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

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

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
French Office for the Protection of Refugees and Stateless Persons (OFPRA)	800	Ministry of Interior	☐ Yes ☒ No

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

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

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

5. Short overview of the asylum procedure

An asylum application in France may be lodged either on the territory (obtaining the application form from the Prefecture) or at the border (in case the asylum seeker does not possess valid travel documents to enter the territory, at any time while in the waiting zone) or from an administrative detention centre (in case the person is already being detained for the purpose of removal).

The examination of an asylum application lodged on the territory in France involves 4 main stages:

(1) Entitled organisations operate pre-reception services for foreign nationals wishing to lodge an asylum claim. Orientation platforms, among others, shall perform these pre-reception services. Intentions to lodge an asylum claim are computerised in order to give foreign nationals an appointment to the "single desk" (*guichet unique*), in theory within 3 days, where their claim will be registered and material reception conditions offered.

(2) At the single desk, the Prefectures examine whether France is responsible for the examination of the claim by applying the criteria of the Dublin Regulation and also decide whether to channel an application into the regular or the accelerated procedure. Within the same premises and, in theory, on the same day, the French Office for Immigration and Integration (OFII) interviews the asylum seeker to assess his or her special needs in terms of reception conditions.[8] OFII is responsible for the management of the national reception scheme and allocates available places to newly registered asylum seekers, whatever procedure they are channelled to.

(3) The French Office for the Protection of Refugees and Stateless People (OFPRA) undertakes an examination on the merits of the asylum application.

(4) The National Court of Asylum (CNDA) examines a potential appeal against a negative decision of OFPRA or against a decision of OFPRA granting subsidiary protection if the asylum seeker wishes to obtain refugee status.

Registration: In order to lodge an asylum application in France, asylum seekers must first present themselves to the local entitled organisation whose task is to centralise intentions to lodge asylum claims and to give appointments to asylum seekers to the "single desk". At the single desk their asylum claim is first registered and they are granted an asylum claim certification.[9] The certification is equivalent to the temporary residence permit. If it is granted, the person enters into the asylum procedure and has to complete his or her application form in French and send it to OFPRA within a 21 calendar day period, both under regular and accelerated procedures. The certification is not delivered to asylum seekers having introduced a claim at the border or from a detention centre. Asylum seekers under a Dublin procedure do receive an asylum claim certification but this specifies that they are under a Dublin transfer procedure. Asylum seekers will not get access to OFPRA if another state accepts responsibility for their asylum claim. The certification does not allow travel to other Member States.

In addition, the Prefecture may refuse to grant an asylum claim certification for 2 reasons, thus banning the foreign national from remaining on the French territory:

(a) The foreign national introduces a subsequent application after the final rejection of his or her first subsequent application; or

(b) The foreign national is subject to a final decision of extradition towards another country than his country of origin, or if he is subject to a European arrest warrant or an arrest warrant issued by the International Criminal Court.

Accelerated / regular procedure: The placement under an accelerated procedure does not imply a refusal to grant an asylum claim certification. There are different grounds for channelling a claim into an accelerated procedure. In particular, OFPRA has to process asylum claim under accelerated procedures where:

---

8 The single desk (*guichet unique*), introduced by the Law on asylum of 29 July 2015, is implemented as of 1 November 2015.

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

- The foreign national seeking asylum originates from a safe country of origin;
- The asylum seeker's subsequent application is not manifestly unfounded;

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

(a) The asylum seeker refuses to be fingerprinted;
(b) When registering his or her claim, the asylum seeker has presented falsified identity or travel documents, or provided wrong information on his or her nationality or on his or her conditions of entry on the French territory or has introduced several asylum claims under different identities;
(c) The claim has not been lodged within 120 days after the foreign national has entered the French territory or he or she has remained unlawfully on French territory after his or her arrival for 120 days before registering the claim;
(d) The claim has only been made to prevent a notified or imminent removal order; or
(e) The presence of the foreign national in France constitutes a serious threat to public order, public safety or state security.

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

In these cases, an accelerated procedure means that the person has 21 calendar days to lodge his or her application with OFPRA and that OFPRA has, in theory, 15 days to review and decide on the case. The deadlines are even more limited for both the asylum seeker and OFPRA if the person is held in administrative detention. The accelerated procedure does not entail lower social rights than under the regular procedure according to the reform on the law on asylum.

The Prefectures as well as OFPRA are under the administrative supervision of the Ministry of Interior. OFPRA is an administrative authority specialised in asylum and responsible for examining and granting, refusing, or withdrawing refugee status or subsidiary protection.[10] It is independent in taking individual decisions on asylum applications and does not take instructions from the Ministry of Interior. A single procedure applies. French legislation provides for systematic personal interviews of applicants at first instance; except if OFPRA is about to take a positive decision or if the asylum seeker's medical situation prevent him from attending the interview. All personal interviews are conducted by OFPRA. Asylum seekers can be accompanied to their interview by a third person (lawyer or member of an accredited NGO). This third person cannot intervene during the interview but may formulate remarks at the end of the interview. This provision also applies to claims introduced at the border and from detention. After the asylum seeker and, eventually, the third person have been heard, the protection officer writes an account and a draft decision, which is then, in most cases, submitted for validation to their section manager.

Appeal: The CNDA is the specialised Administrative Court handling appeals against all administrative decisions of the Director General of OFPRA related to an asylum application. This appeal must be lodged within 1 month after the notification of the OFPRA decision to the applicant. The appeal has automatic suspensive effect for all applicants, regardless of the type of procedure their claim is processed, except for asylum claims introduced from detention (see section on 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, it can also send the case back to OFRPA for re-examination.

An onward appeal before the Council of State can be lodged within 2 months. The Council of State does not review all the facts of the case, but only some legal issues such as the respect of rules of procedure and the correct application of the law by the CNDA. If the Council of State annuls the decision, it refers it

[10] Strictly speaking, OFPRA is not a 'first instance' but an administrative authority which takes the first decision on the asylum application.

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 following a negative decision of the CNDA.

Border procedure: A specific border procedure to request an admission into the country on asylum grounds is provided by French legislation for persons arriving on French territory through airports or harbours. The Border division of OFPRA interviews the asylum seekers and formulates a binding opinion that is communicated to the Ministry of Interior. If OFPRA issues a positive opinion, the Ministry has no choice but to authorise the entry on the French territory (except on grounds of threat to national security). In theory, this interview is conducted to check whether the given facts are manifestly irrelevant or not. The concept of "manifestly unfounded" claim is described in the law and concerns claims that are "irrelevant" or "lacking any credibility".

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

If the asylum application is considered manifestly unfounded or inadmissible or is the responsibility of another Member State, the Ministry of Interior refuses to grant entry to the foreigner with a reasoned decision. The person can lodge an appeal against this decision before the Administrative Court within a 48-hour deadline. If this appeal fails, the foreigner can be expelled from the country.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

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

There have been increasing reports of people simply being refused entry at the border. Since 2015, the French police has implemented operations to close the border and to prevent asylum seekers coming from Italy from entering France. The closure of the border has been maintained and police operations have been reinforced in 2017. According to the Prefect of Alpes-Maritimes, more than 50,000 migrants have been arrested at the border in 2017.[11] Out of those, a striking 98% are pushed back to Italy.[12]

Despite condemnation by humanitarian organisations,[13] as well as court rulings condemning Prefectures for failing to register the asylum applications of people entering through Italy,[14] illegal police operations at the border have been extended from the **Menton** and **Nice** areas in 2016 and 2017, to the **Hautes-Alpes** in 2017. Such practices of mass arrest have had an effect on shifting migratory routes, leading migrants to take increasingly dangerous routes on the mountains; over 1,500 reached **Briançon** since the beginning of the year.[15] Media reports have documented incidents of unaccompanied children refused entry by police authorities and directed towards the Italian border.[16]

11 20 minutes, 'Cote d'Azur : à la frontière italienne, un nombre reccord de passeurs interpellé', 4 December 2017, available in French at: http://bit.ly/2qMHySh.

12 *Ibid.*

13 See e.g. Forum réfugiés-Cosi, *Pour une pleine application du droit d'asile à la frontière franco-italienne*, 24 April 2017, available in French at: http://bit.ly/2mQY26t.

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

15 Médecins du Monde, 'Migrants: des pratiques illégales à la frontière franco-italienne', 26 July 2017, available in French at: http://bit.ly/2CSH8hY; Médecins Sans Frontières *et al.*, 'Frontière franco-italienne : des atteintes inadmissibles aux droits des personnes migrantes et réfugiées', 16 October 2017, available in

Local people have supported asylum seekers by rescuing them on the mountain, for example in **Nevache**, a small village in the Alps.[17] Others have helped some migrants to reach **Nice** in order to apply asylum there.[18] Several of these people helping migrants have been prosecuted and ultimately convicted by French courts. For example, on 8 August 2017, Cedric Herroux, received a four-month suspended sentence by the Court of Appeal of Aix-en Provence for helping migrants crossing the border.[19] On 13 December 2017, four other people were sentenced to a fine of 800 €.[20]

Border controls have also led to new forms of Detention, which 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.[21]

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for asylum seekers to lodge their application? ☒ Yes ☐ No
2. If so, what is the time limit for lodging an application?
   - ❖ On the territory:[22] 21 days
   - ❖ From detention: 5 days

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

2.1. Making and registering an application

French law does not lay down strict time limits for asylum seekers make an application to after entering the country. However, the law specifies that one reason why OFPRA shall process an asylum claim in Accelerated Procedure is that "without legitimate reason, the applicant who irregularly entered the French territory or remained there irregularly did not introduce his or her asylum claim in a period of 120 days as from the date he or she has entered the French territory."[23]

The registration of asylum claims in France has been deeply reorganised with the reform of the law on asylum, fully applicable as of 1 November 2015. A "single desk" (*guichet unique*) has been introduced in order to register both the asylum claim and the need for material reception conditions. There are 34 "single desks" across France.[24]

French at: http://bit.ly/2miiQEH; France Culture, 'Quand les mineurs africains sont abandonnés dans la montagne', 17 November 2017, available in French at: http://bit.ly/2hOcU7m.

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

17 Le Figaro, 'A la frontière italienne, les montagnards marchent pour les migrants', 18 December2017, available in French at: http://bit.ly/2CU92Lg.

18 Nice Matin, 'Un troisième convoi de migrants est entré en gare de Nice', 7 June 2017, available in French at: http://bit.ly/2mj6ITX.

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

20 France Info, 'Une responsable d'Amnesty International poursuivie pour aide aux migrants', 16 December 2017, available in French at: http://bit.ly/2maDAgy.

21 Conseil d'Etat, Order No 411575, 5 July 2017.

22 Once the asylum seeker receives an asylum claim certification, this is the deadline for sending the registration form to OFPRA under the regular procedure.

23 Article L.723-2(III)(3) Ceseda.

24 The list of "single desks" is available at: http://bit.ly/2Eq0pV6.

In order to obtain an appointment at the "single desk", asylum seekers must present themselves to orientation platforms (*Plateformes d'accueil de demandeurs d'asile*, PADA). Local organisations are responsible for this pre-reception phase and make appointments at the Prefecture for the asylum seekers. According to the law, the appointment has to take place within 3 working days after asylum seekers have expressed their intention to lodge an asylum claim.[25] 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.[26]

While the "single desk" system 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. In some parts of France, namely in **Paris**, it takes several months to obtain an appointement at the PADA, followed by several weeks of delay for an appointment at the "single desk"[27] In other areas, the average waiting time for appointments at the PADA was 28 days in **Clermont-Ferrand**, 24 days in **Lyon** and **Nice**, and 16 days in **Toulouse** at the end of 2017.

Beyond the mainland, in the Prefecture of **Guyane**, delays are particulary long and can last up to 4 months before a person obtains an appointment at the PADA, followed by a few more months to obtain an appointment at the "single desk". Similar difficulties are encountered in **Mayotte**.[28]

To restore the 3-day time limit, the Minister of Interior published a Circular on 12 January 2018 which plans to increase the staff in Prefectures and OFII and to reorganise services. This plan envisages fully open "single desks" every day of the week, as well as overbooking to compensate for 'no show' appointments.[29]

At the "single desk", it is no mandatory to provide an address ("*domiciliation*") to register asylum seekers' claims. However, as long as administrative notifications are still sent by mail, asylum seekers have to provide an address for the procedure to be smoothly conducted. An address certificate (*déclaration de domiciliation*) is also necessary to benefit from certain social benefits, in particular the Universal Medical Protection (PUMA). A specific form to declare asylum seekers' address is available since 20 October 2015.

In order for their claim to be registered by the Prefecture, asylum seekers have to provide the following:[30]

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

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

- The asylum procedure;

---

25 Article L.741-1 Ceseda.

26 *Ibid.*

27 Le Figaro, 'De l'enregistrement à la décision : dans les méandres d'une demande d'asile', 13 July 2017, available at: http://bit.ly/2FfP4YW; La Cimade, 'Conditions d'accès au droit d'asile en Ile de France', 9 October 2017, available in French at: http://bit.ly/2iR3eZa.

28 CNCDH, *Droits des étrangers et droit d'asile dans les Outremer : cas particuliers de la Guyane et Mayotte*, 29 September 2017, available at: http://bit.ly/2CIpSZA, Section III.B.1.

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

30 Article R.741-3 Ceseda.

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

The asylum claim certification is delivered for a specific period of time, renewable until the end of the procedure. Depending on the procedure, the period of validity varies:[31]

- Under regular procedure, the asylum claim certification is valid for an initial period of time of 1 month, renewable for 9 months and 6 months afterwards (as many times as necessary);
- Under accelerated procedure, the asylum claim certification is valid for an initial period of time of 1 month, renewable for 6 months and 3 months (as many times as necessary);
- Under Dublin procedure, the asylum claim certification is valid for an initial period of time of 1 month, renewable for 4 months (as many times as necessary).

The Prefecture may refuse to grant an asylum claim certification for 2 reasons:[32]

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

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

In addition, the renewal of an asylum claim certification can be refused, or the asylum claim certification can be refused or removed when:[33]

(a) OFPRA has taken an inadmissibility decision because the asylum seeker has already been granted asylum in another EU Member State or third country, where the protection provided is effective;
(b) The asylum seeker has withdrawn his or her asylum claim;
(c) OFPRA has closed the asylum claim. OFPRA is entitled to close an asylum claim if it has not been introduced within 21 days; or if the asylum seeker did not present him or herself to the interview ; or if the asylum seeker has consciously refused to provide fundamental information; or if the asylum seeker has not provided any address and cannot be contacted;[34]
(d) A first subsequent application has been introduced by the asylum seeker only to prevent a notified or imminent order of removal;
(e) The foreign national introduced a subsequent application after the final rejection of his or her first subsequent application; or
(f) The foreign national is subject to a final decision of extradition towards another country than his country of origin, or if he is subject to a European arrest warrant or an arrest warrant issued by the International Criminal Court. In case of a refusal, or refusal of a renewal, or removal of the asylum claim certification, the asylum seeker is not allowed to remain on the French territory and this decision can be accompanied by an order to leave the French territory (OQTF).

The decision can be challenged before the Administrative Court and the appeal has suspensive effect. In parallel to the registration of the claim at the Prefecture, the file of the asylum seeker is transferred to the French Office for Immigration and Integration (OFII) that is responsible for the management of the national reception scheme.

31 Ministerial ruling on application of Article L.741-1 Ceseda, published on 9 October 2015.
32 Article L.741-1 Ceseda.
33 Article L.743-2 Ceseda.
34 Article L.723-13 Ceseda.

2.2. Lodging an application

Then, the asylum seeker has 21 calendar days to fill in the application form in French and send it by registered mail to OFPRA, the first instance protection authority in France.[35] In order for the claim to be processed by OFPRA, the filled and signed application form as to be accompanied by a copy of the asylum claim certification, 2 ID photos and, if applicable, a travel document and the copy of the residence permit. Upon reception of the claim, OFPRA shall inform the asylum seeker as well as the competent Prefect and the OFII that the claim is complete and ready to be processed. In case the claim is incomplete the asylum seeker has to be asked to provide the necessary missing elements or information within 8 additional days.[36]

When OFPRA receives a complete application within the required deadlines, it registers it and sends a confirmation letter to the applicant. If not, OFPRA refuses to register the application. Such a refusal can be challenged before the National Court of Asylum (CNDA). This remedy can be useful if a "valid" excuse can be argued (e.g. health problems during the period).

Finally, the requirement to write the asylum application in French remains a serious constraint. For asylum seekers who do not benefit from any support through the procedures and who may face daily survival concerns, the imposed period of 21 days is very short. The objective of the reform was that, in theory, all asylum seekers would be housed and accompanied in the context of the national reception scheme, in order to avoid these difficulties and inequalities between asylum seekers. However, this is the not the case in practice, more than two years after the asylum reform.

2.3. Applications lodged in detention

In administrative detention centres, the notification of the individual's rights, read out upon arrival, indicates that he or she has 5 calendar days to claim asylum. This 5-day deadline is not applicable if the foreign national calls upon new facts occurring after the 5-day deadline has expired.[37] This last condition could does not apply to asylum seekers coming from a Safe Country of Origin, however.[38]

Asylum seekers in detention can benefit from legal and linguistic assistance with a view to applying.[39] According to the CNDA, which examines appeals against inadmissible asylum applications in detention centres, the 5-day deadline may not be contested on the ground that the asylum seeker did not benefit from effective legal and linguistic assistance in detention, or on the basis of facts occurring prior to the deadline which the person was not aware of at the time.[40]

35 Article R.723-1 Ceseda.
36 *Ibid*.
37 Article L.551-3 Ceseda.
38 *Ibid*.
39 *Ibid*.
40 CNDA, Decision No 16037938, 25 July 2017.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:[41] 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 2017: Not available

The first instance authority in France, OFPRA, is a specialised institution in the field of asylum, under the administrative supervision of the Ministry of Interior since November 2007.[42] A time limit of 6 months is set for OFPRA to take a decision under the regular procedure.[43] When a decision cannot be taken within 6 months, OFPRA has to inform the applicant thereof within 15 calendar days prior to the expiration of that period.[44] 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.[45]

Provisional statistics for 2017 refer to an average processing time of 114 days,[46] thereby reducing the length of the procedure compared to previous years. The average processing time – all types of procedures – for OFPRA was 183 days in 2016, compared to 216 days in 2015.[47] The government has announced its intention to reduce processing times to an average length of 2 months.[48]

In several accommodation centres (**Picardie**, **Lorraine**, **Auvergne Rhône Alpes**, **Languedoc-Roussillon**, **Paris** and its suburbs), social workers observe various inequalities regarding the duration of the procedures. Some applicants can complete the regular procedure in 5 or 6 months, including appeal, whereas in the meantime other asylum seekers who had submitted asylum claims at the beginning of 2017 have not been interviewed 6 months later.

According to provisional statistics by the Ministry of Interior, the first instance recognition rate for 2017 was 26.8% at OFPRA level, while the recognition rate at CNDA level was 16.7% (see section on Statistics).

An action plan for the reform of OFPRA, adopted on 22 May 2013, has been implemented since September 2013. It includes a monitoring mechanism of the quality of the decisions taken through an assessment of several sample cases. In addition, a "harmonisation committee", chaired by the Executive Director, was created to harmonise the *doctrine* (including monitoring the jurisprudence of the CNDA).[49]

---

41 Article R.723-2 Ceseda.
42 Strictly speaking, OFPRA is not a 'first instance' but an administrative authority which takes the first decision on the asylum application.
43 Article R.723-2 Ceseda.
44 Article R 723-3 Ceseda.
45 Article R.723-2 Ceseda.
46 OFPRA, 'Les données de l'asile 2017 à l'OFPRA', 8 January 2018, available in French at: http://bit.ly/2qRJ71o.
47 OFPRA, *2016 Activity report,* 7 April 2017, available in French at: http://bit.ly/2DujhFy, 69; *2015 Activity report*, 13 May 2016, available in French at: http://bit.ly/1UEBe4f, 65.
48 OFPRA, 'Les données de l'asile 2017 à l'OFPRA', 8 January 2018, available in French at: http://bit.ly/2qRJ71o.
49 See a description of the action plan for the reform of OFPRA, *2014 Activity report,* 10 April 2015, 54-55.

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

In this context, an evaluation was undertaken by the two stakeholders (OFPRA and UNHCR) between June and October 2015, focusing on a representative sample of asylum decisions (350 case files) taken during the first semester of 2014.[50] This evaluation followed the first one published in 2014. OFPRA published the results of the last quality control initiative in May 2016.[51] This report highlighted the increasing annotations attributed by UNHCR experts and the diminishing differences between both groups of examiners. As mentioned in the first quality control report of 2014, even though no major difference was noticed in the treatment by OFPRA of asylum applications under the accelerated procedure and under the regular procedure, important shortcomings were highlighted concerning $^{1}/_{5}$ of the case files under review. In particular the way interviews were conducted in these cases showed that no complementary questions were asked by OFPRA when the arguments of the asylum seeker were considered to be insufficiently consistent or credible. Also the legal analysis of the asylum application by OFPRA was not always sufficiently thorough. Proofs (such as certificates, judgments issued by foreign courts) were insufficiently taken into account. In addition, decisions were often too short and not sufficiently reasoned. Finally, the reasoning appeared to focus on the establishment of past facts of persecution rather than on the well-founded fears in case of return to the country of origin. Following the quality control and in the context of the ongoing reform of OFPRA, regular trainings are being provided to case workers and tailored tools have been designed, in particular regarding the interview, the assessment of proof and supportive documents and the reasoning of decisions taken.

1.2. Prioritised examination and fast-track processing

The law provides for the possibility for OFPRA to give priority to applications introduced by vulnerable persons having identified "specific needs in terms of reception conditions" or "specific procedural needs".[52] In 2015, the average processing time for these groups was 97 days.[53] No data was made available for 2016 by OFPRA.

Since 2013, OFPRA also conducts decentralised and external missions in order to accelerate the examination of claims from seekers with specific nationalities or having specific needs. This has resulted in 34 decentralised missions in **Lyon**, **Besançon**, **Bordeaux**, **Caen**, **Lille**, **Nantes**, **Nice**, **Rennes**, **Pau**, **Perpignan**, **Cayenne** and **Mayotte** in the course of 2017.[54]

OFPRA also conducted 21 abroad missions with UNHCR to relocate asylum seekers living in Greece, Italy and to resettle refugees from Turkey, Lebanon, Chad and Niger.[55]

---

50 OFPRA, *Contrôle qualité, Premier exercice d'évaluation (réalisé entre janvier et mai 2014 sur des décisions notifiées au cours du premier semestre 2013*, 17 September 2014, available in French at: http://bit.ly/1LLTkyU.

51 OFPRA, *Contrôle qualité, Deuxième exercice d'évaluation (réalisé entre juin et octobre 2015 sur des décisions de l'Ofpra notifiées au cours du 1er semestre 2014)*, 12 May 2016, available in French at: http://bit.ly/2kgUqvO.

52 Article L.723-3 Ceseda.

53 OFPRA, *2015 Activity report*, 41.

54 OFPRA, 'Les données de l'asile 2017 à l'OFPRA', 8 January 2018, available in French at: http://bit.ly/2qRJ71o .

55 *Ibid.*

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

French legislation provides for systematic personal interviews of applicants. This obligation has been strengthened by the reform of the law on asylum, as instead of 4 there are now only 2 legal grounds for omitting a personal interview:[56]

(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 2016, 94.1% of all asylum seekers were summoned for an interview, compared to 95.4% in 2015. The rate of interviews actually taking place has slightly decreased: 72.4% in 2016, compared to 76% in 2015.[57]

All personal interviews are conducted by protection officers from OFPRA. Asylum seekers are interviewed individually without their family members. A minor child can also be interviewed alone if OFPRA has serious reasons to believe that he or she might have endured persecutions unknown to other family members.[58] 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.[59]

Interviews can also be conducted through video conferencing in 3 cases:[60]

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

An OFPRA Decision of 11 October 2017 has established 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.[61]

In 2016, 4.2% of interviews were conducted through video conferencing. The percentage was much higher overseas (84%), with the majority of video conference interviews being held in **Guyane**.[62]

Accompaniment and interpretation

Asylum seekers have the possibility to be accompanied by a third person, either a lawyer or a representative of an authorised NGO.[63] In a Decision of 30 July 2015, OFPRA's Director-General has

56 Article L.723-6 Ceseda, applicable for asylum claims introduced as of 20 July 2015.
57 OFPRA, *2016 Activity report*, 65-66.
58 Article L.723-6 Ceseda.
59 *Ibid*.
60 Article R.723-9 Ceseda.
61 OFPRA, Decision NOR: INTV1723025S, 11 October 2017, available in French at: http://bit.ly/2CJZLRP.
62 OFPRA, *2016 Activity report*, 67.
63 *Ibid*.

detailed the conditions for the organisation of the interview. The third person has to inform OFPRA, to the extent possible, 7 days prior to the interview in the regular procedure and 4 days in the accelerated procedure of his or her intention to accompany an asylum seeker to the interview. The absence of a third person does not prevent OFPRA from conducting the interview. The third person is not allowed to intervene or to exchange information with the asylum seeker or the interpreter during the interview, but he or she can formulate remarks and observations at the end of the interview. These observations are translated if necessary and written down in the interview report. The interview is also fully recorded.[64]

The asylum seeker or the third person can ask to read the interview report before a decision is taken on the case. At the end of the interview, the asylum seeker and the third person who accompanies him or her are informed of their right to have access to the copy of the interview. The latter is either immediately given to the asylum seeker or it is sent before a decision is taken.[65] However, neither the law nor the OFPRA Decision of 30 July 2015 allow for the possibility of further comments before the decision is taken. However, neither the law nor the OFPRA Decision of 30 July 2015 allow for the possibility of further comments before the decision is taken.

A few organisations have requested to be authorised to accompany asylum seekers during the interview, and 21 have been authorised by OFPRA in two Decisions dated 21 March 2016 and 2 March 2017.[66] These organisations are frequently requested to accompany asylum seekers, most of the time from applicants not accommodated in the centres they run. However, the lack of specific funding dedicated to this mission renders such assistance difficult in practice. Forum réfugiés – Cosi has been requested only about 106 times during the year 2017, out of more than 6,000 asylum seekers benefiting from its assistance and support.

The presence of an interpreter during the personal interview is provided if the request had been made in the application form. Interpreters are usually available,[67] but some difficulties are frequently observed (for instance translation in Russian is often imposed even though the language requested was Chechen and Serbo-Croatian can be imposed even if the Romani language has been requested). Rare languages (such as Susu or Edo) are often not well represented. The law provides for a choice of interpreter according to gender considerations, in particular if the asylum seeker has been subjected to sexual violence.[68] This new provision also applies to protection officers. According to some stakeholders, the quality of the translations provided can vary widely. Some asylum seekers have reported issues with translations that are too simplified (approximate translations or not in line with their answers) or with inappropriate behaviour (inattentive interpreters or interpreters taking the liberty to make personal reflections or laughing with the protection officer). Finally, sometimes the protection officers themselves act as interpreters and this can have a diverse impact. Some asylum seekers report difficulties to open up to a person who speaks the language of the country involved in the invoked persecutions. Nevertheless, some advantages have also been reported, such as demonstrating a particular interest for the region of origin.

64 OFPRA, Decision of 30 July 2015 establishing organisational modalities for the interview according to the implementation of Article L.723-6 of the Ceseda (Décision du 30 juillet 2015 établissant les modalités d'organisation de l'entretien en application de l'article L.723-6 du Ceseda).

65 Article R.723-7 Ceseda.

66 OFPRA, Decision NOR: INT1607856S of 21 March 2016 establishing the list of organisations competent for proposing representatives to accompany asylum seekers or refugees or beneficiaries of subsidiary protection to a personal interview held by OFPRA ; OFPRA, Décision NOR : INT1706306S of 2 March 2017 establishing the list of organisations competent for proposing representatives to accompany asylum seekers or refugees or beneficiaries of subsidiary protection to a personal interview held by OFPRA. The list of authorised organisations can be found at: http://bit.ly/2FnoHk2.

67 OFPRA, *2016 Activity report*, 92 mentions that 93% of interviews held in 2016 were conducted with an interpreter, compared to 83% in 2015.

68 Article L.723-6 Ceseda.

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 this decision.[69] In case a technical issue prevents the audio recording from being put in place, additional comments can be added to the registration of the interview. If the asylum seeker refuses to confirm that the content of the interview registered is in compliance with what has effectively been said during the interview, the grounds for his or her refusal are written down. However, it cannot prevent OFPRA to issue a decision on his or her claim.[70] Access to the audio recording is quite difficult for asylum seekers. Indeed, before OFPRA issues its decision, the recording can only be listened to in OFPRA offices, in **Fontenay-sous-Bois**. This makes it impossible for asylum seekers accommodated outside Paris and its surroundings to get access to recordings. At CNDA stage, the audio recording can be obtained by asylum seekers' lawyers and transmitted to them. Even if most of lawyers pleading to the Court are based in Paris and its surroundings, it is much easier for asylum seekers to get access to the audio recording through them.

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

The report is not a verbatim transcript of the interview as in practice the protection officer takes notes him or herself at the same time as he or she conducts the interview. The report is a summary of the questions asked by the protection officer, the answers provided by the asylum seeker and, since the adoption of the reform of the law on asylum, the observations formulated by the third person, if applicable. It also mentions the duration of the interview, the presence (or not) of the interpreter and the conditions in which the asylum seeker wrote his or her application. The report is sent to the asylum seeker together with any notification of a negative decision. The section on the opinion of the protection officer is included in the document received by the asylum seeker since 1 January 2015. The report is written in French and is not translated for the applicant. In practice, the quality of the interview report can be very variable. This aspect was also mentioned in the quality control initiative whose results were published in May 2016.[71]

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 ☐ No
2. Average processing time for the appeal body to make a decision: Not available

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

Following the rejection of their asylum application by the Director General of OFPRA, the applicant may challenge the decision to the National Court of Asylum (CNDA). The CNDA is an administrative court specialised in asylum. The CNDA is divided into 11 chambers. These chambers are divided into formations of courts each of them made up of 3 members:[72] a President (member of the Council of

69 Article L.723-7 Ceseda.
70 Article R.723-8 Ceseda.
71 OFPRA, *Contrôle qualité, Deuxième exercice d'évaluation*, 12 May 2016.
72 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.

State, of an administrative court or appellate court, the Revenue Court or magistrate from the judiciary, in activity or honorary)[73] and 2 designated assessors, including one appointed by UNHCR. This presence of a judge appointed by UNHCR at the CNDA is a unique feature of the French asylum system.

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

The appeal must be filed by registered mail within 1 month from the notification of the negative decision by OFPRA. The Decree on CNDA Procedure of 16 August 2013[74] has introduced a longer period for asylum applications lodged in French overseas departments;[75] these asylum seekers have 2 months to appeal the OFPRA decision. There is a specific form to submit this appeal such as detailed in a recent amendment of the Ceseda:[76]

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

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

The CNDA sends a receipt of registration to the applicant which notifies the applicant of his or her right to consult his or her file, the right to be assisted by a lawyer, the fact that the information concerning his or her application is subject to automated processing, of the possibility that his or her appeal will be processed by order ("*ordonnance*") namely by a single judge without a hearing. The same receipt requests the applicant to indicate the language in which he or she wishes to speak at the hearing in order to select the interpreter. 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" ("*ordonnance"*). 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.[77]

---

73 10 judges acting as presidents are now working full time at the CNDA, in addition to part time judges on temporary contracts.

74 Decree n. 2013-751 of 16 August 2013 on the procedure related to the CNDA, completed by two orders (*arrêtés*) from 22 April 2014. A useful explanatory note was published on the CNDA website in September 2013: http://bit.ly/1HAwuYj.

75 Guadeloupe, Guyane, 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.

76 Article R.733-5 Ceseda.

77 In a decision of 9 July 2014, the Council of State considered that when the CNDA takes an order ("*ordonnance*", i.e. a decision taken by a single judge), the absence of UNHCR does not contravene the 1951 Geneva Convention (in particular Article 35) nor EU law (in particular Article 21 of the Asylum Procedures Directive: Council of State, Decision n°366578, 9 July 2014, available in French at: http://bit.ly/1CfPye8.

Processing times

The law sets a time limit for the CNDA to take a decision. The CNDA has to rule within 5 months under the regular procedure. When the appeal concerns a decision from OFPRA issued under the accelerated procedure or if it concerns an appeal for a claim considered inadmissible, then the CNDA has to rule within 5 weeks. Under the regular procedure, the appeal is processed by a Court panel while in other cases only one single judge – either the President of the CNDA or the President of the section – rules on the appeal. In 2017, the CNDA took 22,047 decisions in collegial function and 25,767 single-judge decisions.[78]

In 2017, the CNDA registered 53,581 appeals and took 47,814 decisions, marking an increase in its activity from previous years.[79] It had registered 39,986 appeals and took 42,968 decisions in 2016.[80] The average processing time for the CNDA to take a decision has continued to decrease in 2017: It was reported at 5 months and 6 days, down from 6 months and 26 days in 2016, and 7 months and 3 days in 2015.[81]

The 2013 Decree on CNDA procedure has modified some of the procedural steps pertaining to the appeal stage. The Decree provides that the deadline for closing the inquiry is 5 days minimum before the date set for the hearing (instead of 3 days as was the case until now). This means that it is only possible to add further information to the appeal case until 5 days before the hearing.[82] After the hearing, it is nevertheless possible to produce further elements to the Court by submitting a *"note en délibéré"*. In the regular procedure, 21 days are taken by the Court before delivering its decision. This delay is named *"délibéré"*, during which the claimant can inform the Court of new elements or modify his or her declarations.

Hearing

Unless the appeal is rejected by order ("*ordonnance"*), the law provides for a hearing of the asylum seeker. A summons for a hearing has to be communicated to the applicant at least 30 days before the hearing day.[83] These hearings are public, unless the President of the section decides that it will be held *in camera* and take place at the CNDA headquarters near Paris.[84] In most cases, hearings were held in camera following a specific request from the applicant. Since the reform, the hearing in *camera* is *ipso jure* (*de plein droit*) meaning that it is applied upon request of the applicant. Asylum seekers who are not accommodated in reception centres have to organise and pay for their journey themselves, even if they live in distant regions. The hearing begins by the presentation of the report by the *rapporteur*. The judges can then interview the applicant. If the applicant is assisted by a lawyer, he or she is invited to make oral submissions, the administrative procedure before the CNDA being mainly written. Following the hearing, the case is placed under deliberation.

A total 3,607 hearings were ordered by the CNDA in 2017, of which 2,362 in collegial function and 1,245 in single-judge format.[85]

78 CNDA, *2017 Activity report*, 26 January 2018, available in French at: http://bit.ly/2EfuMRJ, 6.
79 Ministry of Interior, *La demande d'asile*, 16 January 2018.
80 Ministry of Interior, *La demande d'asile*, 16 January 2017.
81 CNDA, *2017 Activity report*, 7.
82 Article R.733-13 Ceseda.
83 Article R.733-19 Ceseda. In case of "emergency" however, the period between the summons and the hearing can be reduced to 7 days.
84 Except for overseas departments where missions from the CNDA are regularly organised to hear the applicants.
85 CNDA, *2017 Activity report*, 12.

The fact the CNDA may reject cases without hearing them has an effect on the duration of the procedure. If the court makes a decision "by order", the duration of the procedure will be up to three months faster.

The use of video conferencing for the CNDA hearings is allowed.[86] The applicant will be informed by registered mail and will have 15 days to refuse it; however, the possibility to refuse only applies to those living in mainland France. In practice, this is only applied to applicants overseas and it replaces mobile court hearings. In 2017, 121 video hearings were held in total,[87] compared to 194 in 2016,[88] and 87 in 2015.[89]

Decisions of the CNDA are published (posted on the walls of the court building) during a period of 21 days under regular procedure and one week under accelerated one.[90] Negative decisions are transmitted to the Ministry of Interior, i.e. OFPRA and Prefectures.

Finally, the decree on the procedure related to the CNDA of 16 August 2013 foresees that in cases where the CNDA plans to reject the appeal by order ("*ordonnance*") 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.[91] Moreover, the same decree provides that if the CNDA fails to provide an interpreter in the language indicated by the applicant, the CNDA has to inform the latter that he or she will be heard in another language one can reasonably think he or she will understand.[92] In practice, applicants are always heard in the language for which they have asked to have an interpreter. If an asylum seeker cannot be heard in the language he or she has indicated in his or her claim, because there is no interpreter available, the hearing will be postponed.

Asylum seekers face several obstacles to challenging a negative OFPRA decision. Indeed, despite the translation of time limits and appeal modalities at the back of the refusal notification, some asylum seekers sometimes do not understand, in particular those who are not accommodated in reception centres. Since 2012, these are no longer eligible for support for the preparation of their appeal within the orientation platforms. They can only rely on volunteer assistance from NGOs, whose resources are already overstretched. In addition, since 29 October 2015, accommodation centres no longer ensure any mission, officially, of legal aid regarding the appeal. Their mission is circumscribed to a legal orientation to lawyers and to filling the legal aid request form. In practice, most accommodation centres keep on assisting asylum seekers in writing and challenging their claim to the CNDA.

1.4.2. Onward appeal before the Council of State

An onward appeal before the Council of State (*Conseil d'Etat*) is provided by law in case of a negative decision at CNDA level or in case OFPRA decides to appeal against a CNDA decision granting a protection status.[93] This appeal must be lodged within 2 months of notification of the CNDA decision.[94] The Council of State does not review the facts of the case, but only allegations supported by the applicant on points of law such as compliance with rules of procedure and the correct application of the law by the CNDA. If the Council of State annuls the decision, it refers to the CNDA to decide again on the merits of the case, but it may also decide to rule itself on the granting or refusal of protection.

---

86 Decree of 12 June 2013 setting the technical characteristics of the communication means to be used at the CNDA, Official journal 18 June 2013, NOR: JUSE1314361A; Article L.733-1 Ceseda.
87 CNDA, *2017 Activity report*, 12.
88 CNDA, *2016 Activity report*, 27 January 2017, 13.
89 CNDA, *2015 Activity report*, 31 March 2016, 13.
90 CNDA decisions are however not accessible on the internet. Only a selection of them are published by the CNDA on its website: http://bit.ly/2ki5O6G.
91 Article R.733-4(5) Ceseda.
92 Article R.733-8 Ceseda.
93 Article L.511-1 CJA.
94 See CNDA, *Appeals before the Council of State*, available in French at: http://bit.ly/1dBgbhO.

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

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

Source: CNDA, 2017 Activity report, 9.

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

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

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 in the first instance (at OFPRA level) depend on the type of reception conditions they enjoy:

- If the applicant is accommodated in a reception centre for asylum seekers (CADA) or a Reception and Orientation Centre (CAO), he or she can be supported in the writing of his or her application form by staff from the reception centres. According to the mission set out in their framework agreement,[95] CADA teams, most of the time, social workers, should also assist the applicant in the preparation of the interview at OFPRA. This consists more in administrative rather than legal assistance.

- If the applicant cannot be accommodated in such a reception centre, then the "reference framework" for asylum seekers' "orientation platforms"[96] applies,[97] and he or she can obtain some basic information and assistance on the procedure. Some applicants can benefit from support and assistance provided in some emergency reception structures. In this case, asylum seekers are assisted in their paperwork, such as their application for legal aid and their

95 Annex 1 Circular on CADA Mission, 19 August 2011, available at: http://bit.ly/1Kv5fiG.

96 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.

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

residence permit renewal process. Asylum seekers may also be assisted in the drafting of their asylum application but the preparation for the interview is theoretically excluded.

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

Access to legal assistance is therefore uneven depending on the type of reception conditions provided. Asylum seekers in the most precarious situations, those without reception conditions are offered much fewer services than those accommodated in CADA. This situation leads to unequal treatment between asylum seekers accommodated in CADA, who receive support and in-depth assistance, and asylum seekers housed in emergency facilities, who are without direct support and are sometimes located far away from the regional orientation platforms. Furthermore, these platforms do not have the same capacity as CADA, and this greatly limits the services provided to these persons.[98]

1.5.2. Legal assistance at the appeal stage

As mentioned in Appeal, the terms of reference of CADA have been modified and support to asylum seekers in the appeal phase is not included anymore. Legal support for the preparation of appeals to the CNDA is also not funded within the "reference framework" of the orientation platforms. Therefore, asylum seekers have to rely on legal support from lawyers.

Since 1 December 2008, the law foresees the granting of legal aid ("*aide juridictionelle*") for lawyers to file an appeal to the CNDA in case of an OFPRA negative decision, thus removing the entry and residence conditions imposed since 1991.[99] Legal costs can therefore, upon certain conditions, be borne by the State.

Since 2015, the right to legal aid as it is considered as *ipso jure* ("*de plein droit*"). Legal aid is of an automatic entitlement and is granted upon request if:

- The appeal does not appear to be manifestly inadmissible; and
- The legal allowance application is submitted within 15 days after receiving the notification of the negative decision from OFPRA or within 1 month if the request for legal aid is included within the appeal to OFPRA negative decision.

In case of a negative decision by OFPRA, means and deadlines for introducing an appeal are written down in the decision sent to the asylum seeker. There are 2 possibilities to request legal aid to challenge OFPRA's decision before the CNDA:[100]

(1) Before introducing the appeal, the asylum seeker, or his or her lawyer in case he or she has one, can request legal aid to the Legal Aid Office within 15 days after the notification of the decision by OFPRA. In that case, the 1-month time limit to introduce the appeal will only start running once the asylum seeker or his or her lawyer receives the notification of legal aid from the Legal Aid Office.

(2) When introducing the appeal to the CNDA, the asylum seeker, or his or her lawyer in case he or she has one, can request legal aid with the appeal claim and only at the moment of its submission to the Court.

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.[101] The refusal to grant legal aid may be challenged before the President of the

98 Valérie Létard and Jean-Louis Touraine, *Report on Asylum Reform: Report to the Minister of Interior*, 28 November 2013.

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

100 Article 9-4, Title I of the Law n. 91-647, 10 July 1991 on Legal aid.

101 *Ibid*. See CNDA, *Legal Aid*, available in French at: http://bit.ly/1FXqvaw.

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 quite widely granted:

Applications for legal aid before the CNDA: 2015-2017			
	2015	2016	2017
Total applications	29,181	30,193	42,749
Total decisions on applications	28,627	29,324	44,989
Granted	25,933	28,217	43,466
Refused	2,694	1,107	1,523

Source: CNDA, 2017 Activity report, 13.

Requests were accepted in 96.6% of cases in 2017, compared to 96.2% of cases in 2017.[102]

Until 2013, lawyers working in the field of asylum were granted lower financial compensation (8 credits, or 182 € per file) than the fee allocated for ordinary cases before administrative courts. A Decree of 20 June 2013 doubles the unit value (16 credits, or 424 €) for appeals with a hearing and 4 credits (or 106 €) for appeals without a hearing before the CNDA.[103] Two Decrees of 12 January 2016 have increased the amount of the unit value.[104]

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.[105] In particular, it is not enough to cover the cost of an interpreter during the preparation of the case.[106] Lawyers are often court-appointed by the CNDA.[107] The difficulty is that, even though court-appointed lawyers are informed of the name of their client in between 2 and 3 months before the hearing, they only have the address of their clients and no phone numbers which often prevent both parties to effectively get in touch. Moreover, most of these lawyers are based in Paris whereas asylum seekers can be living elsewhere in France. Therefore, they often do not meet their clients until the last moment. These lawyers sometimes refuse to assist asylum seekers in writing their appeal and only represent them in court. This makes it difficult for asylum seekers to properly prepare for the hearing. Asylum seekers who are not accommodated in reception centres are therefore on their own to write their appeal and face a high risk of seeing their appeal rejected by order ("*ordonnance*") due to insufficient arguments.

2. Dublin

2.1. General

Dublin statistics: 2017

Statistics on the application of the Dublin Regulation are not made available by the authorities prior to their publication on the Eurostat database. However, provisional figures refer to an estimated 41,500

102 CNDA, *2017 Activity report*, 13.
103 Decree n. 2013-525 of 20 June 2013 on the compensation for the missions of Legal aid carried out by lawyers at the CNDA.
104 Decree n. 2016-11 of 12 January 2016 on the compensation for the missions of Legal aid.
105 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.
106 Senate, *Information Report n°130*, prepared by Senators Jean-Yves Leconte and Christophe-André Frassa, 14 November 2012.
107 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).

applications placed under the Dublin procedure.[108] This represents a substantial increase in Dublin procedures, compared to 25,963 outgoing Dublin requests in 2016.[109]

Available information on outgoing Dublin transfers also suggests an increase in the number of persons transferred to other Member States. France carried out 1,248 outgoing transfers in the first six months of 2017,[110] compared to 1,293 in the entire year 2016.[111] These still represent a very low rate of success in the implementation of Dublin transfers.

The Dublin procedure is implemented by Prefectures, therefore it can vary greatly from one Prefecture to another across France and, even within the same Prefecture, practice can vary over time and depending on the cases. For instance, across the **Ile de France** region, several disparities are witnessed between different Prefectures.[112]

Application of the Dublin criteria

The Dublin procedure is applied to all asylum seekers without exception (as per the Regulation). The Ministry of Interior issued an instruction on 19 July 2016, recalling to all Prefectures that "in the current migration context, no asylum application should be registered as France's responsibility without prior verification whether France is in fact the responsible country."[113] The official policy of the French Dublin Unit is that it does not transfer unaccompanied children under the Dublin Regulation. Unaccompanied children can however be placed under a Dublin procedure by Prefectures.

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. According to a Circular of 1 April 2011,[114] the taking of fingerprints will be decisive in the search for the most likely responsible State.

Practice was expected to evolve with the implementation of the 2015 reform of the law on asylum as the Circular of 2 November 2015 stated that "in case another Member State would be responsible for processing the asylum claim, the Prefecture conduct the interview with the asylum seeker in order to establish his or her conditions of entry, his or her itinerary and potential family ties in another Member State."[115] The instruction of 19 July 2016 also reiterates that the presence of family members must always be inquired, even in the case of a Eurodac 'hit'.[116] In practice, the taking of fingerprints still remains decisive in the determination of the State responsible for processing the asylum claim.

---

108 Ministry of Interior, *Chiffres clés – Les demandes d'asile,* 16 January 2018.

109 La Cimade, 'Application du règlement « Dublin » en France en 2016', 8 July 2017, available in French at: http://bit.ly/2CXA3MX.

110 Assemblée Nationale, *Projet de loi de finances 2018 – Rapport n° 273*, 12 October 2017, available in French at: http://bit.ly/2rn0Vl6.

111 La Cimade, 'Application du règlement « Dublin » en France en 2016', 8 July 2017, available in French at: http://bit.ly/2CXA3MX.

112 See La Cimade, 'Dublin : état des lieux et conseils pratiques en Ile de France', 9 October 2017, available in French at: http://bit.ly/2iUiHaz.

113 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.

114 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.

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

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

The dependent persons and discretionary clauses

It is difficult to know how the discretionary clauses are applied, although a recent order of the Council of State illustrates the use of the sovereignty clause in cases where a child with health conditions may encounter risks upon transfer to another country.[117]

The use of discretionary clauses had been encouraged on several occasions by the National Consultative Commission of Human Rights (CNCDH) in the frame of the dismantlement of the **Calais** slums.[118] The Ministry of Interior has also recommended the use of these clauses to asylum seekers accommodated in reception and orientation centres (CAO) especially concerning those with family ties in UK.[119] For many stakeholders in the field, it had been understood that the discretionary clauses would be applied to asylum seekers joining the CAO. This general opinion seems to be shared by the Ombudsman, which recalled the positions of the Ministry of Interior at the beginning of the operations of dismantlement of the Calais "jungle": "According to the information shared by the Ministry, it was obvious that no removal measure could be applied to people orientated to CAO, especially regarding the Dublin procedure."[120] In the same report, the Ombudsman deplores the fact that these promises have not been kept.

2.2. Procedure

Indicators: Dublin: Procedure

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

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

The deadline of 3 months for Prefectures to issue an outgoing Dublin request starts running from the moment the applicant makes an application at the orientation platform (PADA) rather than the date of registration of the application at the "single desk", as confirmed by the Administrative Court of Appeal of Bordeaux in application of the Court of the Justice of the European Union (CJEU) ruling in *Mengesteab*.[121]

When they go to the Prefecture to register as asylum seekers at the "single desk", all applicants are given an information leaflet explaining, among others, the Dublin procedure; Leaflet A, produced by the EU and translated into several languages.[122] They also receive the general guide for asylum seekers, also translated into several languages, and a form to notify their intention to introduce an asylum claim (see section on Registration).

During the application process, the officers in Prefectures are requested to take fingerprints for each and every asylum seeker above 14 years old and they have a duty to check these fingerprints in the Eurodac database. An exception is made for asylum seekers whose fingerprints are unfit for identification i.e. unreadable. In this case, asylum seekers will be summoned again and then their claim

117 Council of State, Order No 416192, 5 December 2017, available at: http://bit.ly/2rpCZNM.

118 CNCDH, *Avis de suivi sur la situation des migrants à Calais et dans le Calaisis* (Survey notice on migrants situation in Calais and in Calaisis), 7 July 2016, available in French at: http://bit.ly/2iEsAJB.

119 Ministry of Interior and Ministry of Housing, *Joint notice on the implementation of CAOs*, 7 December 2015, available in French at: http://bit.ly/2k3BFIa.

120 Ombudsman, *Rapport d'observation : démantèlement des campements et prise en charge des exiles Calais – Stalingrad (Paris)*, 20 December 2016, available in French at: http://bit.ly/2jONLpl. Unofficial translation by the author.

121 Administrative Court of Appeal of Bordeaux, Decision No 17BX03212, 22 December 2017, available at: http://bit.ly/2DttGBh. See CJEU, Case C-670/16 *Mengesteab*, Judgment of 26 July 2017.

122 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.

will be channelled into the accelerated procedure if their fingerprints are still unfit for identification,[123] except very specific cases related to a proved illness. The asylum claim cannot be fully registered without the fingerprints have been taken and checked in Eurodac. Therefore, the asylum claim certification is only delivered once all information, including fingerprints, has been registered.[124]

Asylum seekers receive an asylum claim certification specifying the procedure under which they have been placed, for instance the Dublin procedure.[125] This asylum claim certification allows asylum seekers placed under Dublin to remain legally on the French territory during the entire procedure for the determination of the responsible State.

Once a claim is channelled under the Dublin procedure, the applicant receives a second information leaflet on the Dublin procedure (Leaflet B, produced by the EU and translated into several languages)[126] 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 Prefectures e.g. in **Nice** or in **Clermont-Ferrand**, an interpreter is called to translate the written information when the applicant does not speak French. The applicant must go to the Prefecture every month with his or her Dublin notice document.

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

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

The law provides the possibility of notifying a house arrest to asylum seekers during the procedure of determination of the responsible Member State, which has been recently encouraged by the Ministry of Interior (see Alternatives to Detention). The foreign national can be notified a house arrest for a 6-month period. This house arrest has to be motivated and it is renewable once for the same period of time. The foreign national then has to present him or herself to the Prefecture when asked to. The Prefecture can also seize his or her passport or identity documents.[127] Through an instruction of 20 November 2017, the Ministry of Interior has requested its services to make a systematic application of the Dublin procedure, to increase house arrest notifications and to proceed effectively to the implementation of all transfer decisions.[128]

In practice, the use of this possibility varies a lot depending on the Prefectures. In **Marseille** and more recently **Lyon** for example, Forum réfugiés - Cosi staff have reported a systematic notification of house arrest to asylum seekers under a Dublin procedure. In **Paris** and its surroundings, most of asylum

123 Article L.723-2 Ceseda.
124 Circular of 2 November 2015 on the implementation of the Law of 29 July 2015.
125 Articles L.741-1 and L.742-1 Ceseda.
126 European Commission and Migrationsverket, *Leaflet B: "I am in the Dublin procedure – What does this mean?"*, 2014, available at: http://bit.ly/1dBoCd2.
127 Article L.742-2 Ceseda.
128 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.

seekers placed under the Dublin procedure are indeed under house arrest, as most Prefectures notify this possibility during the determination procedure.[129]

A specific administrative centre (*Centre d'examen de situation administrative*, CESA) has been established in **Paris** to examine the administrative situation of newly arrived migrants. However, the Administrative Court has identified procedural irregularities in this centre related to the application of the Dublin procedure, namely the lack of access to procedural guarantees provided by the Dublin Regulation.[130]

Individualised guarantees

Information gathered at the time of writing shows that individualised guarantees for Dublin returnees are not checked. Indeed, the case law *Tarakhel v Switzerland* foresees that States have to check which reception conditions and procedural provisions will be guaranteed to asylum seekers when being returned to the determined responsible States. That should particularly be applied to vulnerable asylum seekers and families.

The individual guarantees are checked during the judicial review before the administrative courts. It is nevertheless impossible to draw a coherent practice from French case law regarding individualised guarantees. The Hunagrian situation is an example: the Administrative Court of Appeal of Nancy found on 31 March 2016 that the Hungarian asylum system did not present deficiencies.[131] On 31 May 2016, the Administrative Court of Appeal in Lyon also held that the asylum system in Hungary corresponded to the European standards. According to the Court, there was no reason to consider that the Hungarian asylum system did not meet the required criteria for providing decent living conditions to asylum seekers regarding the claimant's personal situation.[132] Two months later, the Administrative Court of Lyon stated, in its decision of 29 July 2016, that the Hungarian asylum system presented systemic failures incompatible with the preservation of individualised guarantees for asylum seekers.[133] The Administrative Court of Appeal of Bordeaux took a different decision on 27 September 2016. The Court stated that the conditions in which asylum seekers had to submit their claim in Hungary did ensure an effective examination of their claim.[134]

Transfers

Any transfer decision must be motivated and notified in writing to the applicant.[135] It shall mention deadlines to appeal and explain the appeal procedure. When the foreign national is not assisted by a lawyer or an association, the main elements of the decision have to be communicated in a language he or she understands or is likely to understand.

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

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

---

129 See La Cimade, 'Dublin : état des lieux et conseils pratiques en Ile de France', 9 October 2017, available in French at: http://bit.ly/2iUiHaz.
130 Administrative Court of Paris, Decision No 1704934, 19 April 2017; Decision No 1716232, 6 November 2017.
131 Administrative Court of Appeal of Nancy, Decision No 15NC00961, 31 March 2016.
132 Administrative Court of Appeal of Lyon, Decision No 15LY03569, 31 May 2016.
133 Administrative Court of Lyon, Decision No 1605495, 29 July 2016.
134 Administrative Court of Appeal of Bordeaux, Decision No 16BX00997, 27 September 2016.
135 Article L.742-3 Ceseda.

The modalities put in place to arrange transfers can vary from one Prefecture to another. In the **Rhône** department, a refusal of voluntary transfer (refusal to accept the transfer upon notification) does not necessarily result in immediate administrative detention.

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

The law enables the Prefect to place under house arrest, systematically, any asylum seeker subject to a transfer decision (see Alternatives to Detention).[136] According to this measure, the asylum seeker has to respect the limitations defined by the house arrest order. In case the asylum seeker has not obeyed the house arrest, he or she may be placed in administrative detention.[137] The Prefect can also request the Judge of Freedoms and Detention (JLD) to make an order to require the assistance of the police to ensure of the presence of the asylum seekers at the place he or she is supposed to remain or to operate his or her transfer.[138] Since an instruction of the Minstry of Interior of 20 November 2017, the use of these provisions increased in every Prefecture.[139] For example, they are systematically used in **Lyon** and in most Prefectures of **Ile de France**.

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

Finally, it should be noted that the rate of actual implementation of transfers remains low. There were 1,293 effective transfers in 2016, compared to 525 in 2015, representing only 9% of total agreements.[140] There seems to have been an increase in 2017, however, as France carried out 1,248 outgoing transfers in the first six months of 2017.[141]

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.

136 Article L.561-2 Ceseda.
137 *Ibid.*
138 *Ibid.*
139 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.
140 La Cimade, 'Application du règlement « Dublin » en France en 2016', 8 July 2017, available in French at: http://bit.ly/2CXA3MX.
141 Assemblée Nationale, *Projet de loi de finances 2018 – Rapport n° 273*, 12 October 2017, available in French at: http://bit.ly/2rn0Vl6.

There is a specific interview in the Dublin procedure in France. Difficulties arise from the fact this interview is not always conducted in most cases in practice. In **Lyon**, **Bourgogne** and **Marseille**, the interviews are conducted in order to inform the asylum seekers about their rights. In **Clermont-Ferrand**, asylum seekers are not summoned to an interview at the prefecture, like in many other parts of the French territory, such as **Paris** and its surroundings for example. The instruction of the Ministry of Interior of 19 July 2016 also recalls that interviews must be systematically conducted, not only limited to cases of a Eurodac 'hit'.

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

Whether they are interviewed or not, all asylum seekers fill in a form during an appointment at the Prefecture to apply for the asylum claim certification.[142] 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.[143] During this appointment, which takes place at the desk in Prefectures (therefore not in offices guaranteeing confidentiality), questions are asked about civil status, family of the applicant, modes of entry into French territory, countries through which the applicant possibly travelled prior to his or her asylum application, etc. Applicants have the possibility to mention the presence of family members residing in another Member State. Some stakeholders in **Lyon** have reported that no questions were asked about family members during the interview.

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

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

Asylum seekers placed under the Dublin procedure can introduce an appeal before the Administrative Court to challenge the decision of transfer. The appeal has to be introduced within 15 days after the asylum seeker has been notified the decision of transfer. The appeal has suspensive effect. The designated judge has to rule within 15 days after the appeal has been lodged.[144]

These time limits are shorter in case of detention or house arrest. In such cases, the appeal has to be introduced within 48 hours after the decision of transfer has been notified.[145] The judge has to rule within 72 hours after the appeal has been lodged.[146]

142 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.

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

144 Article L.742-4 Ceseda.

145 *Ibid.*

146 Article L.512-1 III Ceseda.

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

This method is 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).[147]

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☐ Same 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, usually they only have access to the legal assistance provided by the orientation platforms. For example, in 2017 the PADA managed by Forum réfugiés – Cosi provided legal support to approximately 1,533 (25%) persons under the Dublin procedure in **Lyon**, 417 (29%) in **Clermont-Ferrand**, 2482 (33%) in **Nice**, 567 in **Toulouse** (21%) and 1,245 (34%) in **Marseille**.

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 his or her fundamental rights. Access to legal aid can be refused if the arguments are deemed unfounded.

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

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

There is no current general policy of suspension of transfers. The official position of the Ministry of Interior consists in systematically applying the Dublin Regulation.

Hungary: On several occasions in 2016 and 2017, French administrative courts have suspended the transfer of asylum seekers under the Dubin Regulation to Hungary and it seems that the Prefectures are no longer issue transfer decisions for Hungary.[148]

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

148 Administrative Court of Appeal of Nancy, Decision No 15NC00961, 31 March 2016; Administrative Court of Appeal of Lyon, Decision No 15LY03569, 31 May 2016; Administrative Court of Lyon, Decision No 1605495, 29 July 2016; Administrative Court of Appeal of Bordeaux, Decision No 16BX00997, 27 September 2016.

Italy: The Administrative Courts have suspended transfers to Italy on account of systemic deficiencies due to pressure in the reception system and the absence of vulnerability identification processed.[149]

Bulgaria: The Administrative Court of Lille prevented a transfer on the basis of systemic deficiencies in 2016.[150]

In some individual cases, the Administrative Courts have prevented transfers on the basis of risks of chain *refoulement* after asylum seekers' return to another Dublin state. This was the case for Afghan and Iraqi nationals in particular, where courts have suspended Dublin transfers to **Norway**, **Sweden** and **Finland**, on the ground that asylum seekers would face a risk of indirect *refoulement* on account of these countries' tendency to return such persons to their countries of origin.[151] In relation to **Italy** as well, the Administrative Court of Melun suspended the transfer of a Sudanese national on the ground that he would face chain *refoulement* to Sudan if returned to Italy.[152]

2.7. The situation of Dublin returnees

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

The conditions of support and assistance of Dublin returnees are really complicated. The humanitarian emergency reception centre (*Permanence d'accueil d'urgence humanitaire*, PAUH) run by the Red Cross based next to **Roissy – Charles de Gaulle** airport faces several difficulties with Dublin returnees.[153] This centre initially aims to provide people released from the transit zone, after a court decision, with legal and social support. For many years, without any funding to implement this activity, the centre has received Dublin returnees at their arrival at the airport. The returnees are directed towards the centre by the police or the airport services.

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

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

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

Contrast a decision considering that there are no systemic deficiencies in Hungary: Administrative Court of Versailles, Decision No 16VE02239, 28 June 2017.

149 Administrative Court of Rennes, Decision 1705747, 5 January 2018; Administrative Court of Nantes, Decision No 1601004, 12 February 2016. See also Administrative Court of Pau, Decision of 26 January 2018.

150 Administrative Court of Lille, Decision No 1603217, 2 May 2016.

151 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).

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

153 Information collected during an interview with the Director of the centre, 2016.

(2) On the other hand, some Prefectures do immediately register the asylum claims of returnees and channel them to OFII in order to find them an accommodation place. The PAUH is the only entity receiving and supporting Dublin returnees upon their arrival in France by Charles de Gaulle airport. Considering the systemic difficulties encountered by the orientation platforms in Paris and its surroundings, several Dublin returnees, after registering their claim, are apt to turn to it in order to complete their asylum claim form or to find an accommodation.

In **Lyon**, the situation is similar upon arrival of returnees at **Saint-Exupéry** airport. The returnees are not received at their arrival and not supported. They are deemed to present themselves at the orientation platform (PADA) run by Forum réfugiés – Cosi to be registered before submitting their claim. They encounter the same difficulties in terms of accommodation to the conditions in **Paris**.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The law provides OFPRA, as opposed to the Prefectures in Dublin cases, with the possibility to decide on the admissibility of the asylum claims it registers.[154]

Claims are deemed inadmissible in the following cases:

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

The applicability of these grounds may be discovered by OFPRA upon registration or later, during the interview or during investigations post-interview. However, there is a specific time limit in the case of Subsequent Applications: a preliminary examination of their admissibility has to be conducted within 8 days of registration.[155]

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

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

154 Article L.723-11 Ceseda.
155 Article R.723-16 Ceseda.

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

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

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

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

There is a 1 month time limit for introducing an appeal before the CNDA. The appeal is not automatically suspensive.[156] Similar to the Accelerated Procedure: Appeal, it is examined by a single judge 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 section on Regular Procedure: Legal Assistance) is also applicable to inadmissible claims.

156 Article L.743-2 Ceseda.

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. Can an application made at the border be examined in substance during a border procedure? ☐ Yes ☒ No
3. Is there a maximum time limit for a first instance decision laid down in the law? ☒ Yes ☐ No
   - ❖ If yes, what is the maximum time limit?[157] 2 working days

A specific border procedure to request an admission into the country on asylum grounds is provided by French legislation,[158] for persons arriving on French territory through airports, harbours or international train stations. This procedure is separate from the asylum procedure on French territory.[159]

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

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

Article L.221-4 Ceseda also provides that:

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

The competent administrative authority for delimiting waiting zones is the Prefect of the *département* and in **Paris**, the Chief of Police (*Préfet de Police*). The decision to hold a foreign national in the waiting zone, which must be justified in writing, is taken by the Head of the National Police service or the Customs and Border Police, or by a civil servant designated by them. There are 32 waiting zones in mainland France. Most of the activities take place at the **Roissy Charles de Gaulle** (CDG) airport (82.5% of the claims).[160]

Moreover, waiting zones can be extended to within 10km from a border crossing point, when it is found that a group of at least 10 foreigners just crossed the border. The group of 10 can have been identified at the same location or various locations within the 10km area. This exceptional extended waiting zone can be maintained for a maximum of 26 days.[161]

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 (see section on Place of Detention).

---

157 Deadline for OFPRA to send an opinion to the Ministry of Interior.
158 Article L.213-8 Ceseda.
159 OFPRA, 'Demander l'asile à la frontière', 20 April 2016, available in French at: http://bit.ly/2D1RcpL.
160 OFPRA, *2016 Activity report*, 41.
161 Article L.221-2 Ceseda.

There is no strict deadline to apply for asylum when applicants are waiting for their admission at the border, the person may apply for asylum at any time during the time he or she is held in the waiting zone, meaning during 4 days. It is imperative that the asylum application be taken into account and the Border Police has to make a statement detailing the request for admission on the basis of an asylum claim. The person is held in the waiting zone for an initial duration of 4 calendar days to give the authorities some time to check that:

(1) France is the responsible State to examine the claim;
(2) The asylum request is not manifestly unfounded; and
(3) The asylum claim is not inadmissible.[162]

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 as far as asylum criterion or manifestly lacking credibility regarding the risk of persecutions or severe violations."

The law provides a deadline of 2 working days for OFPRA to give its opinion to the Ministry of the Interior as of the moment the intention of the foreign national to claim asylum has been written down by the Border Police.[163] Within these 2 days, OFPRA has to conduct an interview with the asylum seeker.

In 2016, the number of asylum applications made at the border reached its lowest level over the past 10 years with only 902 requests to enter the French territory on asylum grounds.[164] The top 5 nationalities of asylum seekers at the border in 2016 were Sri Lanka, the Democratic Republic of Congo (DRC), Sierra Leone, Dominican Republic and Nigeria. 38 requests were made by unaccompanied children.[165]

The Border Division of OFPRA interviews the asylum seekers and formulates an opinion. This opinion is communicated to the Ministry of Interior. While the Ministry of Interior was taking the final decision to authorise or refuse entry into France, OFPRA's opinion is now binding, except in case the asylum seeker represents a threat to national security.[166] In theory, this interview is conducted to check whether the given facts are manifestly irrelevant or not. This review could look like a kind of admissibility procedure. It should only be a superficial review of the asylum application. In practice, the assessment usually covers the verification of the credibility of the account; interview reports contain comments on stereotypical, imprecise or incoherent accounts, with a lack of written proof. This practice of *de facto* examining the request on the merits is extremely problematic. The reform has introduced the possibility for applicants to be accompanied to their interview by a third person (see section on Regular Procedure: Personal Interview). This provision also applies to interviews conducted at the border. Specific provision regarding vulnerable asylum seekers have also been introduced, in particular OFPRA can consider that the specific vulnerability of the asylum seeker requires special procedural guarantees and thus terminate the detention in the waiting zone.[167]

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

If the asylum application is considered as manifestly unfounded or inadmissible, the Ministry of Interior refuses to grant entry to the foreigner with a reasoned decision. The person can lodge an appeal against this decision before the Administrative Court within a 48-hour deadline. If this appeal fails, the

162 Article L.213-8-1 Ceseda.
163 Article R.213-5 Ceseda.
164 OFPRA, *2016 Activity report*, 41.
165 *Ibid*.
166 Article L.213-8-1 Ceseda.
167 Article L.221-1 Ceseda.

foreigner can be expelled to his or her country of origin (in application of Annex 9 of the Chicago Convention).

A deadline for the decision of the Ministry of Interior is not provided for in legislation. In practice, in 2016, 85% of the OFPRA opinions were delivered in less than 96 hours (2.43 days on average), compared to an average 1.58 days in 2015. In 2016, 20.4% of asylum seekers received a positive opinion and a right to enter the French territory to lodge an application, compared to 26% in 2015. Women represented 40% of positive decisions.[168]

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

The border procedure is very different from the asylum procedure on the territory. All asylum seekers subject to a border procedure are interviewed by the Border Division of OFPRA which provides the Ministry of Interior with a binding opinion on whether their application is well-founded or not. OFPRA delivers its opinion to the Ministry within 2 days after the intention of the seeker to apply for asylum has been recorded. In order to ground its decision, OFPRA conducts an interview with all foreign nationals having expressed their intention to lodge an asylum claim at the border.

In theory, these interviews should be very different to the interviews in the asylum procedure on the territory, as they are only supposed to look at whether the given facts are manifestly irrelevant to the criteria set out in the Refugee Convention or the criteria for granting subsidiary protection. They also assess whether the application is manifestly inadmissible or if another State is responsible for the claim. This review should only be a superficial review of the asylum application. In practice, however, the review often includes the verification of the credibility of the account, as some rejection decisions contain reports of stereotypical, imprecise or incoherent accounts, with a lack of written proof. This practice of *de facto* examining the request on the merits is extremely problematic.[169]

The law provides the same provisions on interviews in the border procedure as in the regular procedure:[170]

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

Issues with the quality of interpretation have been reported, as in some cases air carrier personnel or even consular authorities have been enlisted to provide interpretation, contrary to the principles of

168 OFPRA, *2016 Activity report*, 42.
169 For a recent critique, see ANAFE, *Voyage au centre des zones d'attente*, November 2016, 51.
170 Article R.213-4 Ceseda.

objectivity and neutrality.[171] In addition to general concerns with the quality of interpretation in 2016, ANAFE has also reported problems in the conduct of personal interviews with LGBTI applicants, where the authorities have not taken into their difficulty to speak on matters relating to their sexual orientation during these procedures, particularly given the context of detention.[172]

At **Roissy CDG airport**, the OFPRA Border Division interviews the asylum seeker in the waiting zones (ZAPI3). With the exception of the Roissy CDG airport waiting zone, the interviews in all other border procedures are done by phone, with translation provided by an interpreter who is included in the phone call. ANAFE reports that these telephone interviews were previously conducted in open rooms next to the police station, but after the end of 2015 are held in closed rooms to ensure confidentiality.[173] Overall, an interpreter was used in 72.3% of the interviews in 2016, while the rest of the interviews concerned French-speaking asylum seekers.[174]

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	☐ No

When the request for asylum made at the border is rejected, the foreign national is considered to be "not admitted" into French territory. There are several grounds for rejecting the request. Depending on the nature of this ground the asylum seeker can introduce an appeal to challenge this decision before the Administrative Court.

Before the Administrative Court, the applicant can contest the inadmissibility to the French territory which is consecutive to the rejection of the asylum claim due to its unfoundedness. Apart from the cases mentioned in the Admissibility Procedure, the inadmissibility on the French territory might derive from the fact that France is not responsible for the asylum claim, meaning the Dublin procedure shall apply.

Hence, when the claim is rejected because the seeker falls under the Dublin procedure and another State is responsible for processing his or her asylum claim, the person has 48 hours to make an appeal to the Administrative Court to overturn the decision, during which he or she cannot be returned. This appeal has suspensive effect.[175] In a decision of 28 November 2011, the Council of State clarified that the 48-hour deadline to lodge an appeal before the administrative court does not begin until the OFPRA report is received by the asylum seeker in a sealed envelope as provided by the law. However, it found that “failure to transmit this report, if it is an obstacle to the initiation of the appeal deadline, and the automatic execution of the ministerial decision to refuse entry on the basis of asylum, has no influence on the legality of this decision.”[176]

The provisions concerning the period available to the Administrative Court to decide on the appeal have evolved recently.[177] The decisions must henceforth be delivered at a hearing.[178]

171 ANAFE, *Des zones d’attente aux droits*, November 2015, 19.
172 ANAFE, *Voyage au centre des zones d’attente*, November 2016, 51.
173 ANAFE, *Des zones d’attente aux droits*, November 2015, 24.
174 OFPRA, *2016 Activity report*, 42.
175 Article L.213-9 Ceseda.
176 Council of State, Decision No 34324828, 28 November 2011.
177 See Decree n° 2012-89 of 25 January 2012 which amended Article R.777-1 CJA.
178 Contrary to what was provided in Article L.213-9 Ceseda, which stated that the administrative judge had a period of 72 hours to decide – after the hearing.

Indeed since January 2012, asylum seekers have been informed on the day of the hearing about the decision of the appeal court. However, sometimes they only receive the reasoned decision of the court on their appeal several days later, provided they have not been returned beforehand. No other appeal can be made against the decision to refuse entry on asylum grounds, except for Rule 39 interim measures before ECtHR. The foreign national may request the services of an interpreter from the President of the Court and can be assisted by a lawyer if he or she has one. He or she may also ask the President of the Court to designate one. The decision of this Administrative Court can be challenged within 15 days before the President of the competent Administrative Court of Appeal, but this appeal does not have suspensive effect.

Based on "considerations of the proper application of justice", the Council of State assigns the case to the Administrative Court that is closest to the concerned waiting zone,[179] and no longer to the Administrative Court of Paris only, as was previously the case.

There are many practical obstacles to lodging appeals effectively at the border. Modalities for the implementation of appeals are too restrictive for most foreign nationals held in waiting zones, who should in principle have access to an effective appeal procedure. Although it has suspensive effect, this appeal is very difficult to carry out because it has to be made in French within 48 hours, with a legal justification, otherwise it might be rejected without a hearing by the Administrative Court. Language is an important obstacle to lodging an appeal, as there is no free interpreting service available in the waiting zone. ANAFE and other NGOs such as Forum réfugiés – Cosi rely on some volunteer interpreters but they are not always available.[180] There is no "on duty" lawyer system in the waiting zone and, in most waiting zones, NGOs try to provide legal advice by telephone. Besides, as the procedure for examining asylum applications at the border is so poorly defined, arguments linked to an infringement of the procedure are difficult to substantiate. The justification for the appeal therefore has to be based on the demonstration that the asylum application is well-founded in order to challenge the ministerial motivation.

ANAFE has denounced the illusory nature of the effectiveness of this suspensive appeal in a report published in November 2015 and a report of November 2016.[181] According to these reports, the modalities of the appeal are far too restrictive and there is an accumulation of serious material difficulties: difficult access to a phone, lack of copy machines, difficulties to obtain the summary of the OFPRA interview. Finally, the 48-hour period starts from the time of notification of the negative decision. Beyond this strict deadline, no other appeal is possible (with the exception of appeals to the ECtHR). Some notifications of a negative decision are made in the middle of the night, which means that by the time the asylum seekers are able to contact a lawyer or speak with advisers, the time available is drastically reduced.

In **Marseille** in 2015, ANAFE also reported that the police had endeavoured to remove an asylum seeker whose appeal before the Administrative Court had been lodged. The removal failed thanks to the intervention of his lawyer in the middle of the night.[182]

Finally, two locations for "off-site" appeal hearings were discussed vividly in France in autumn 2013. Indeed a hearing room opened in September 2013 in the administrative detention centre of **Le Mesnil-Amelot** (near Paris) and another one was planned to be used in the waiting zone of **Charles de Gaulle** airport since 2014. The authorities had justified the relocation of these appeal hearings by explaining that it would avoid costly transfers, sometimes conducted in conditions which do not respect the dignity of the persons concerned.

---

179 Article R.351-8 CJA.
180 ANAFE, *Newsletter no. 10, testimony of support workers*, December 2012.
181 ANAFE, *Des zones d'attente aux droits*, November 2015; *Voyage au centre des zones d'attente,* November 2016.
182 ANAFE, *Voyage au centre des zones d'attente,* November 2016, 18.

Despite concerns from many NGOs,[183] as well as Council of Europe Commissioner for Human Rights, Nils Muižnieks[184] and the Ombudsman,[185] the court started operating in October 2017. It has to be noted that, in a ruling of 9 September 2015, the Court of Cassation upheld the opening of off-site hearing rooms is validated. The Court of Cassation considered that this system is legal and that the conditions of hearings and the working conditions of lawyers and judges are similar to those in regular appeal hearings.

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 French waiting zones; only ANAFE 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.[186]

A third person (lawyer or representative of an accredited NGO) can be present during the OFPRA interview;[187] and legal representatives shall be present for unaccompanied children.

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

Asylum seekers can request to be assisted by a court appointed lawyer during their hearing before the JLD who is competent to rule on the extension of their stay in the waiting zone. In theory, the asylum seeker should have hired one previously at his or her own expense, or prepared a sufficiently well-argued request in French by him or herself, in terms of facts and points of law. This is another illusory measure that does not guarantee the asylum seeker access to an effective remedy, even though they have access to court-appointed lawyers if necessary.[188]

The NGO ANAFE 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

183 ANAFE, 'La justice dans les tribunaux, pas sur le tarmac !', 12 October 2017, available in French at: http://bit.ly/2DMnUZf. See also the collective action launched in June 2013: 'Défendre et juger sur le tarmac : stop à la délocalisation des audiences', available in French at: http://bit.ly/1RokPyG.

184 Council of Europe Commissioner for Human Rights, Letter from Nils Muižnieks to Ms Christiane Taubira, 2 October 2013, available at: http://bit.ly/1LqRCUH.

185 Omdbudsman, Decision No 2017-211 of 6 October 2017, available in French at: http://bit.ly/2mh2T0H.

186 In **Lyon**, there is a phone number indicated above the phone, with the explanation in five languages that an NGO staff can be available for legal advice.

187 Article L.213-8-1 Ceseda.

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

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.[189]

The General Controller of places of freedom deprivation deplored in 2015 the fact that the recommendations he had formulated in his 2013 reports had not been implemented. The General Controller has in particular pointed out the fact that access to a phone was not guaranteed. This situation can prevent third-country nationals placed in transit zones from being effectively supported by their lawyer with whom they cannot have confidential contacts. Indeed, access to phones is limited by police officers who remain by the sides of the foreigners while they have an interview with their lawyer.[190]

5. Accelerated procedure

Since 2015, "prioritised procedures" (*procédures prioritaires*) have become "accelerated procedures". The provisions related to accelerated procedures apply to asylum claims introduced as of 1 November 2015. All claims channelled under "prioritised procedures" before 1 November 2015 are still processed according to the old procedure. Therefore, these asylum seekers do not have access to all material conditions (can be accomodated in emergency reception facilities) and appeal against a negative decision of their claim has no suspensive effect.

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

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

The accelerated procedure is automatically applied where:

a. The applicant originates from a safe country of origin; or
b. The applicant's subsequent application is not inadmissible.

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

c. The asylum seeker refuses to be fingerprinted;
d. When registering his or her claim, the asylum seeker has presented falsified identity or travel documents, or provided with wrong information on his or her nationality or on his or her conditions of entry on the French territory or has introduced several asylum claims under different identities;
e. The claim has not been registered within 120 days after the foreign national has entered the French territory;
f. The claim has only been made to prevent a notified or imminent removal order; or
g. The presence of the foreign national in France constitutes a serious threat to public order, public safety or national security.

In the abovementioned cases, it is the Prefecture that decides to channel related claims under the accelerated procedure. In that case, the asylum claim certification specifically mentions that the asylum seeker is placed under accelerated procedure. Asylum seekers under accelerated procedure have to send the asylum claim form to OFPRA within 21 days to lodge their applications, as is the case with asylum seekers under the regular procedure.

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

189 ANAFE, *Voyage au centre des zones d'attente,* November 2016, 53.
190 General Controller of places of freedom deprivation, *2015 Activity report*, 27 January 2016, available in French at: http://bit.ly/2jhSdvd.

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

In any of the abovementioned cases, OFPRA can decide not to process a claim under accelerated procedure when this is deemed necessary, in particular when an asylum seeker originating from a country listed on the safe country of origin list calls upon serious grounds to believe that his or her country of origin might not be safe considering his or her particular situation.[191] In addition, OFPRA may decide not to process under the accelerated procedure claims of vulnerable applicants. In 2016, OFPRA rechannelled 51 cases in the regular procedure out of a total 27,654 cases processed in the accelerated procedure.[192]

As in the regular procedure, OFPRA is the authority responsible for the decision at first instance in accelerated procedures. Its decisions should in theory be made within 15 calendar days.[193] This period is reduced to 96 hours if the asylum seeker is held in administrative detention.[194] There is no specific consequence if the Office does not comply with these time limits. In practice, some stakeholders assisting asylum seekers have reported that some of them under the accelerated procedure have waited more than 15 days before receiving the decision from OFPRA.[195]

In 2016, the average period for the examination of first asylum requests in the accelerated procedure was 98 days; due to some files taking particularly long times to be processed.[196]

According to Ministry of Interior estimates, an approximate 33,450 asylum applications were channelled into the accelerated procedure in 2017, representing 27.6% of all caseloads.[197]

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview
☒ Same as regular procedure

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

Interviews of asylum seekers channelled into an accelerated procedure take place under the same conditions as interviews in a regular procedure (see section on Regular Procedure: Personal Interview). All personal interviews are conducted by OFPRA. The same grounds for omission apply.

191 OFPRA, *2016 Activity report*, 39.
192 *Ibid*, 39, 126.
193 Article R.723-3 Ceseda. Delays are even shorter (96 hours) for persons held in administrative detention centres and in waiting zone.
194 Article R.723-4 Ceseda.
195 This information has been collected by Forum réfugiés – Cosi social workers in **Lyon**, **Clermont-Ferrand** and **Marseille** but also by other NGOs in **Paris** and its surroundings, **Bretagne**, **Charentes-Maritimes**, **Somme** or **Lorraine**.
196 OFPRA, *2016 Activity report*, 41.
197 Ministry of Interior, *Chiffres clés – La demande d'asile*, 16 January 2018.

In 2016, 94.1% of the applicants were called for an interview. Video conferencing was mainly used for asylum applicants in overseas departments (79%),[198] and for 16% of asylum seekers held in administrative detention centres,[199] most of whom were up to now channelled into 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 ☐ No

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

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

Appeals in the accelerated procedure have automatic suspensive effect.

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 possible for the applicant to request so to in the appeal against the negative decision.[200]

Regardless of this specific appeal, in any case of placement under the accelerated procedure, including safe country of origin cases or subsequent applications, it is always possible for the CNDA to channel an asylum seeker into the regular procedure.[201] In 2016, 70 cases were rechannelled into the regular procedure by the CNDA.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance
☒ Same as regular procedure

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

198 OFPRA, *2016 Activity report*, 41.
199 *Ibid.*
200 Article L.723-2 VI Ceseda.
201 Article L.731-2 Ceseda.

Legal assistance at first instance

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

Legal assistance at the appeal stage before the CNDA

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

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☒ For certain categories ☐ No
   - ❖ If for certain categories, specify which: Objective vulnerabilities e.g. age, pregnancy, Disability

2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

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

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

1.1. Screening of vulnerability

OFII is responsible for identifying vulnerabilities and special needs of asylum seekers.[202] 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.[203] The interview follows the registration of their claim in the Prefectures. The objective is thus to determine whether the person has special reception and procedural needs. Any needs emerging or being revealed later on during the asylum procedure are to be taken into account.

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

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

202 Article L.744-6 Ceseda.
203 A copy of the questionnaire may be found at: http://goo.gl/o2CiuS.

vulnerability assessment[204] reveals that only objective vulnerability will be assessed during the interview with OFII. At that stage, no vulnerability linked to the asylum claim shall be discussed. Therefore, the vulnerability assessment has had a limited impact on the early identification of vulnerable persons such as victims of torture and of physical, mental or sexual violence as well as victims of human trafficking.

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

In practice, it has been reported on several occasions that such interviews are not always conducted by OFII. It may happen that OFII indeed receives the asylum seekers but does not interview them properly, or conducts short interviews lasting 10-15 minutes, thus not allowing for an in-depth assessment of special needs.[205] The assessment of their vulnerability is, in most cases, based on a vulnerability assessment form used by OFII officers. This situation has been widely reported by stakeholders regardless the region where they are present. Many of them have also reported the fact that the interview is not conducted with an interpreter. Indeed, the Prefectures do not have a pool of interpreters *in situ*. Many local NGOs ask volunteering interpreters or fellow nationals for being present at the interview with the asylum seekers.

In addition, it is possible to notify OFII of any vulnerability element identified after the "interview" whether it has been conducted or not. When the asylum seekers benefit from legal and social assistance, from orientation platforms for example, it is possible for them to address OFII with a medical certificate. In some regions in France, like in **Paris** and its surroundings for example, or near big cities like **Lyon** or **Marseille**, where the population of asylum seekers is concentrated, or for asylum seekers living in camps or on the streets, it is particularly difficult for them to have their vulnerability taken into account.

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

1.2. Age assessment of unaccompanied children

Age assessment is not conducted in the framework of the asylum procedure in France. The age assessment procedure and criteria are detailed in a legal framework of 2016,[206] which establishes the elements to be taken into account to determine the applicant's minority:

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

---

204 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.

205 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, 18.

206 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.

Methods for assessing age

In practice, bone examinations continue to be implemented even when unaccompanied children possessed civil status documents. According to some stakeholders, some young people, in particular those above 16, are subjected to several medical examinations until it can be established that they are 18. In 2016, the Children's Ombudsman (*Défenseur des enfants*) introduced recommendations in order to avoid bone examinations and recommended that unaccompanied children shall benefit from all procedural safeguards when the authenticity of the documents proving their minority is questioned.[207] The Ombudsman has recalled this position many times in 2016, holding that the social evaluation had to prevail over the bone examination, in particular when the lack of authenticity of the identity documentation has not been proved.[208]

In his 2017 report, the Ombudsman pointed out that the difficulties persisted: bone examinations are maintained, some unaccompanied children are denied care and evaluation without justification, regardless of whether they have identity documents or not, as refusals are often based on racial profiling. At the same time, other children have to wait without accommodation or in really bad emergency housing during the really long examination of their situations.[209]

The priority given to the bone examination, in case of producing identity papers whose authenticity is not properly denied, has been considered has unlawful. If there is no legitimate element to deny the authenticity of such documents, the bone examination must not prevail. The Court of Appeal in Lyon has recalled this principle in 2017 based on a loyal application of the legal instruments adopted in 2016.[210]

Benefit of the doubt

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

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

In any case, having been determined to be above 18 as a result of an age assessment procedure has a dramatic impact on the young asylum seeker's ability to benefit from fundamental guarantees. The age assessment procedure does not entail the granting of new documentation. This means that the person might be considered alternatively as an adult or a child by various institutions. If Childcare Protection considers the asylum seeker is above 18, no legal representative will be appointed. On the other hand, if the Prefecture, for instance, may refuse to grant a residence permit with a view to lodging the asylum application, arguing that the young asylum seeker needs to have a legal representative. This antagonism may put the asylum seekers in a difficult position since he or she will not be allowed to submit a claim. OFPRA refers to the declaration of the person in the asylum procedure. However, such legal representative will most likely not be appointed, as the Prosecutor relies on the result of the age

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

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

209 Omdbudsman, *Children's rights in 2017*, November 2017, available in French at: http://bit.ly/2AEpuJA.

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

assessment procedure and OFPRA will suspend the treatment of the asylum claim until the asylum claim turns 18 according to the outcome of this procedure.

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

No statistics are available on the use of age assessment nationwide. A total 8,054 youngsters were integrated in the national mechanism for childhood protection in 2016.[211] A report published by two Senators mentioned that 49% of age assessments have resulted in acknowledging the person as a minor.[212] However, this figure is based on incomplete statistics and cannot be considered as reliable.

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 or violence

Throughout the asylum procedure, OFPRA is competent for adopting specific procedural safeguards pertaining to an asylum seeker's specific needs or vulnerability.[213]

2.1. Adequate support during the interview

Specific procedural safeguards relating to the interview are for instance:[214]

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

The law maintains the possibility for the asylum seeker to request a closed-door audience with the CNDA. This decision can also be taken by the President of the court session if circumstances so require.[215]

In accordance with its action plan for reform, OFPRA has set up 5 thematic groups (*groupes de référents thématiques*) of about 20-30 staff each, covering the following elements: sexual orientation and gender identity; unaccompanied children; torture; trafficking in human beings; and violence against women.[216] The thematic groups follow internal guidelines developed by the *référents* and revised every year. OFPRA has also established a position of Head of Mission – Vulnerability as of 2016.

---

211 Ministry of Justice, *Mission mineurs non accompagnés: Annual report*, March 2017, available in French at: http://bit.ly/2xxxuyV, 5.
212 Elisabeth Doineau and Jean-Pierre Godefroy, *Rapport d'information au nom de la commission des affaires sociales sur la prise en charge sociale des mineurs non accompagnés*, French Senate, 28 June 2017, available in French at: http://bit.ly/2wZnDPr, 54.
213 Article L.723-3 Ceseda.
214 Article L.723-6 Ceseda.
215 Article L.733-1-1 Ceseda.
216 OFPRA, *2016 Activity report*, 28.

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

- Officers dealing with claims from unaccompanied children must be specifically trained on this matter. They are trained on the particularities of asylum claims lodged by youngsters and also have to attend a mandatory training on techniques for collecting personal stories, using the EASO training module on Interviewing Children;
- A protection officer may interview an applicant presenting other vulnerabilities. There, officers are trained based on internal training packs which refer to external sources e.g. TRACKS project or GRETA report for victims of trafficking.
- Since October 2013, Forum réfugiés – Cosi and the Belgian NGO Ulysse have conducted several 2-day trainings for OFPRA protection officers on victims of torture with two main objectives: helping them to take into account the difficulties asylum seekers may face when they have to share their story after traumatic events and providing tools to protection officers for handling these situations. OFPRA had announced its goal to train all 170 protection officers by the end of 2015.[217] In 2017, Forum réfugiés-Cosi has trained 78 protection officers on these issues.

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

According to a recent report by the Equality Council, OFPRA has marked notable improvements in terms of sensitivity and professionalism vis-à-vis claims by women.[218] In addition, OFPRA granted protection to 5,205 girls at risk of female genital mutilation (FGM) in 2016,[219] and over 6,000 in 2017.[220]

2.2. Prioritisation and exemption from special procedures

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

Similarly, OFPRA can decide regarding not to process the claim under the Accelerated Procedure on the basis of vulnerability or the specific needs of the applicant. No more than 51 claims (0.2%) were exempted from the accelerated procedure out of a total 27,654 claims accelerated in 2016.[221]

In addition, three grounds for placing an asylum seeker under the accelerated procedure may not applied to unnacompanied children: (a) use of false identity or travel documents or falsse 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.[222]

---

217 OFPRA, *2013 Activity report*, 35.
218 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.
219 OFPRA, 'Premiers chiffres provisoirs de l'asile en 2016', 31 January 2017, available at: http://bit.ly/2kDIbXl.
220 OFPRA, 'Les données de l'asile 2017 à l'OFPRA, 8 January 2018, available at: http://bit.ly/2EVQB5y.
221 OFPRA, *2016 Activity report*, 39, 126.
222 Article L.723-2 IV 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.[223] 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,[224] 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:[225]

(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 state security.

As regards the border procedure, OFPRA ordered an exemption on grounds of vulnerability only in 5 out of 902 cases (0.5%) in 2016.[226]

Children, generally speaking, are often maintained in waiting zones in inadequate conditions. The Ombudsman (*Défenseur des droits*) urged in 2017 for a better consideration of their interests, in particular by: consolidating training of agents working in waiting zones; informing the children about their situation and rights; allowing them more space to speak and be heard; establish separate spaces for children in the waiting zone; and informing the Prosecutor (*Procureur de la République*) of all unaccompanied children in these locations.[227]

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 legal framework does not foresee the use of medical reports when examining asylum applications. However, applicants often present medical certificates from specialised centres. According to some doctors, all too often, their certificates are not taken into account, as OFPRA often dismisses them as evidence, without seeking a second opinion. The medical report is paid for by asylum seekers via the state supported medical insurance: the "*protection universelle maladie*" (PUMA) or "*aide médicale d'Etat*" (AME).

A medical certificate to confirm the absence of female genital mutilation (FGM) is requested during the examination of an asylum request presented by a young woman or girl based on that risk in her country of origin.[228] During the OFPRA interview, she will be asked to demonstrate that she has not been subjected to FGM if this is the reason she fears persecution or serious threats in case of return to her country of origin. Once protection has been granted, the requirement of a medical certificate remains. For the renewal of protection and the right to remain, OFPRA requires that a medical certificate be sent

223 Article L.213-9 Ceseda.
224 For detailed additional information on the risks for children at borders, see ANAFE, *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.
225 Article L.221-2 Ceseda.
226 OFPRA, *2016 Activity report*, 42.
227 Omdbudsman, Decision No 2017-144 , 26 June 2017, available in French at: http://bit.ly/2Dko1v7.
228 Articles L.723-5 and L.752-3 of Ceseda.

to them each year, proving that the person has still not undergone FGM.[229] A Decree of 23 August 2017 specifies the terms of this obligation, the list of authorised doctors, and consequences of refusal for parents.[230]

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.[231] The applicant, of Tamil ethnic origin, had provided a medical certificate from the doctor of the waiting zone in the Paris CDG airport describing several burn injuries. The Court found that the CNDA had failed to effectively rebut the strong presumption raised by the medical certificate of treatment contrary to Article 3 ECHR and therefore that the forced return of the applicant to Sri Lanka would place him at risk of torture or inhuman or degrading treatment.

On 10 April 2015, the Council of State applied the position of the ECtHR for the first time ever since its condemnation in September 2013. It cancelled the CNDA decision, considering it should have duly taken into account the medical report presented by the asylum seeker as it was supporting his story and explaining his fears in case he would be deported back to his country of origin. As from this judgment, the CNDA has to take into consideration documents, such as medical reports, presenting elements relating to alleged risks and fears. The Court also has to justify why it would not consider these elements as serious.[232] This significantly strengthens the consideration for psychological and physical wounds of asylum seekers and balances the power of the CNDA compared to the asylum seeker.[233] Through a decision of 17 October 2016, the Concil of State reiterated and reinforced this position.[234]

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:[235]

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

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

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

In 2016, 474 asylum claims from unaccompanied children were registered by OFPRA. This represents an increase of 29% compared to 2015.[236] After keeping on decreasing since 2011, the number of claims introduced by unaccompanied children has slightly increased in line with the overall number of asylum

229 French Coordination for Asylum (CFDA), *De la protection à la suspicion : l'exigence annuelle du certificat de non-excision* (From Protection to Suspicion: The Annual Requirement of a Certificate of Non-Mutilation), October 2012, available in French at: http://bit.ly/1IyDdCX.

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

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

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

233 Nicolas Klausser, "Vers un renforcement du « droit » à une procédure équitable des demandeurs d'asile et une meilleure prise en compte de leurs traumatismes ?" *(Towards the strengthening of the right to a fair procedure for asylum seekers and better consideration of their trauma?"),* La revue des droits de l'homme, May 2015.

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

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

236 OFPRA, *2016 Activity report*, 58.

seekers in Europe. This increase can be explained by the significant rise of Afghan asylum-seeking children registering a claim in France since 2015.

Unaccompanied children's countries of origin remain the same, while in different order: Afghanistan (27.6%), DRC (10%), Sudan (6.4%) and Syria (5.5%) constituted the main countries of origin of unaccompanied children seeking asylum in France. The socio-demographic characteristics of these asylum seekers show that 24% were girls.[237]

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

- Training protection officers throughout all geographic sections on vulnerabilities, in particular on assessing an asylum claim introduced by an unaccompanied minor and conducting an interview with this category of asylum seekers.
- Assessing unaccompanied minors' claim in a shortened period of time: the objective is to have their claim processed within 4 months maximum.
- Raising awareness on the possibility for unaccompanied minors to apply for asylum;
- Conducting interviews of unaccompanied minors by specially trained protection officers;
- Interviewing unaccompanied minors three months after registering their claim at OFPRA to give them time to get properly prepared;
- Proceedings have been harmonised and online thematic folders on this topic have been created for protection officers.[238]

As unaccompanied children do not have any legal capacity, they must be represented for any act under all asylum procedures (including Dublin). When they are deprived of legal representation (i.e. if no guardian has been appointed by the guardianship judge before placement in care), the Public Prosecutor, notified by the Prefecture, should appoint an *ad hoc* administrator (legal representative) who will represent them throughout the asylum procedure.[239] The appointment of an *ad hoc* administrator was ruled only by regulatory acts while it has been moved to the legal field with the July 2015 reform of the law on asylum. It consolidates the legal status of *ad hoc* administrator. This legal representative is appointed to represent the child only in administrative and judicial procedures related to the asylum claim. This person is not tasked to ensure the child's welfare the way a guardian would be. Every 4 years, within the jurisdiction of each Appeal Court, a list of *ad hoc* administrators is drawn up. They represent children held in waiting zones at the border or children who have applied for asylum; there are two lists: one list for asylum and one list for the border procedure.[240] 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.[241]

As soon as possible after the unaccompanied child has introduced his or her asylum claim, the Prefecture shall engage in investigating to find the minor's family members, while protecting his or her best interests.[242]

---

237 *Ibid.*

238 *Ibid*, 31.

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

240 The CNCDH has called for the generalisation of the immediate appointment of an *ad hoc* administrator for the purpose of representing, informing and giving legal advice to all unaccompanied children and not only to those held in wating zones or applying for asylum: CNCDH, *Avis sur la situation des mineurs isolés étrangers présents sur le territoire national*, 26 June 2014.

241 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.

242 Article L.741-4 Ceseda.

At the border, an *ad hoc* administrator should be appointed "without delay" for any unaccompanied child held in a waiting zone.[243] However, according to the 2014 Human Rights Watch (HRW) report on unaccompanied children detained at the French border,[244] covering all unaccompanied minors, not only asylum seekers, the system "still lacks sufficient government funding to meet the requirements of guardianship laid out by the Committee on the Rights of the Child. When large numbers of children arrive, or when children arrive on weekends or holidays, there can be delays in assigning guardians". In practice, delays in the appointment of the legal representative can lead to unaccompanied children going through the procedure by themselves. It is important to note that at the time of the notification of the possibility offered to them to benefit from a "clear day", unaccompanied children are not yet assisted by a legal representative. There is a risk that unaccompanied children do not understand the usefulness nor the importance of this possibility and therefore are deprived of this right.

In practice, still in 2017, the appointment of an *ad hoc* administrator can take between 1 to 3 months. However, there are jurisdictions where the lack of *ad hoc* administrators or their insufficient number does not enable the prosecutor to appoint any. These children are therefore forced to wait until they turn 18 to be able to lodge their asylum application at OFPRA.[245]

At OFPRA level, the *ad hoc* administrator is the only person authorised to sign the asylum application form. The CNDA has annulled an OFPRA decision rejecting an asylum claim of an unaccompanied child, after an interview conducted without the presence of the *ad hoc* administrator. In this decision, the Court held the conduct of an interview in such circumstances as a violation of the fundamental guarantees applicable to asylum seekers.[246]

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

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:[247]

- The rejection of an asylum application by the CNDA or by OFPRA without appeal;
- The asylum seeker had previously withdrawn his or her asylum claim;
- OFPRA has closed the case;[248]
- The asylum seeker has left the French territory, including to go back to his or her country of origin.

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

In order for the asylum seeker to introduce a subsequent application he or she must, as all asylum seekers, present him or herself to the Prefecture to register his or her claim and obtain an asylum claim

243 Article L.221-5 Ceseda.
244 HRW, 'France: Unaccompanied Children Detained at Borders', 8 April 2014.
245 France terre d'asile, Newsletter n°62, December 2013.
246 CNDA, *Mme Y*, Decision No 14012645, 5 October 2016.
247 Article L.723-15 Ceseda.
248 Article L.723-13 Ceseda.

certification.[249] Since March 2017, the person has to go back to the orientation platform (PADA) to obtain an appointment at the "single desk" like all asylum seekers.

The Prefecture can refuse to grant the asylum seeker with this certification when a first subsequent application has already been rejected by OFPRA or when a first subsequent application is submitted in order to prevent a compulsory removal order.[250] In case of a subsequent application, the authorised period to send the completed asylum claim is shorter than in case of a first application: instead of 21 days, the asylum seeker has 8 days to introduce his or her subsequent claim before OFPRA.[251] In case the claim is incomplete, the asylum seeker has 4 days, instead of 8 in case of a first application, to send missing elements.

If a removal order has been issued following the rejection of the first asylum application, it will be suspended during the examination of the subsequent application.[252]

When OFPRA receives the subsequent application it proceeds to a preliminary examination within 8 days in order to determine whether the subsequent application is admissible or not.[253] In that respect, OFPRA re-examines the application taking into account "new evidence" or facts. To support his or her subsequent application, the asylum seeker must provide in writing "new evidence" or facts subsequent to the date of the CNDA decision, or evidence occurring prior to this date if he or she was informed thereof only subsequently.[254] In practice, an ancient fact could also be considered as "new", if the asylum seeker had not referred to it during the first application due to his or her being "under coercion". This mainly concerns women who have escaped a prostitution rings; they have to prove this escape.

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

If, after the preliminary examination OFPRA considers that this "new evidence" or facts do not significantly increase the risk of serious threats or of personal fears of persecution in case of return, it can declare the subsequent application is inadmissible. The decision of OFPRA must be notified to the asylum seeker and specify the procedure and deadlines for lodging an appeal.[255] 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.

A suspensive appeal can be lodged before the CNDA within a time period of 1 month when:

(a) The subsequent application is deemed inadmissible by OFPRA; or
(b) OFPRA rejects the admissible subsequent application after it has been processed through the accelerated procedure.

The CNDA will then have 5 weeks to issue a decision on the appeal.[256] Before the reform, negative decisions "by order" ("*ordonnance*") were taken increasingly systematically by the CNDA for subsequent applications. This practice tends to continue by the time of writing, even if no official data has been published yet.

It might be quite difficult to provide evidence of new information and to prove its authenticity to substantiate subsequent claims. These people often have difficulties in accessing the documents

249 Article R.723-15 Ceseda.
250 Article L.741-1 Ceseda.
251 Article R.723-15 Ceseda.
252 Article L.743-4 Ceseda.
253 Article R. 723-16 Ceseda.
254 Article L.723-16 Ceseda.
255 Article L.723-11(3) Ceseda.
256 Article L.731-2 Ceseda.

needed to prove new information e.g. difficulty in contacting their country of origin to obtain the evidence.

OFPRA registered 7,582 subsequent applications in 2017, representing 7.5% of the total number of applications registered.[257]

As from the second subsequent application introduced, the Prefecture can refuse to deliver or renew the asylum claim certification and can issue an order to leave the French territory (OQTF).[258]

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

The safe country concepts were heavily debated in the context of an impending reform of asylum law, to be presented in 2018. While the government had announced preliminary plans to codify the concept of "safe third country" in French law, this was later abandoned.[259]

1. First country of asylum

The "first country of asylum" concept, requiring that a person has obtained international protection in a third country, is a ground for inadmissibility. 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.[260]

Regarding the effective protection granted in a non-EU Member State, the Council of State only refers to the effective protection without detailing what it is made of.[261]

2. Safe country of origin

2.1. Definition and procedural consequences

The notion of safe countries of origin was introduced in French legislation by the Law of 10 December 2003.[262] By law, a country is considered safe "if it ensures respect for the principles of freedom,

257 Ministry of Interior, *Chiffres clés – Les demandes d'asile*, 16 January 2018.
258 Circular of 2 November 2015 on the implementation of the Law of 29 July 2015.
259 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.
260 Council of State, *Cimade et M.O.*, Decisions Nos 349735 and 349736, 13 November 2013.
261 Council of State, *OFPRA v. M.S.*, Decision No 369021, 17 June 2015.
262 Law n. 2003-1176 of 10 December 2003 on the right to asylum.

democracy and the rule of law, as well as human rights and fundamental freedoms".[263] The definition is completed by the reference to the definition provided in Annex 1 of the recast Asylum Procedures Directive that provides that:

> "A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.".[264]

Their application is to be systematically processed by OFPRA within an accelerated procedure (see section on Accelerated Procedure),[265] except under special circumstances relating to vulnerability and specific needs of the asylum seeker or if the asylum seeker calls upon serious reasons to believe that his or her country is not be safe given his or her personal situation and the grounds of his or her claim.[266] In terms of numbers of claims processed under accelerated procedures on the safe country of origin ground, this has decreased in 2015 as 66.8% of asylum applications from "safe countries of origin" nationals were already processed under the accelerated procedure. Data for 2016 are not available.

2.2. List of safe countries of origin

The first list of safe countries of origin was established in June 2005 by the OFPRA Management Board. Every time a country is removed from or added to the list, the deliberations of the Management Board are published in the Official Journal. This list can be reviewed in OFPRA Board meetings. However, the composition of the Management Board has been modified, partly to strengthen the amending procedure of the list. In addition, qualified personalities ("*personnalités qualifiées*") can vote on the constitution of the list of safe countries of origin.

The board is constituted by 16 members:[267]

- 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.[268]

263 Article R.111-14 Ceseda.
264 Article L.722-1(2) Ceseda.
265 Article L.723-2 I(1) Ceseda.
266 Article L.723-2 V Ceseda.
267 Article L.722-1 Ceseda.
268 Article L.722-1(2) Ceseda.

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

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

The list of countries considered to be safe countries of origin is public. At the end of 2017, it included the following 16 countries:[269]

- Albania;
- Armenia;
- Benin;
- Bosnia-Herzegovina;
- Cape Verde;
- Georgia;
- Ghana;
- India;
- Kosovo;
- Former Yugoslav Republic of Macedonia (FYROM);
- Mauritius;
- Moldova;
- Mongolia;
- Montenegro;
- Senegal;
- Serbia.

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

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

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

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)
Turkey	July 2010

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

In a decision of 16 December 2013, the Management Board of OFPRA added **Albania**, **Georgia** and **Kosovo**.[270] In a decision of 10 October 2014,[271] the Council of State removed Kosovo from the list of safe countries of origin but maintained Albania and Georgia. The Ministry of Interior sent an instruction to the Prefects on 17 October 2014 calling them to generally channel the asylum seekers from Kosovo into the regular procedure and to deliver them a temporary residence permit enabling them to be accommodated in reception centres for asylum seekers.[272] However, on 9 October 2015, the Management Board of OFPRA met to update the list of safe countries of origin and has decided to reintroduce Kosovo to the list.

The reintroduction of **Kosovo** has been challenged to the Council of State by several French NGOs, including Forum réfugiés – Cosi, Cimade, Dom'Asile, GISTI, Elena France and JRS France among others. They also wanted the withdrawal from this list of **Senegal**, **Albania**, **Armenia** and **Georgia**. It has to be mentioned these countries are the five main safe countries of origin of asylum seekers in 2015.[273] On 30 December 2016, the Council rejected the applications and upheld the list in its current form.[274] When upholding the legality of the inclusion of Kosovo in the list, the Council of State took into account the fact that the country has been inserted in the European Commission proposal for an EU list of safe countries of origin.[275]

G. Relocation

Indicators: Relocation		
1.	Number of persons effectively relocated since the start of the scheme	4,853
2.	Are applications by relocated persons subject to a fast-track procedure?	☐ Yes ☒ No

Relocation statistics: 22 September 2015 – 18 January 2018

Relocation from Italy			Relocation from Greece		
	Requests	Relocations		Requests	Relocations
Total	:	459	**Total**	5,174	4,394

Source: European Commission; Greek Asylum Service.

1. Relocation procedure

Greece: 12 local agents of OFPRA are stationed in Greece. They work closely with local authorities and local non-governmental organisations, such as PRAKSIS for example. OFPRA informs local authorities of the number of places available in France in the framework of the relocation scheme. The local authorities build a list of persons eligible for relocation, especially on the basis on their vulnerability.

The OFPRA agents have to check several elements, including family links or documentation, before sending this list to the Ministry of Interior in France. OFPRA then goes back to Greece to conduct interviews with people on the list during 15 days, in particular to determine if exclusion clauses have to

270 Decision of 16 December 2013 modifying the list of safe countries of origin (*Décision du 16 décembre 2013 modifiant la liste des pays d'origine sûrs*), JORF n°0301 of 28 December 2013, available at: http://bit.ly/1LI8R1H, 26152.
271 Council of State, *Forum réfugiés-Cosi and Others v OFPRA*, Decision No 375474 and 375920, 10 October 2014, available at: http://bit.ly/1JCEIS5.
272 Ministry of Interior, Information Note INTV1424567N of 17 October 2014.
273 OFPRA, *2016 Activity report*, 39.
274 Council of State, Decisions Nos 395058, 395075, 395133 and 395383, 30 December 2016.
275 Forum réfugiés – Cosi, 'Pays d'origine sûrs : le Conseil d'Etat valide la nouvelle liste', 30 December 2016, available in French at: http://bit.ly/2j4JpIS.

be applied. It is important to notice that OFPRA does not conduct any refugee status determination interview. Rarely, however, it appears impossible to apply exclusion clauses without conducting a refugee status determination interview, especially because the exclusion clauses can only be applied if current and personal fears have been identified. Considering this, it is not very clear how local authorities determine if people selected are eligible for international protection or not. Once the interviews have been completed, and before their transfer to France, the Ministry of Interior has to validate the list submitted by OFPRA for security purposes.[276] This stage has been added after the terrorist attacks of November 2015. More than 2,900 asylum seekers have been interviewed by OFPRA in the context of relocation until September 2017.[277] According to the Greek Asylum Service, as of 14 January 2018, France had accepted 4,473 relocation requests and rejected 510, far more than any other Member State rejections.[278] No further information is available on the grounds for refusal of relocation requests.

At the end of the process, the International Organisation for Migration (IOM) is in charge of the transfer of the relocated refugees to France.

Italy: OFPRA applies the Standard Operating Procedures (SOPs). Italian authorities had initially refused the placement of OFPRA officers on their territory under the same conditions as in Greece. Italian authorities make a very selective selection among asylum seekers and make very few requests France where OFPRA can examine the files.[279] However, since November 2017 OFPRA has started conducting interviews with asylum seekers in Italy with a view to organising relocation.[280]

2. Post-arrival treatment

Upon arrival, relocated refugees are accommodated in dedicated centres. The reception process of relocated persons has been established by a Circular of 9 November 2015.[281] According to this Circular, the maximum duration of the procedure once they are in France is theoretically 4 months. During these 4 months, relocated people are channelled to CADA in which special places have been created. They can also be orientated to emergency shelters. Local organisations running the centres facilitate their access to fundamental social rights: living allowance, social care and access to education. They have to be registered as asylum seekers. They are directly registered by the Prefectures which have created specific single desks for relocation (**Besançon, Nantes, Bordeaux, Lyon, Metz and Ile de France**).They do not have to go through the pre-reception phase. OFPRA sets “mobile hearings” to conduct eligibility interviews.

Although disparities were documented in 2016, the treatment of relocated applicants seems to have been harmonised across regions in 2017. Usually, relocated persons are interviewed by OFPRA before being granted refugee status.

Relocated persons do not have to go through the pre-reception phase and have a direct access to the single desk. In 2015 and 2016, a lot of places had been frozen in CADA to prepare for the arrival of relocated persons since November 2015, preventing local organisations from accommodating other asylum seekers. This situation is no longer observed in 2017.

---

276 Senate, *L'Europe à l'épreuve de la crise des migrants : la mise en oeuvre de la « relocalisation » des demandeurs d'asile et des hotspots*, Information Report No 422 (2015-2016), 24 February 2016, available in French at: http://bit.ly/2kixjx8.

277 OFPRA, ‘Les données de l’asile 2017 à l’OFPRA, 8 January 2018, available at: http://bit.ly/2EVQB5y.

278 Greek Asylum Service, *Relocation statistics*, 14 January 2018, available at: http://bit.ly/2DQN0q2.

279 Revue des Droits de l’Homme, *Entretien avec Pascal Brice, Directeur général de l’OFPRA : « Entre continuité et modernisation : la diversification des missions de l’OFPRA »*, December 2017, available in French at: http://bit.ly/2FEqsJq.

280 OFPRA, ‘Les données de l’asile 2017 à l’OFPRA, 8 January 2018, available at: http://bit.ly/2EVQB5y.

281 Circular NOR INTV1524992J of 9 November 2015 on the implementation of the European relocation programme, available in French at: http://bit.ly/2lkibiW.

At the end of the procedure, refugees are either directed to integration centres or stay in the accommodation centre. After a certain time, they will be supposed to have access to a private accommodation in the framework of a social support ensured by local organisations. These private accommodations are either located in the same area than their initial accommodation centre, or in other French regions. In some areas (**Auvergne – Rhône – Alpes**), some relocated persons have encountered many difficulties to get access to a private accommodation. 50 relocation beneficiaries have been issued documentation papers and had access to social fundamental rights,but had to wait more than 8 months before getting out the accommodation centre.[282]

It is also possible for refugees benefitting from the relocation process to sign a lease agreement named "*bail glissant*". This mechanism is a typical contract used in France to enable the social integration of vulnerable persons; it is not a mechanism specially created for relocated people. A *bail glissant* is a sublease agreement signed between three parties: the owner of the place, the tenant and the subtenant. This kind of agreement is really useful in order to enable refugees to have a place to live. During a period determined by the three parties, the tenancy agreement is held by the social structure which pays the deposit. Once the period is over, the tenancy agreement is transferred to the refugees.

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

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

   ❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No

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

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

Information is provided in a language that the asylum seeker understands or is likely to understand.[283] This information have been compiled under a general "Guide for asylum seekers in France" (*guide du demandeur d'asile en France*).[284] The guide is supposed to be provided by the Prefecture. The 2015 Asylum Seeker's Guide is available in French and, at the time of writing, in 18 other languages on the Ministry of the Interior website. Practices used to vary from one Prefecture to another, and many fail to provide the guide. From the point of view of stakeholders supporting asylum seekers, even though this guide is a good initiative, it appears that most of asylum seekers cannot read or do not understand the meaning of the guide.

In April 2014, OFPRA published a guide on the right of asylum for unaccompanied minors in France.[285] The guide is quite comprehensive, describing the steps of the asylum procedure, the appeals and the

---

282 Le Progrès, 'Aujourd'hui réfugiés, ils s'impatientent', 11 August 2016, available in French at: http://bit.ly/2jRKjum.

283 Article R.741-4 Ceseda.

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

285 OFPRA, *Guide de l'asile pour les mineurs isolés etrangers en France* (Guide on the right to asylum for unaccompanied minors in France), 30 April 2014, available in French at: http://bit.ly/1ep99xl.

procedure at the border. OFPRA has stated its intention to share this guide as widely as possible in Prefectures, in waiting zones at the border and with stakeholders working in children's care. In practice, this guide is not available in all prefectures. In many regions, the prefecture agents recommend asylum seekers to download it on OFPRA's website.

Information on the Dublin procedure

The information provided about the Dublin procedure varies greatly from one Prefecture to another. In the **Rhône** department, when they go to the prefecture to apply for asylum, all applicants are handed, at the desks, an information leaflet on the Dublin procedure (Leaflet A)[286] 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).[287] The Prefecture asks the applicant to sign a letter written in French and listing all the information they have been given, as requested under Article 4 of the Dublin III Regulation, and the language in which it is given.

The asylum seeker knows when a take charge or a take back procedure has been initiated, due to information provided on the back of their Dublin notice, which is translated into the language of the asylum seeker. Translation is an obligation recently recalled by the Administrative Court of Appeal of Bordeaux. According to the court, the absence of translation is a violation of the fundamental guarantees which much prevail in the framework of the Dublin procedure.[288] 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.

With regard to persons transferred out of **Calais** more specifically, it has been observed that the information provided to the asylum seekers accommodated in Reception and Orientation Centres (CAO) has not always beentransparent. Some of them have been told they would not be channelled to the Dublin procedure, even if they had already been previously registered in another country. Some of the people staying in CAO, who do not wish to submit an asylum claim, had been told, according to them, they would be issued a residence permit or would be allowed to the UK. It is really difficult to determine if this information, obviously wrong, was given on the part of the authorities, the volunteers working in the Calais "jungle" or if it reflected the hopes of the people living in the slums. It can clearly be stated there was a lack of communication.[289] Many people arriving at the CAO have quickly fled or "disappeared" when they realised they would not necessarily be authorised to stay in France, to go to the UK or that their asylum claim would not be automatically accepted.

Information at the border

In the waiting zones at the border, Forum réfugiés – Cosi notes a serious lack of information on the possibility of requesting admission to French territory on asylum grounds (see section on Border Procedure). When a person is arrested at the border, he or she is notified of an entry refusal, in theory with the presence of an interpreter if necessary.[290] 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 all agree to renounce their right to a "clear 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.

---

286 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.

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

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

289 See also UNHCR, *L'expérience des centres d'accueil en France*, October 2017, available in French at: http://bit.ly/2itnWP4.

290 Article L.213-2 Ceseda.

In addition, as the telephone in certain waiting zones is not free of charge, contact with NGOs or even UNHCR is not easy. Several decisions by the Courts of Appeal have highlighted the irregularity of the procedure for administrative detention in a waiting zone, due to the restrictions placed on exercising the right to communicate with a lawyer or any person of one's choice.[291] The fact that asylum seekers may have no financial means of purchasing a phone card is therefore a restriction on this fundamental right.

2. Access to NGOs and UNHCR

Access of NGOs to asylum seekers is described in the section on Access to Detention Facilities.

I. 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?[292] ☒ Yes ☐ No
   - ❖ If yes, specify which: Albania, Armenia, Benin, Bosnia-Herzegovina, Cape Verde, Georgia, Ghana, India, FYROM, Kosovo, Mauritius, Moldova, Mongolia, Montenegro, Senegal, Serbia

There is no explicit policy of considering specific nationalities as manifestly well-founded. At most, we observe that some nationalities obtain higher rates of protection than the average rate (Saudi Arabia 100%, Syria 97.3%, Burundi 93.9%, Yemen 93.8%, Koweit 91.7%, Afghanistan 80.9% at OFPRA level in 2016).[293] This has continued into 2017 for nationalities such as **Syria** (95.2%) and **Afghanistan** (83.1%) at OFPRA level.[294]

Asylum seekers that are nationals of countries listed as safe are dealt with most of the time under an accelerated procedure (see section on Safe Country of Origin). However, protection rates for such nationalities are not extremely low. For example, in 2016, asylum seekers from **Kosovo** had a rate of 10.4% at OFPRA and 12.4% at CNDA level, while asylum seekers from **Albania** had 11.4% at OFPRA and 9.8% at CNDA.[295] In 2017, however, OFPRA granted protection only to 6.5% of Albanians, who were the top nationality of applicants in France.[296] Similarly before the CNDA, where Albanians were also the top nationality of appellants, protection was granted to 8.9% of cases.[297]

291 Article L.221-4 Ceseda.
292 Whether under the "safe country of origin" concept or otherwise.
293 OFPRA, *2016 Activity report*, 113-114.
294 OFPRA, 'Les données de l'asile 2017 à l'OFPRA, 8 January 2018, available at: http://bit.ly/2EVQB5y.
295 OFPRA, *2016 Activity report*, 113-114.
296 OFPRA, 'Les données de l'asile 2017 à l'OFPRA, 8 January 2018, available at: http://bit.ly/2EVQB5y.
297 CNDA, *2017 Activity report*, 41.

Reception Conditions

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	☒ 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

Article L.744-2 Ceseda establishes a national reception scheme, managed by the French Office on Immigration and Integration (OFII). This scheme ensures the distribution of accommodation places for asylum seekers throughout the national territory. In parallel and in compliance with the national reception scheme, regional schemes are defined and implemented by Prefects in each region.

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

After having registered their claim at the Prefecture, asylum seekers receive the asylum claim certification that allows them to remain legally on the French territory until the end of the asylum procedure or their transfer to another Member State. Meanwhile, they are entitled to material reception conditions, adapted if needed to their specific needs. The “single desk” (*guichet unique*) has been set up in order to better articulate the registration of asylum claims and provision of reception conditions.

The idea behind the single desk is to gather the Prefecture and OFII in the same place and to process the registration of the claim at the same time as the provision of material reception conditions. The system of the single desk is to be entirely computerised to ensure swift processing of claims and distribution of places of accommodation.

Asylum seekers’ financial participation to accommodation

Accommodation fees in dedicated accommodation places for asylum seekers are assumed by the State.

However, accommodated asylum seekers whose monthly resources are above the monthly rate of the Active Solidarity Income (*Revenu de Solidarité Active*, RSA), 535.17 € for a single adult, pay a financial contribution for their accommodation.

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

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 3 months if protection is granted.[298]

Finally, French legislation excludes asylum seekers from the granting of all family-related welfare benefits as the residence permits provided to asylum seekers are not listed in the permits that give eligibility to these benefits.[299] Asylum seekers are also not eligible for receiving the social welfare allowance, the so-called Active Solidarity Income (RSA), an allowance granted to individuals over 25 years old who do not have resources or have very low incomes.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to single adults asylum seekers as of 31 December 2017: 204 €

Different forms of material reception conditions exist in the law. They include: (a) accommodation in asylum seekers reception centres; (b) accommodation in any other facility that is funded by the Ministry of the Interior; and (c) financial benefits. This section will refer to the forms and levels of financial assistance available to asylum seekers.

The allowance for asylum seekers (ADA)[300] is granted to asylum seekers above 18 years old,[301] who accept material conditions proposed by OFII until their asylum claim has been processed or until their transfer to another responsible State is effective. Only one allowance per household is allowed.[302] The payment of the allocation ends at the end of the month following the notification of a final decision on the claim.

The amount of ADA is calculated on the basis of resources, type of accommodation provided and age criteria. Family composition, in particular the number of children, is taken into account in the calculation of ADA.[303] The total amount of ADA is re-evaluated once a year, if needed, to take into account the inflation rate.

The daily amount of ADA is defined upon application of the following scale:[304]

Composition of the household	ADA daily rate
1 person	6.80 €
2 persons	10.20 €
3 persons	13.60 €
4 persons	17 €
5 persons	20.40 €
6 persons	23.80 €
7 persons	27.20 €
8 persons	30.60 €
9 persons	34 €

298 Decree of 15 November 2016, INTV1630817A on the application of Article L.744-5 Ceseda, available in French at: http://bit.ly/2jGFPbS.
299 Article 512-2 Social Security Code.
300 Article L.744-9 Ceseda.
301 Article D.740-18 Ceseda.
302 Article D.744-25 Ceseda.
303 *Ibid*.
304 Annex 7-1 Ceseda.

10 persons	37.40 €

An additional daily rate of 5.40 € was paid to adult asylum seekers who have accepted to be accommodated but who cannot be accommodated through the national reception scheme,[305] following a ruling of the Council of State of 23 December 2016 annulling the previous provision due to the inadequacy of the set amount (then 4.20 €).[306] Yet this amount remains really low and renders the access to accommodation on the private market almost impossible. The Council of State annulled the provision again on 17 January 2018, ruling that the daily sum of 5.40 € is insufficient for obtaining accommodation in the private market.[307]

ADA is paid to asylum seekers on a monthly basis directly by OFII on a card, similar to a credit card that can be used by asylum seekers. It is not necessary for asylum seekers to open a bank account to benefit from ADA (except in some cases where asylum seekers are overseas) and use the card.[308] Many problems have been raised by local stakeholders in the field relating to ADA. On many occasions, the allowance has been paid late. In addition, some asylum seekers are not familiar with using a credit card or a cash machine. In some accommodation centres, asylum seekers do not receive the same amount even if they are in similar situation; same date of arrival and registration, same family composition or same duration of accommodation in the centre. These issues can create tensions between asylum seekers and may expose social workers to a lot of pressure and complicate their work. Moreover, it is really difficult to interact with OFII, according to local NGOs, to resolve such problems. Indeed, even where there are some local representations of OFII in regions, they do not intervene at the level of the allowance distribution.

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

In case of a subsequent application or if the asylum claim has not been introduced within 120 days, ADA can be refused.[309] If the allowance is denied to an asylum seeker submitting an asylum claim, it must be made on the basis of a written and motivated decision and must take in consideration the vulnerability of the person.[310] The administrative courts have recalled this principle to OFII because, especially shortly after the 2015 law entered into force, the allowance was systematically denied to asylum seekers in this case.[311]

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

305 Decree n. 2017-430 of 29 March 2017 introducing various provisions on the asylum seeker allowance, available in French at: http://bit.ly/2DbpnLI.
306 Council of State, Decision No 394819, 23 December 2016.
307 Council of State, Decision No 410280, 17 January 2018.
308 Article D.744-33 Ceseda.
309 Article D.744-37 Ceseda.
310 Article L.744-8 Ceseda.
311 Administrative Court of Montpellier, Order No 1510514, 23 December 2015.

The law describes the procedure to be followed by the management of reception centres and by the Prefect once a final decision on the asylum claim has been taken.[312] OFII informs the management of the reception centre where the asylum seeker is accommodated that a final decision has been taken and that the provision of accommodation will be terminated upon a specific date, unless the beneficiary of international protection or the rejected asylum seeker formulates a demand to remain respectively 3 months or 1 month in order to have time to plan the exit of the CADA.

The allowance for asylum seekers (ADA) is paid until the end of the month following the final decision on the asylum claim.

Apart from the withdrawal of reception conditions by the end of the asylum procedure, specific conditions are defined allowing for the reduction or withdrawal of material reception conditions (both accommodation and financial allowance for asylum seekers).

According to Article L.744-8 Ceseda, material reception conditions can be:

1. Suspended if, without legitimate reason, the asylum seeker has abandoned the reception centre where he or she is accommodated during more than a week;[313] has not presented him or herself to relevant authorities when required to, has not answered to information claim or has not attended interviews related to his or her asylum claim;
2. Withdrawn in case of false statements concerning the identity or personal situation of the asylum seekers accommodated, in particular his or her financial situation. Reception conditions can also be withdrawn in case of violent behaviour or serious disrespect of the community life's rules;
3. Refused when the asylum seeker introduces a subsequent claim or if, without legitimate reason, he or she has not introduced his or her asylum claim within 120 days after he or she has entered the French territory.

In cases of subsequent applications, some Prefectures systematically reduce reception conditions to the asylum seekers. In **Lyon**, **Marseille**, **Paris** and its surroundings, no subsequent claimants can benefit from reception conditions. In a few cases, subsequent claimants can benefit from these conditions after demonstrating their particular vulnerability and their specific needs in terms of accommodation. The decision of denial of reception conditions must written and motivated. Asylum seekers have 15 days to challenge this decision through an informal appeal.[314] It is also possible after these 15 days to lodge an appeal before the administrative court.

The management of reception centres has to inform OFII and the Prefect of the *Département* in case of a prolonged and not motivated absence from the reception centre of an asylum seeker, as well as any violent behaviour or serious disrespect of the community life rules.[315] OFII is competent to decide on the suspension, withdrawal or refusal of material reception conditions. All these decisions have to be communicated in written and duly motivated and take into account the asylum seeker's vulnerability. They can only be definitive and applied after the asylum seeker concerned by a suspension, withdrawal or refusal of material reception condition has been able to formulate his or her observations and comment, in written. When material reception conditions have been suspended, the asylum seeker can ask OFII to re-establish them.

Specifically as regards ADA, the allowance can be suspended when the asylum seeker:[316]

- Has refused OFII's offer for accommodation;

312 Article R.744-12 Ceseda.
313 Article R.744-9 II Ceseda.
314 Article L.744-8 Ceseda.
315 Article R.744-11 Ceseda.
316 Article D.744-35 Ceseda.

- ❖ Has not respected his or her obligation to present him or herself to the authorities, has not answered information claims or did not attend individual interviews relating to the asylum procedure, without legitimate ground;
- ❖ Has abandoned his or her accommodation place or has not been present for more than 5 days, without legitimate ground:
- ❖ Does not temporarily meet the conditions for being granted ADA:
- ❖ Does not provide the necessary documentation to check his or her eligibility to ADA.

ADA can be withdrawn in the situation where the asylum seeker has:[317]

- ❖ Concealed his or her resources, or a part of it;
- ❖ Provided false information regarding his or her family situation;
- ❖ Had a violent behaviour within the accommodation place.

When ADA is suspended, withdrawn or refused, OFII has to notify its decision to the asylum seeker who has 15 days to formulate his or her observation. OFII decision has to be motivated and to take into account the vulnerability of the asylum seeker.[318] Many issues regarding ADA have been detailed in the section on Forms and Levels of Material Reception Conditions.

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

4. Freedom of movement

Indicators: Freedom of Movement

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

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

The national reception scheme assigns a reception centre to asylum seekers, taking into account as much as possible the vulnerability assessment made by OFII and the general situation of the asylum seeker.[319] The Prefecture where asylum seekers apply for asylum will not determine the area where reception will be offered. The assignment to a reception centre is an informal decision, meaning that no administrative act is issued to asylum seeker. Therefore it cannot be appealed. However, if the asylum seeker refuses the OFII accommodation proposal, he or she will not be entitled to material reception conditions

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

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

317 Article D.744-36 Ceseda.
318 Article D.744-38 Ceseda.
319 Article L.744-2 Ceseda.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres: Not available
2. Total number of places in the reception centres: 80,221
   - ❖ CADA 40,450
   - ❖ CAO 10,130
   - ❖ PRAHDA 5,351
   - ❖ Emergency accommodation (AT-SA, HUDA) 24,290
3. Total number of places in private accommodation: Not available
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 it has consulted with the Director of the place of accommodation. The specific situation of the asylum seeker is to be taken into account.

Accommodation facilities for asylum seekers are:

(a) Accommodation centres for asylum seekers (CADA) that include both collective reception centres and scattered housing in apartments (private housing);
(b) All types of accommodation being funded by the Ministry of Interior, including emergency accommodation.

Asylum seekers accommodated in these facilities receive a certification of address (*attestation de domiciliation*).[320] This certification is valid for one year and can be renewed if necessary. It allows the asylum seeker to open a bank account and to receive mail.

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

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

As of 31 December 2017, the national reception scheme (*dispositif national d'accueil*, DNA) included:[321]

- ❖ 40,450 places regular reception centres (both collective and private housing) for asylum seekers (CADA);
- ❖ 5,776 places centrally managed emergency centres (AT-SA);
- ❖ 18,514 places in decentralised emergency shelters (HUDA);
- ❖ 5,351 places in the reception and accommodation programme for asylum seekers (PRAHDA);
- ❖ 10,130 places in reception and orientation centres (CAO).

320 Article R.744-1 to R.744-4 Ceseda.
321 Circular of 4 December 2017 'relative à l'évolution du parc d'hébergement des demandeurs d'asile et des réfugiés', available at: http://bit.ly/2AJA3eo.

As of the end of 2017 the national reception scheme had the following capacity across the different regions:

Region	CADA	AT-SA	HUDA	PRAHDA	CAO
Auvergne Rhône-Alpes	5,428	880	3,074	670	1,401
Bourgogne Franche-Comté	2,999	310	1,000	339	722
Bretagne	2,014	260	717	348	537
Centre	2,034	27	314	206	874
Grand Est	4,874	874	5,204	792	1,065
Hauts de France	2,558	693	607	312	826
Ile de France	5,291	320	3,271	578	0
Normandie	2,160	787	714	282	931
Nouvelle Aqutaine	4,222	255	879	647	1,217
Occitanie	3,955	70	882	621	1,129
Provence Alpes Côte d'Azur	2,551	524	1,142	297	780
Pays de la Loire	2,364	586	710	259	848
Total	**40,450**	**5,776**	**18,514**	**5,351**	**10,130**

Source: Circular of 4 December 2017 relative à l'évolution du parc d'hébergement des demandeurs d'asile et des réfugiés: http://bit.ly/2AJA3eo.

In 2018, the aim is to reach 87,500 places, among which 42,000 would be in CADA.[322]

1.1. Reception centres for asylum seekers (CADA)

Asylum seekers having registered a claim are eligible to stay in reception centres. Asylum seekers under a Dublin procedure are excluded from accessing these centres. Reception centres can be either collective or individualised housing, within the same building or scattered in several locations. A place in the centres for asylum seekers is offered by OFII once the application has been made. The average length of stay in reception centres in 2016 was 484 days.[323] If asylum seekers do not accept the offered accommodation, they will be excluded as a consequence from the benefit of the asylum seeker's allowance (ADA). If there is no place in a reception centre, the asylum seeker is placed on a waiting list, in the meantime, they will be directed to other provisional accommodation solutions,[324] when these are available. Moreover, in practice, it has been observed that single women or men have not access easily

322 Government, *General Budget 2018: Immigration, Asylum and Integration*, September 2017, available in French at: http://bit.ly/2Dxck6A, 42.
323 OFII, *2016 Activity report*, 38.
324 Ministry of Interior, *Reception and Accommodation of Asylum Seekers*.

to accommodation centres. Families or single parents with children are prioritised in being accommodated. The fact that many accommodation centres have been organised to receive families or couples makes difficult, for single men or women, to be accommodated. As of the end of 2016, 33,459 persons were residing in CADA, 90% of the total reception capacity.

However, if the asylum seeker has not succeeded in getting access to a reception centre before lodging his or her appeal, the chances of benefitting from one at the appeal stage are very slim.[325] 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 on the long run.

It is nevertheless very complicated for asylum seekers to get accommodated. In 2016, the average delay to have access to an accommodation centre depends on the area where asylum seekers submit their claim. In **Paris**, some asylum seekers have been granted asylum without never getting access to any centre, hotel or apartment. In **Lyon**, the average delay between the registration of the claim and access to housing is 62 days. It is similar in **Clermont-Ferrand** where the asylum seeker can wait up to 51 days. In **Marseille**, this delay goes up to 101 days, whereas it is around 70 days in **Nice**.[326] No data is available for 2017.

Capacity in CADA

As of 31 December 2017, there were 40,450 places in CADA. The number of places in reception centres is therefore clearly not sufficient to provide access to housing to all the asylum seekers who should benefit from it in accordance with the recast Reception Conditions Directive. No phenomenon of overcrowding is observed in any of the centres but the overall reception capacities are stretched; the number of people admitted in CADA is higher than the number of people getting out of the reception centres.

This is partly explained by the fact that rejected asylum seekers and beneficiaries of international protection can, upon request, stay in asylum seekers' reception centres. Refugees and beneficiaries of subsidiary protection can stay until an offer of accommodation is available, within a strict timeframe of three months from the final decision (renewable once in special cases). Upon request, those whose claims have been rejected are also able to stay in a centre for up to one month from the notification of the negative decision. Afterwards, they might access emergency accommodation through emergency aid (if a place is available). However, due to a stretched housing market in general some tend to overstay in CADA. At the end of 2016, out of a total 33,459 people accommodated in CADA, 72% were asylum seekers, 14% were beneficiaries of international protection and 14% were rejected asylum seekers.[327]

8,703 additional places in CADA shall be opened in 2018 and 2019.

1.2. Emergency reception scheme (AT-SA, HUDA)

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

(1) An emergency reception scheme managed at national level: temporary reception – asylum office (*accueil temporaire – service de l'asile*, AT-SA), counting 5,776 places at the end of 2017.

---

325 European Migration Network, *The organisation of reception structures for asylum seekers in France*, September 2013.

326 Forum réfugies – Cosi data based on the numbers of asylum seekers effectively getting access to an accommodation centre in these areas, 2016.

327 OFII, *2016 Activity report*, 1 March 2017, available in French at: http://bit.ly/2wgCUxx, 38.

(2) A decentralised emergency reception scheme: emergency accommodation for asylum seekers (*hébergement d'urgence dédié aux demandeurs d'asile*, HUDA), counting 18,514 emergency accommodation places at the end of 2017. Capacities provided by this scheme evolve quickly depending on the number of asylum claims and capacities of regular reception centres.

Nuclear families can usually stay together during the asylum application process, but in practice it happens that families who have to rely on emergency shelters cannot stay together as rooms for men and women are sometimes separated in these shelters.

Asylum seekers under Dublin procedure

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

1.3. Reception and orientation centres (CAO)

CAO have been created to accommodate asylum seekers evacuated from **Calais**. They are dispersed across the French territory. Although they were initially set up as *ad hoc* centres and operated under unclear legal status, these have now been incorporated into the national reception scheme.[328]

The mission of these centres consists in sheltering migrants, supporting them in submitting an asylum claim and providing them with material, administrative and social support.[329] Asylum seekers are not supposed to be provided with legal assistance. Indeed, since they are identified as willing to submit an asylum claim, they have to be directed towards the regular procedure and the corresponding accommodation centres.

In practice, the missions ensured by the social workers are wider and orientation is not always effective. In March 2016, *Fédération des Acteurs de la Solidarité* (FNARS) published a report highlighting the lack of information provided to the asylum seekers channelled to these centres in October 2015. This report also reveals that, among 27 structures running CAO and taking part in this survey, the services provided are good overall but there is no real orientation of asylum seekers towards relevant accommodation centres.[330] This is confirmed by the fact that, at the end of December 2016, as many as 4,494 persons, 63% of the total population living in CAO, had already registered an asylum application.[331]

In the vast majority of CAO, asylum seekers must be provided with legal assistance since there is a shortage of places in the regular accommodation facilities. They register their asylum claim during their stay in these centres. OFPRA has organised field missions to conduct interviews, as for instance in December 2016 in **Clermont-Ferrand**. As many as 70% of approximately 15,000 asylum seekers who applied for are already received a protection status or have been heard by the CNDA.[332]

328 UNHCR, *L'expérience des centres d'accueil en France*, October 2017, available in French at: http://bit.ly/2itnWP4.
329 Circular NORINTK15201955, 20 November 2015, available in French at: http://bit.ly/2iPDGHv.
330 FNARS, *Enquête : état des lieux des centres d'accueil et d'orientation au 22 janvier 2016* (Survey : inventory of accommodation and orientation centres as of 22 January 2016), March 2016, available in French at: http://bit.ly/2jMuiZk.
331 OFII, *Point CAO*, 29 December 2016.
332 OFPRA, 'Participation de l'Ofpra à l'opération de mise à l'abri depuis le bidonville de Calais', 28 October 2017, available in French at: http://bit.ly/2DuDET3.

1.4. Reception and accommodation programme for asylum seekers (PRAHDA)

Against the backdrop of high numbers of persons in need of reception, and the insufficiency of the CAO system to respond to demand, the Reception and Accommodation Programme for Asylum Seekers (PRAHDA) was also set up. 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. Half of those are single adults.

1.5. Reception and administrative situation examination centres (CAES)

Futhermore, a new form of accommodation has emerged against the backdrop of increasing shortage in reception capacity in **Paris**. A Reception and Administrative Situation Examination Centre (CAES) was opened in **Cergy**, Paris October 2017,[333] which combines accommodation with an examination of the person's administrative situation examination, in order to direct the individual to other accommodation depending on whether he or she falls within an asylum procedure, a Dublin procedure or a return procedure. A Circular of 4 December 2017 envisages the creation of a CAES of 200 places in each region of France.

1.6. Asylum seekers left without accommodation

Despite the incease in reception capacity and creation of new forms of centres, including PRAHDA and CAES in the course of 2017, a number of regions continue to face severe difficulties in terms of providing housing.

Informal camps in Paris

In **Paris**, several informal camps have been set up, for instance in 2016 in the 19th *arrondissement,* near the metro stations **Jaurès** and **Stalingrad** and in 2017 at **Porte de la Chapelle**. Among foreign nationals living in these camps there were irregular migrants but also asylum seekers, most of them joining the camps after the dismantlement of **Calais** camps

The camps in 19th *arrondissement* emerged during the last quarter of 2016. A lot of people have joined these camps from Calais. A campaign of dismantlement has been set up by the Ministry of Interior in the last few months. Almost 3,800 people have been evacuated and accommodated in 80 temporary shelters.[334] Asylum seekers living on the street have been put under a lot of pressure during this period.[335] According to several stakeholders, these operations may have been conducted with police violence. Médecins Sans Frontières (MSF) has denounced several police abuses in January 2017. The NGO reported the police was harassing migrants waiting to get access to the first reception centre (CPA), also known as "humanitarian centre", based in **La Chapelle**, north of Paris.[336]

The municipality in Paris built this centre to accommodate asylum seekers living in those camps, in the 18th *arrondissement*. This centre can accommodate 400 asylum seekers but aims also to orientate and support all the migrants. It is run by Emmaüs and opened on 10 November 2016 and has received over 20,000 persons to date.[337] Migrants are supposed to be provided with health care, social and administrative support. This accommodation facility is dedicated to single men only. The asylum

333 La Croix, 'Sans le centre pour migrants de La Chapelle, 20 000 personnes de plus auraient été dans la rue', 10 November 2017, available in French at: http://bit.ly/2FUPkwV.

334 FranceInfo, 'Paris : le démantèlement du camp de Stalingrad est terminé. Plus de 3 800 migrants évacués', 4 November 2016, available in French at: http://bit.ly/2fni8jt.

335 Libération, 'Au camp de migrants à Paris : entre espoirs et opérations policières', 31 October 2016, available in French at: http://bit.ly/2jEaTFT.

336 MSF, 'Migrants dans la rue à Paris : les harcèlements et les violences policières doivent cesser', 7 January 2017, available in French at: http://bit.ly/2i46lLa.

337 La Croix, 'Sans le centre pour migrants de La Chapelle, 20 000 personnes de plus auraient été dans la rue', 10 November 2017, available in French at: http://bit.ly/2FUPkwV.

seekers identified in the centre will supposedly be channelled to the asylum procedure.[338] Another centre accommodating specifically women and families is also run by Emmaüs at **Ivry-sur-Seine**, South of Paris. This centre opened on 19 of January 2017 and is planned to close in spring 2018.[339] Despite several initiatives taken by the public authorities and local stakeholders, many migrants and asylum seekers are still on the street.[340]

In July 2017, the police dismantled the makeshift camp in **Porte de la Chapelle**. 2,700 people were evacuated.[341] Similar operations took place almost every day at the end of 2017, such as on the night of 10 December. The police has been accused of lacerating migrants' tents during these operations.[342] Such allegations against police officers is also reported in other French cities, *inter alia* in **Caen**, Normandy.[343]

The situation in Calais

In **Calais**, after the steps taken by the French government in 2015 and 2016,[344] the slums have been destroyed and people have been directed to Reception and Orientation Centres (CAO). The dismantlement of the Calais camps has been operated in several stages. A first operation took place by the end of 2015, during which 700 people were sheltered.[345] In the steps of this initiative, the French government has defined the modalities of accommodation required for the CAO.[346] The southern part of the camp was destroyed in February 2016, in a context heavy of tensions.[347] In October 2016 the government finalised the operation of evacuation and channelled the people living in the slums to CAO.[348] 5,243 migrants had been directed to 197 CAO at that time (see section on CAO).

Despite this operation, as of January 2018, hundreds of migrants were still living in makeshit camps in Calais area. NGOs denounce the deterioration of the living conditions in the camp after the arrival of Emmanuel Macron in power in 2017.[349] In July 2017, the Council of State ruled that state deficiencies in Calais exposed migrants to degrading treatment and enjoined the State to set up several arrangements for access to drinking water and sanitary facilities.[350]

Ther have also been reports of harassment, violence and systematic destruction of migrants' essential goods by the police.[351] The Ministry of Interior, for its part, has refuted allegations of police abuse.[352]

---

338 For more information on the centre, see the Emmaüs website at: http://bit.ly/2jr8GOH.

339 Le Parisien, 'Ivry : le centre d'accueil pour migrants ouvrira le 19 janvier', 4 January 2017, available in French at: http://bit.ly/2ikpfiI.

340 France 24, 'Migrants : des mini-campements se reforment près du centre humanitaire de Paris", 10 January 2017, available in French at/ http://f24.my/2j5sTvP.

341 Le Parisien, 'Paris : 2771 migrants évacués des campements de la porte de la Chapelle, 7 July 2017, available in French at: http://bit.ly/2sTBL9c.

342 Huffigton Post, 'Des tentes de migrants lacérées lors de la dispersion d'un campement à Paris', 11 December 2017, available at: http://bit.ly/2Dwu67D.

343 Actu.fr, 'Près de Caen, des migrants assurent avoir été gazés par les forces de l'ordre : la préfecture dément', 25 November 2017, available in French at: http://bit.ly/2FBiyAN.

344 See also AIDA Country Report France: Fourth Update, December 2015.

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

346 *Ibid.*

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

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

349 France Info, 'Migrants : "Les choses ont largement empiré" depuis l'arrivée d'Emmanuel Macron au pouvoir', 14 January 2017, available in French at: http://bit.ly/2D4HIpN.

350 Council of State, Order 412125, 31 July 2017.

351 *Ibid*; Le Monde, 'Au petit matin à Calais, les biens des migrants détruits', 6 December 2017, available in French at: http://lemde.fr/2iZEL4O; Le Monde, 'Human Rights Watch dénonce l'utilisation de gaz poivre contre les migrants à Calais', 26 July 2017, available in French at: http://lemde.fr/2h1tvDd; Human Rights Watch, *Like living in hell: Police abuses against child and adult migrants in Calais*, 26 July 2017, available at: http://bit.ly/2rp6UG6.

352 Ministry of Interior, 'Action de l'Etat à Calais et dans le Dunkerquois', 23 October 2017, available in French at: http://bit.ly/2mYDmu7.

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? 423 days
3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No

2.1. Conditions in CADA

Reception centres (CADA) are the main form of accommodation provided to asylum seekers. They include both collective and private accommodations that are located either within the same building or in scattered apartments. There are 40,450 places in CADA spread across the French territory, therefore the following description is a general assessment that cannot cover the specific situation to be found in all CADA.

Living conditions in regular reception centres for asylum seekers are deemed adequate, and there are no official reports of overcrowding in reception centres. The available surface area per applicant can vary but has to respect a minimum of 7m^2 per bedroom. 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 2011 Circular relating to the missions of reception centres for asylum seekers also foresees that the sharing of flats has to be considered to preserve a sufficient amount of individual living space.[353]

None of these centres are closed centres. Asylum seekers can go outside whenever they want but they cannot leave for more than 5 days without informing the centre staff. If they do so, their living allowance can be suspended.[354] The 2011 Circular encourages staff working in CADA centres to organise cultural activities to mitigate the inactivity of the persons accommodated there. Leisure activities such as sport activities or excursions are sometimes organised. However, as per their defined missions at the end of 2015,[355] CADA are only supposed to facilitate contacts with local organisations providing cultural and social activities. In practice, many structures organise cultural projects in their centres such as gardening, scrap-booking, museum visits, etc.

As per the 19 August 2011 Circular, the staff working in reception centres also has the obligation to organise a medical check-up upon arrival in the reception centre. In the context of the application of the reform of the law on asylum,[356] this medical check-up has to be done at the latest 15 days after arrival while it was 8 days before.

The staff ratio is framed by the 29 October 2015 Decree; a minimum of 1 fulltime staff for 15 to 20 persons is required. Staff working in reception centres is trained.

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

---

353 See section I.1.2 of the Circular NOR IOCL1114301C of 19 August 2011 on the missions of reception centres for asylum seekers.
354 Article D.744-35 Ceseda.
355 Decree of 29 October 2015 on missions’ statement of CADA.
356 Decree of 29 October 2015 on the general rules of functioning of CADA.

2.2. Conditions in emergency centres

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

These centers being overcrowded, applicants can also be accommodated in traditional emergency shelters, accessible to any homeless person. In these shelters, which are also overcrowded, it is difficult to obtain a place for asylum seekers and they do not benefit from any support specific to their situation.

2.3. Conditions in CAO

Reception conditions are very different from one CAO to another. Some of these centres have been created to respond the demand of the government. In several regions, municipalities have offered to house the asylum seekers in leisure centres, in camping sites or in unoccupied facilities, such as former schools or hospitals.[357] A recent evaluation by UNHCR has reported living conditions in CAO to be satisfactory overall.[358]

Access to services depends on the location of the CAO, as some centres are located in cities while others are set up in remote areas. A recent UNHCR evaluation of the CAO system refers to good examples in **Decize** or **Dreux**, established in urban centres, as good examples which enable residents to benefit from services and greater autonomy.[359]

The structures running these centres benefit from funds to receive the asylum seekers on the basis of a daily cost of 25 €, including housing and three meals. This daily average cost is higher than that estimated for CADA (19.50 €) and emergency facilities (15.97 € in HUDA and 15.65 € in AT-SA).[360]

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?	9 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

357 For an example of the diversity of the types of structures accommodating asylum seekers, please see, France 3 Bretagne, 'Carte : Où sont hébergés les migrants de Calais en Bretagne?', 25 October 2016, available in French at: http://bit.ly/2jPmVMD.

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

359 *Ibid*, 18-19.

360 Circular of 4 December 2017 'relative à l'évolution du parc d'hébergement des demandeurs d'asile et des réfugiés', available at: http://bit.ly/2AJA3eo.

Access to the labour market is allowed only if OFPRA has not ruled on the asylum application within 9 months after the registration of the application and only if this delay cannot be attributed to the applicant.[361] In this case, the asylum seeker is subject to the rules of law applicable to third-country national workers for the issuance of a temporary work permit.[362]

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

The competent unit for these matters is the Regional Direction for companies, competition, consumption, work and employment (DIRECCTE) at the Ministry of Labour. In any case, the employment situation also puts constraints on this right. In accordance with Article R.5221-20 of the Labour Code (Ctrav), the Prefect may take into account some elements of assessment such as "the current and future employment situation in the profession required by the foreign worker and the geographical area where he or she intends to exercise this profession", to grant or deny a work permit. In France, since a decree from January 2008, 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.[363] In practice, Prefectures use these lists of sectors facing recruitment difficulties.

Finally, asylum seekers have a lot of difficulties in accessing vocational training schemes as these are also subject to the issuance of a work permit. According to the law,[364] this permit is delivered to unaccompanied children, and the employment situation does not put any constraints if they meet some criteria, except when they are in asylum procedure due to limitations applied to all asylum seekers.[365]

- They have been taken care of by the Childcare Protection Services before turning 16 and want to have access to a professional training;[366]
- They have been taken care of by the Childcare Protection Services between the age of 16 and 18 and meet the criteria to be issued a residence permit including a work permit.[367]

This means that it is more difficult to obtain a permit for a child who is an asylum seeker. That is why some children do not want to ask for asylum.

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

While no provision of the Education Code covers the particular case of children of asylum seekers, the law provides that they are subject to compulsory education as long as they are between 6 and 16 years old,[368] on the same conditions as any child. Primary school enrolment can be done at the local town hall. Enrolment in a secondary school (high schools) is made directly to the institution closest to the place of residence of the child. If the children seem to have a sufficient command of the French

361 Article L.744-11 Ceseda.
362 Article R.742-2 Ceseda.
363 Ministerial Order NOR IMID0800328A of 18 January 2008 on the issuance of work permits to third-country national workers, available in French at: http://bit.ly/1LWfeQd.
364 Article L.5221-5 Ctrav.
365 They do not have the right to work except if the length of the procedure is more than 9 months.
366 Circular NOR: JUSF1602101C of 26 January 2016, available in French at: http://bit.ly/2jghM16.
367 *Ibid.*
368 Article L.131-1 Education Code.

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).[369] The test results will enable teachers to integrate the child within the dedicated schemes e.g. training in French adapted to non-native speakers (*français langue étrangère*, FLE) or initiation classes.

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

Barriers to an effective access to education are varied. Beyond the issue of the level of language, there are also a limited number of specialised language training or initiation classes and limited resources dedicated to these schemes. This is an even more acute difficulty for reception centres in rural areas which simply do not have such classes. Besides, some schools require an address before enrolling children and this can be an issue for asylum seekers who do not have a personal address. Finally, access to education for children aged 16 to 18 is much more complicated as public schools do not have any obligation to accept them. They may be eligible for French courses offered by charities but the situation varies depending on the municipality. Access to apprenticeship is not possible as it would imply an access to a work permit that is usually not granted to asylum seekers. As a general rule, there is no training foreseen for adults. French language courses are organised in some reception centres depending on the availability of volunteers. Young adults and adults are often forced to put aside their career or training, pending the decision on their asylum application. For young people, this represents a considerable loss of time.

Finally, asylum seeking children with special needs are faced with the same difficulties as children with special needs in general. Access to trained and specialised staff ("*auxiliaires de vie scolaire*") tasked with supporting these children during their education in regular schools is very limited. For example, on 10 March 2014, the Committee of Ministers of the Council of Europe adopted a resolution tackling the issue of the difficult schooling of children with autism in France.[370]

According to a March 2014 report from the CNCDH, access to education remains a concern for unaccompanied children, in particular those who are not taken charge by the competent public service and have to care for themselves. In a recent study,[371] the Council of Europe and UNHCR indicated that unaccompanied and separated children arriving after the age of 16 are only given access to education if places are available. Some of them arrive without ever having been to school, so they often cannot read or write. In this case it is extremely difficult to integrate them into the mainstream education system. There is no access to free language classes, as in some other countries, either. Sometimes, social workers in the facilities manage to make appropriate arrangements on an ad hoc basis.

In the "**Maison du jeune réfugié**" in Paris, managed by the NGO France terre d'asile, all unaccompanied children arriving have classes to learn French and maths, as a minimum. Depending on their level of French and literacy, they are placed into one of four different groups. In that way, they immediately start an integration process, with access to basic education, while preparing their future projects.

---

369 See Circular NOR: 2012-143 of 2 October 2012.

370 Council of Europe Committee of Ministers, *Autisme-Europe against France*, Resolution ResChS(2004)1, Collective complaint No. 13/2002, 10 March 2014, available at: http://bit.ly/1RlREQt.

371 CNCDH, *Unaccompanied and separated asylum-seeking and refugee children turning eighteen: What to celebrate?*, UNHCR/Council of Europe field research on European State practice regarding transition to adulthood of unaccompanied and separated asylum -seeking and refugee children, March 2014, Strasbourg, France.

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 healthcare insurance (PUMA) system.[372] Asylum seekers are exempted from the 3 month residence requirement applied to other third-country nationals,[373] and this applies to asylum seekers under the Dublin procedure as well. As both asylum seekers under accelerated procedure and Dublin procedure are granted an asylum claim certification (see section on Registration) they benefit from the PUMA. Even if no legal provision has been provided in this specific issue of asylum seekers under the Dublin procedure, it has been observed in practice that the social security services allow them to be provided with the same healthcare insurance as other asylum seekers. The request to benefit from the PUMA is made to the social security services (CPAM) of the place of residence or domiciliation. The asylum seeker must submit documentary evidence of the regularity of his or her stay in France, marital status and the level of his or her resources.

Access to the PUMA insurance is provided for free if the annual resources of the claimant do not exceed €9,534 per household. In the absence of an official document attesting the level of resources, the claimant may make a sworn statement on the level of his or her resources.

Migrants who are not granted leave to remain on the territory benefit from State medical assistance (AME), which enables the beneficiaries to receive free treatments in hospitals as well as in any doctors' offices.[374]

On 1 March 2011, access to the State medical aid (AME) had been made conditional upon payment of an annual fee of 30 € per beneficiary but the French Parliament abolished this tax on 19 July 2012. It should be noted that access to the AME is possible only after 3 months of residence in France. The AME remains available to asylum seekers even if other reception conditions have been reduced or withdrawn.

Individuals with low income and who are still awaiting health insurance and needing healthcare quickly can turn to the All-Day Healthcare Centres (PASS) at their nearest public hospital. This is therefore also a possibility for asylum seekers under the accelerated and Dublin procedures. There, they will receive care and, if necessary, the medical letter needed to speed up the processing of their application for public health insurance. According to the law, all public hospitals are required to offer PASS services, but in practice, this does not always occur.

As a general rule, difficulties and delays for effective access to healthcare vary from one city to another in France. Access to the PUMA is functioning well in most of the regions of France, and is effective within one month. Access has been considerably improved since 2016, even if some difficulties remain,

372 Article L.380-1 Social Security Code.
373 Article D.160-2(3) Social Security Code.
374 Ministry of Interior, *Social Rights of Asylum Seekers*, available at: http://bit.ly/1EvEcCF.

in particular for subsequent applicants. The duration of access to the healthcare insurance is in theory linked to the duration of validity of the asylum claim certification. In practice, it can be noted that CPAM deliver healthcare insurance for a one-year duration. In fact, at the end of the validity of the asylum claim certification, access to health care is not guaranteed anymore. It may then occur, at the moment of renewing their certification, that some asylum seekers get their healthcare insurance suspended.

Finally, some of the problems with regard to medical care are not specific to asylum seekers. Some doctors are reluctant to receive and treat patients who benefit from the AME or PUMA and tend to refuse booking appointments with them even though these refusals of care can in theory be punished.[375]

National legislation does not guarantee any specific provision for access to care related to mental health issues. Asylum seekers can theoretically benefit from psychiatric or psychological counselling thanks to their health care cover (AME or PUMA). However, access remains difficult in practice because many professionals refuse to receive non-French speaking patients as they lack the tools to communicate non-verbally and / or funds to work with interpreters.

Victims of torture or traumatised asylum seekers can be counselled in a few NGO structures that specifically take care of these traumas. This adapted counselling is provided, for instance, at the Primo Levi Centre and Comede in **Paris** as well as the Osiris centres in **Marseille**, Mana in **Bordeaux**, Forum réfugiés – Cosi Essor Centre in **Lyon**. These specialised centres are however too few in France, unevenly distributed across the country and cannot meet the growing demand for treatment.

The difficulties are in fact even more aggravated by the geographical locations of some reception centres where the possibility to access mental health specialists would mean several hours of travel.

The “regular” health system cannot currently cope with this adapted care for victims of torture and political violence. These regular structures lack time for consultations, funds for interpreters and training for professionals.

In 2016, 2,650 appointments were conducted in the Essor centre that provides a multidisciplinary approach where a doctor, psychologists, a physiotherapist and an art-therapist offer a comprehensive and multifaceted care to patients. 575 persons have benefited from the services of the centre, among them 13% children. An important feature of the proposed treatment is to allow the patient to express themselves in their own language, through interpretation.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
   ☒ Yes ☐ No

The law foresees a specific procedure for the identification and orientation of asylum seekers with special reception needs. This procedure consists in an interview conducted by OFII officers. These officers shall be specifically trained on identification of vulnerability (see Identification).[376]

However, the Ceseda does not refer to vulnerability on account of sexual orientation of gender identity, therefore this is not taken into account by OFII either. In practice, LGBTI persons face strong difficulties when OFII does not provide them with housing, besause most of the time they cannot find support in their national communities.

375 Circular DSS n. 2001-81, 12 February 2001 on the care refusal for beneficiaries of the CMU.
376 Article L.744-6 Ceseda.

So far, places in regular reception centres (CADA) are mostly allocated to vulnerable asylum seekers but whose vulnerability is "obvious" (families with young children, pregnant women and elderly asylum seekers). The questionnaire that is used by OFII officers as part of the vulnerability assessment only focuses on "objective" elements of vulnerability, thereby hindering the identification of less visible needs.

The French system does not yet foresee any specific ongoing monitoring mechanism to address special reception needs that would arise during the asylum procedure. In practice, however, social workers in reception centres have regular exchanges with the asylum seekers and may be able to identify these special vulnerabilities, should they appear during the reception phase. It is possible for the accommodation centres to notify OFII of the personal situation of an asylum seeker presenting a particular vulnerability and to ask for his or her re-orientation to a more suitable centre. In many occasions, social workers have reported the fact the orientation by OFII did not take into account the vulnerability of some asylum seekers. For example, it has happened that asylum seekers in a wheelchair had been proposed to be accommodated in a centre without any specific access for disabled persons.

The main difficulty for the staff is however the identification of solutions to respond to this need (see section on Health Care on the limited access to mental health care for instance). Therefore, the obligation on OFPRA and OFII to take into account the specific situation of vulnerable persons throughout the asylum procedure, including when these vulnerabilities only appear after the vulnerability assessment, should lead to new practice. The vulnerability assessment's conclusions as well as all information related to asylum seekers are to be computerised. Consequently, it should be easier to approach vulnerability in a more comprehensive way and to facilitate exchange of information. However, this is far from being effective in practice and many legal and practical measures are still lacking to allow this system to be implemented.

In addition, specific reception conditions for victims of trafficking for instance are not foreseen yet. It is interesting to note that out of the 324 third-country nationals who received a residence permit as a victim of trafficking in human beings in 2008-2012, nearly a quarter (76) had made an initial application for asylum which had been rejected.

1. Reception of unaccompanied children

Care system ("*prise en charge*") for unaccompanied children regardless of status

The term unaccompanied child has no explicit definition in French law.[377] The protection of these young people is therefore based on the notion of children at risk, as outlined in French legal provisions on child protection, which is applicable regardless of nationality or the status of an asylum seeker. Local authorities *(Départements / Conseils généraux)* are in charge of children at risk so they have to protect unaccompanied children in France. It is therefore difficult to obtain an overview of the situation for unaccompanied children at the national level. The Ministry of Justice has been in charge of the coordination of this issue at national level since 2010, but its role under the 2013 Circular is limited in practice to the distribution of children between local authorities.

Protection measures are usually initiated by children who turn to NGOs or judges for help. There is no specific procedure in place for identifying unaccompanied children. When they go to the Prefecture in order to lodge an asylum application, the authorities verify only whether a legal guardian is present or not. If not, a legal representative to support and represent the child in asylum procedures (*ad hoc* administrator) should be appointed (see section on Legal Representation of Unaccompanied Children).

[377] Foreign unaccompanied children do not constitute any specific category in the Ceseda, except for two articles which mention them in relation to the *ad hoc* administrator (Articles L.221-5 and L.751-1), or in the CASF.

In practice, several social workers have reported in 2017 that some Prefectures still do not accept to register the asylum claims of unaccompanied children. In many regions, **Ile de France**, **Bretagne**, **Auvergne- Rhônes-Alpes**, **Occitanie** or **Aquitaine**, asylum-seeking children are sometimes channelled to the common law procedure for unaccompanied minors and they are prevented from registering their asylum claim.

The French authorities have attempted to improve and harmonise the functioning of the reception and assistance provided to unaccompanied children (including asylum-seeking children) through a Circular adopted on 31 May 2013. The Circular is aimed at limiting the disparities between the *départements* in terms of arrivals of unaccompanied children and at harmonising the practices throughout the country.[378] Some funding is provided by the national authorities, thereby acknowledging the involvement of the State in an issue which generally falls under the jurisdiction of the *départements.*[379] State funding covers the emergency reception costs of the children during the first 5 days after arrival while the evaluation the referral is carried out.

If it is established that the young person is a minor within these 5 days, the State prosecutor should contact a national cell of the ministry of Justice dedicated to that which will indicate the *département* where the child could be placed on the basis of demographic criteria.[380] However, in practice, some *départements* refuse to accept these children and the State prosecutors hardly resort to binding measures even though the circular enables them to do so.[381] The National Commission on Human Rights, in an opinion adopted in June 2014,[382] regrets that the circular from 31 May 2013 focuses on the management of the geographical distribution of foreign unaccompanied children over the territory without taking sufficiently into account the principle of the best interests of the child.

On the other hand, a report from several national inspection bodies considers that the referral scheme and the geographical distribution provided by this circular constitute progress as they foster harmonisation of practices at national level and solidarity between *départements*.[383] The same report however also highlights many shortfalls and recommends some adjustments and improvements as well as the reinforcement of State funding and involvement.

As of 14 March 2016, this mechanism has been consecrated by law.[384] The geographical distribution is done according to criteria defined by a Decree of 28 June 2016:[385]

- The part of the local population over 19 years-old ;
- The number of unaccompanied minors sheltered and supported at the end of the year;
- The transmission to the Ministry of Justice of the number of unaccompanied minors taken in charge by Childhood Welfare as of 31 December.

---

378 The Circular of 31 May 2013 does not apply to the *département* of Mayotte, which has however faced many challenges in terms of protection of unaccompanied children for many years.

379 This puts a heavy financial burden on *départements* and some of them, as well as members of the Senate, consider that this issue should be handled and financed by the State.

380 The decision of the prosecutor has to be confirmed by the juvenile judge. If the minority is not established by the prosecutor, the child has the possibility to refer directly the juvenile judge who will take a new decision about his or her minority.

381 France terre d'asile, *Mineurs isolés étrangers : évaluer et protéger !*, 14 October 2013, available in French at: http://bit.ly/1RkAIcZ.

382 CNCDH, *Avis sur la situation des mineurs isolés étrangers présents sur le territoire national. Etat des lieux un an après la circulaire du 31 mai 2013 relative aux modalités de prise en charge des jeunes isolés étrangers (dispositif national de mise à l'abri, d'évaluation et d'orientation,* 26 June 2014, available in French at: http://bit.ly/1Uhu9XE.

383 General Controllers for Judicial Services, Social Affairs and Administration, *Assessment of the scheme for unaccompanied foreign children established under the protocol and the circular of 31 May 2013*, July 2014.

384 Law n. 2016-297 relating to childhood protection, 14 March 2016, available in French at: http://bit.ly/2jPyjYW.

385 Decree n. 2016-840 relating to the distribution key of the orientations of unaccompanied minors, 28 June 2016, available in French at: http://bit.ly/2jg4RMO.

If no data is collected and transmitted, it will be considered that no unaccompanied minors have been supported and assisted in the concerned *départements.* These *departements* will therefore have to increase the number of minors assisted during the following year.

Specific centres for unaccompanied children

As a general rule, after identification, unaccompanied children (including those between 16 and 18) are placed in specific children's shelters that fall under the responsibility of the departmental authorities.[386] These are managed by the *conseils départementaux*. They also may be accommodated in foster families.

The national reception scheme used to include 1 centre especially suited to unaccompanied children asylum seekers, called Caomida (Reception and Orientation Centre for Asylum-seeking Unaccompanied Children), which had national coverage and was managed by the NGO France terre d'asile. However, the Caomida is no longer dedicated to unaccompanied asylum-seeking children and can host unaccompanied children in any administrative situation.

Very few of these centres are designed for asylum-seeking children specifically. There is a specialised centre at the department level managed by Coallia in **Côtes-d'Armor** (Samida).[387] In some *départements,* children are hosted in centres with all children in need of social protection, but another service helps them in their specific procedures. As an example, since 2005, Forum réfugiés-Cosi has carried out missions to provide information, legal support and assist in the referral of hundreds of asylum seeking unaccompanied minors arriving in the **Rhône** *département*. The OFPRA leaflet targeted to unaccompanied asylum seeking children lists a number of specialised NGOs providing support.[388]

When children are not accommodated in specialised centres, legal support depends on services provided by NGOs in the geographical area.

In June 2017, the Senate published a report on the social care of unaccompanied children, where it noted shortcomings in the reception system, such as housing in hotels, and encouraged community-based accommodation.[389] Through an opinion of 25 September 2017, the Ombudsman requested the creation of a centre in **Calais** where unaccompanied children could rest, receive care and obtain clear information on their rights.[390]

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

The provision of information for asylum seekers accommodated in reception centres (CADA) about the modalities of their reception is governed by the Circular on the missions of CADA centres of 3 November 2015.[391] Upon admission in the CADA, the manager has to deliver to the asylum seeker any useful information on the conditions of his or her stay in the centre, in a language that he or she understands and in the form of a welcome booklet. These modalities can vary in practice from one

386 Information on the various schemes for unaccompanied children is available at: http://bit.ly/1JP5kiG.
387 *Ibid*.
388 OFPRA, *Guide de l'asile pour les mineurs isolés étrangers en France*, 30 April 2014. This list includes: Centre enfants du monde (Cem – Croix-rouge française); COaLLia - Service d'accompagnement des mineurs isolés étrangers (SAMIE) ; Ftda (France terre d'asile) permanence d'accueil et d'orientation des mineurs isolés étrangers ; association infomie ; pôle d'évaluation des mineurs isolés étrangers (pemie – Croix-rouge française).
389 Senate, *Rapport sur la prise en charge sociale des mineurs non accompagnés*, n. 598, 28 June 2017, available in French at: http://bit.ly/2DcgMZg.
390 Ombudsman, Opinion n. 17-09, 25 September 2017, available in French at: http://bit.ly/2rcqvt2.
391 Decree n. INTV1525114A of 3 November 2015 on missions' statement of CADA.

centre to the other. In any case, core information about procedural rights during the asylum procedure is shared with accommodated asylum seekers on a regular basis and upon request if necessary. Each centre also has its own information procedures. Generally, in a CADA managed by Forum réfugiés – Cosi, for instance, the asylum seeker is informed about these legal reception provisions through the residence contract and operating rules he or she signs upon entry in the reception centre. On this occasion, an information booklet on the right to health is handed over to the asylum seeker. As some asylum seekers do not have easy access to written information, collective information sessions through activities are also organised in reception centres managed by Forum réfugiés – Cosi.

As regards CAO, however, there have been challenges in the effective provision on information to asylum seekers on their rights. Beyond a lack of clarity on the applicability of the Dublin procedure in some cases, people hosted in CAO did not receive adequate information on crucial aspects of reception conditions, including ADA and the assessment of vulnerability. UNHCR has regretted the failure of OFII to ensure more regular presence in CAO with a view to providing such information.[392]

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
☒ Yes ☐ With limitations ☐ No

In France, reception centres for asylum seekers are not closed centres. They are accessible to visitors of the family accommodated in the centres and to other stakeholders within the limits set by the Rules of Operation, usually subject to the preliminary notification of the manager.

Many reception centres are managed by NGOs, whose staff is therefore present on a daily basis.

G. Differential treatment of specific nationalities in reception

There is no differential treatment of specific nationalities in reception.

[392] UNHCR, *L'expérience des centres d'accueil en France*, October 2017, 25.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention	
1. Asylum seekers lodging a claim in detention in 2017:	Not available
2. Number of asylum seekers in detention at the end of 2017:	Not available
3. Number of detention centres:	56
❖ Administrative detention centres (CRA):	27
❖ Administrative detention places (LRA):[393]	26
❖ Waiting zones at borders and airports:	13
4. Total capacity of detention centres:[394]	2,054

French law does not allow the detention of asylum seekers for the purpose of the asylum procedure. The asylum seekers covered in this section are mainly the ones who have lodged a request for asylum while in an administrative detention centre (*centre de rétention administrative*, CRA) for the purpose of removal.

In 2016, 1,293 third-country nationals lodged an asylum application while in administrative detention.[395] Most asylum seekers present in administrative detention centres are either third-country nationals who have lodged a claim while being detained or rejected asylum seekers who ask for a subsequent examination of their asylum claim. The latter represented 25.9% of the total number of claims introduced in detention centres in 2016, a 6-point decrease compared to 2015.[396]

However, newly arrived asylum seekers can be arrested and placed in administrative detention, in particular in the **Paris** region and in border regions. This can happen when they have started the registration process of their asylum claim and then have gotten arrested pending the official confirmation of this registration. Indeed, in the Paris region, these procedures can take several weeks through waiting for a registered address through an association or for the appointment at the Prefecture, before a temporary residence permit is issued (see section on Registration). These asylum seekers do not always have the necessary documents proving their pending registration with them when they get arrested. As a result, a removal decision can be taken and the person is placed in administrative detention and his or her claim may be processed from there. In practice, certain administrative courts order the release of such asylum seekers upon presentation of proof of steps taken on the territory to have their claim registered,[397] but this is far from being automatic.[398]

Moreover, in the context of border controls in the area of **Alpes-Maritimes** throughout 2017, the Border Police has detained newly arrived asylum seekers without formal order in a "temporary detention zone" ("*zone de rétention provisoire*") made up of prefabricated containers in the premises of the Menton Border Police, and established following an informal decision of the Prefect of Alpes-Maritimes.[399] 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".[400] The Council of State has also upheld this form of detention as lawful during the period necessary for the examination of the situation of persons crossing the border, subject to judicial control.[401]

---

393 The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefect.
394 *Ibid.*
395 OFPRA, *2016 Activity report*, 126.
396 *Ibid*.
397 Administrative Court of Versailles, Decisions of 8 April 2015 and 31 August 2015.
398 For more information, see Assam et al., 2012 Detention report, 4 December 2013, 27-28.
399 ANAFE *et al.*, 'Menton : des personnes exilées détenues en toute illégalité à la frontière', 7 June 2017, available in French at: http://bit.ly/2Dnp7pb.
400 Administrative Court of Nice, Order No 1702161, 8 June 2017.
401 Conseil d'Etat, Order No 411575, 5 July 2017.

There are 27 CRA and 26 administrative detention places (LRA)[402] on French territory (including in overseas departments). This amounts to a total of 2,054 places.[403] Article R.553-3 Ceseda foresees that each centre's capacity should not exceed 140 places. 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 can only be maintained in detention if the Prefecture states in a written and motivated decision that the asylum claim has only been introduced to prevent a notified or imminent order of removal.[404] The decision to maintain a seeker in administrative detention can be challenged before administrative courts within 48 hours, and has suspensive effect. Foreign nationals who introduced a claim from administrative detention and are released are given an asylum claim certification and their claim will be normally processed.[405]

This constitutes a real improvement, as for people seeking asylum in administrative detention, it is difficult to prepare such an application in a place of confinement. There is very limited time to develop the reasons for the claim, stressful conditions prior to the interview with OFPRA, difficulties to locate and gather the necessary evidence etc. In addition, for claims channelled into the accelerated procedure, OFPRA has 96 hours to examine the application.[406] This extremely brief period of time drastically reduces the chances of benefiting from an in-depth examination of the claim. Moreover, there have been several cases demonstrating that the 96 hours delay is not always respected by OFPRA,[407] thus unlawfully extending the detention period. Therefore, only the CNDA could provide an in-depth examination of the claim. However, when the asylum seeker's detention is confirmed by the administrative court, he or she will not benefit from a suspensive effect of his or her appeal of a negative decision given by OFPRA before the CNDA. He or she can be removed to his or her country of origin even though the CNDA has not given its final decision on the case. Consequently, the asylum seeker in detention does not benefit from an effective remedy nor from an in-depth examination of his or her claim. France has been condemned by the European Court for Human Rights in 2012 for violation of Article 13 on the right to an effective remedy in these particular circumstances.

In a December 2014 information note, the Minister of Interior already called for an individual assessment of each case by the Prefects in order to decide precisely whether the asylum seeker in administrative detention should be delivered a temporary residence permit and therefore released from detention and channelled into the regular procedure, or not – and therefore channelled into the accelerated procedure.[408]

Finally, 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 not strictly speaking 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. As detailed in the section on Border Procedure, 902 requests to enter the French territory on asylum grounds were made at the border in 2016.

---

402 The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefect.

403 Le Monde, 'Rétention administrative : 46 000 étrangers enfermés 12 jours en moyenne chaque année', 28 September 2017, available in French at: http://lemde.fr/2r6P2Q9.

404 Article L.556-1 Ceseda.

405 Decree n. 2015-1166 of 21 September 2015.

406 Article L.556-1 Ceseda.

407 See for instance Administrative Court of Appeal of Lyon, Decision 15/001317, 1 September 2015.

408 Ministry of Interior, *Note d'information du 23 décembre 2014 relative aux demandes d'asile présentées par des étrangers placés en rétention administrative en vue de leur éloignement. Suites à donner à la décision n°375430 du Conseil d'Etat du 30 juillet 2014, NOR : INTV1430936N* (Information Note of 23 December 2014 following the Council of State decision n°375430 of 30 July 2014).

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
   - ❖ on the territory: ☐ Yes ☒ No
   - ❖ at the border: ☒ Yes ☐ No
2. Are asylum seekers detained in practice during the Dublin procedure? ☐ Frequently ☒ Rarely ☐ Never
3. Are asylum seekers detained during a regular procedure in practice? ☐ Frequently ☒ Rarely ☐ Never

Asylum seekers are not placed in administrative detention centres for the purpose of the asylum procedure.[409] While persons who claim asylum during their administrative detention were previously not automatically released as a result of the asylum application, the law states that they have to, except if, based on a motivated and written decision, the Prefect considers that the claim aims solely to avoid an imminent removal.[410] Remaining cases of detained asylum seekers should be examined through an accelerated procedure which implies that OFPRA has to issue a decision within 96 hours. If this is not possible to OFPRA, detained asylum seekers have to be released.[411]

As the appeal before the CNDA has a suspensive effect for asylum seekers channelled into the accelerated procedure, it is not legally possible to place such asylum seekers in administrative detention from the moment they receive a negative decision from OFPRA and a return decision has consequently been issued.[412] In practice, it has not been the case that asylum seekers were detained pending a decision from the CNDA.

1.1. Detention under the Dublin Regulation

Asylum seekers under the Dublin procedure can be placed in administrative detention with a view to the enforcement of their transfer once the transfer decision has been notified, where there is a "significant risk of absconding".[413]

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.[414] Until this judgment, the "risk of absconding" was determined on the basis of the provision governing return procedures,[415] as well as guidance to Prefectures. An instruction of the Ministry of Interior issued on 19 July 2016 to Prefectures referred to the definition of a "risk of absconding" in the Dublin context, allowing for the placement of a person in administrative detention. The Ministry mentioned the following criteria as indicative of such a risk:[416]

- The individual has left the place where he or she is required to reside;

409 Article L.554-1 Ceseda.
410 Article L.556-1 Ceseda.
411 *Ibid*.
412 Article L.551-1(6) Ceseda.
413 Article 28(2) Dublin III Regulation.
414 Court of Cassation, Decision No 1130, 27 September 2017. See also Court of Cassation, Decision No 17-14866, 7 February 2018.
415 Article L.511-1 Ceseda.
416 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, 5.

- The individual has not appeared following several summons or has not respected reporting obligations in the context of house arrest.

The instruction added that Prefectures should determine the existence of a risk of absconding where the person subject to a Dublin procedure does not cooperate with their services in the implementation of the transfer.[417]

In response to the Court of Cassation ruling, a bill has been introduced to define the following criteria for the existence of a "significant risk of absconding", where an applicant *inter alia*:[418]

a. Has previously absconded from the Dublin procedure in another country;
b. Has received a rejection decision in the responsible Member State;
c. Has been found on French territory following the execution of a transfer.

The bill would also permit Prefectures to place asylum seekers in detention during the procedure for the determination of the responsible Member State, contrary to an opinion issued by the Council of State on 19 July 2017, which highlights the unlawfulness of detaining an applicant before a Dublin request has been accepted by the country concerned.[419]

Nevertheless, some Prefectures continue to detain asylum seekers despite the Court of Cassation ruling. In the four administrative detention centres visited by France terre d'asile, 145 persons have been placed in Dublin detention since the judgment.[420]

In practice, whereas applicants are placed less and less frequently in administrative detention and Prefectures resorted increasingly frequently to house arrest for asylum seekers under the Dublin procedure, 2,208 asylum seekers were detained in view of their removal to another EU country under the Dublin procedure in 2016.[421] Applicants may remain detained during the procedure of determination of the State responsible of their asylum claim. This case occurs only if the asylum seeker has not been registered as such before being detained.[422] As mentioned in General, the issue is important in **Paris** and its surroundings considering the difficulties to access to orientation platforms in order to be registered as asylum seeker at the "single desk".

Their number increased by 164.7% compared to 2015,[423] as the law now allows Prefectures to put asylum seekers under the Dublin procedure under house arrest during the duration of the procedure for the determination of the responsible Member State (see Alternatives to Detention).[424]

However, if Dublin asylum seekers are declared as "missing" because they have not been transferred during the 6-month period and they are stopped during a random identity check during the extended 18-month period (see Dublin: Procedure), they will most probably be placed in detention directly as the risk of absconding would seem high.

417 *Ibid*.
418 Proposition de loi permettant une bonne application du régime d'asile européen, 24 October 2017, available in French at: http://bit.ly/2DUKsac. See also the concerns raised by the Ombudsman: Opinion n. 18-02, 10 January 2018, available in French at: http://bit.ly/2Dvkpte.
419 Conseil d'Etat, Opinion No 408919, 19 July 2017.
420 France terre d'asile, 12 February 2018, available in French at: http://bit.ly/2HcZQAj.
421 Assfam et al., *2016 Detention report*, June 2017, available in French at: http://bit.ly/2vs38Jj.
422 *Ibid.*
423 *Ibid.*
424 Article L.742-2 Ceseda.

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

Ceseda lays down house arrest ("*assignation à résidence*") as an alternative to administrative detention. This measure can take different forms:

(a) House arrest in the case of an absence of reasonable prospects of removal:[425] The law foresees house arrest for a maximum period of six months (renewable once or several times, up to a total limit of one year) when "the foreigner can justify being unable to leave the French territory or can neither go back to his country of origin, nor travel to any other country" and that as a result, the execution of the removal measure is compromised on the medium or long term.

(b) House arrest as an alternative to administrative detention:[426] The Prefect can put those people who can produce representation guarantees and whose removal is postponed only for technical reasons (absence of identification, of travel documents, or of means of transport) under house arrest for a period of 45 days, renewable once. When foreigners subjected to a return decision and who are accompanied by their minor children, do not have a stable address (decent housing within legal conditions), it is possible to envisage house arrest in hotel-like facilities.

(c) House arrest with electronic monitoring for parents of minor children residing in France for 45 days (this measure is not implemented as far as we know).[427]

The house arrest decision can last 6 months and can be renewed once for the same period. It has to be motivated. The Prefecture is also allowed to keep the passport or identity document of the asylum seeker.

The law does not foresee any obligation to prove the impossibility to set up alternative measures before deciding to detain third-country nationals. If the person can present guarantees of representation and unless proved to the contrary, house arrest should be given priority but a necessity and proportionality test is not really implemented. This is only a possibility left to the discretion of the administration.

Instructions of the Ministry of Interior of 19 July 2016 and 20 November 2017 recommend Prefectures to largely resort to house arrest from the beginning of Dublin procedures, with a view to overcoming recurring difficulties in the implementation of transfers.[428] The instruction clarifies that surveillance measures must accompany a house arrest order. Prefectures in **Marseille**, **Lyon** and most areas in **Paris** have systematically imposed house arrest as soon as asylum seekers are placed in the Dublin procedure in 2017 (see Dublin: Procedure), without conducting an individualised assessment to establish whether an alternative to detention is required.

425 Article L.561-1 Ceseda.
426 Article L.561-2 Ceseda.
427 Article L.562-2 Ceseda.
428 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.

The 2016 immigration law strengthens conditions of surveillance and control for foreign nationals under house arrest. For instance, it is now possible to detain third-country nationals accompanied by minor children if they do not respect house arrest prescriptions.[429] It is also possible for the authorities to request the use of police forces to ensure the implementation of the house arrest order and to visit the third-country national in order to place him or her in a detention centre or to remove him or her from the French territory. This use of police forces has to be approved by the Judge of Freedoms and Detention (*juge des libertés et de la detention*). The judge has to make a motivated decision within 24 hours after a request.[430]

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

OFPRA is competent to define specific modalities for processing asylum claims when required to guarantee the asylum seeker's rights considering his or her particular situation or vulnerability.[431] OFPRA can also decide not to process a claim under accelerated procedure if the asylum seeker needs specific procedural guarantees to be applied.[432] These provisions apply to asylum seekers in detention. Their vulnerability has to be taken into account.

In theory, unaccompanied children cannot be returned and therefore cannot be detained as a consequence. Nevertheless, it is important to stress that in 2016, the five NGOs working in administrative detention centres met 182 detained persons who declared themselves to be children, down from 280 in 2015. 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.[433] 49% of these young persons were released after a judicial decision in 2015.[434]

Moreover, it appears that the Prefectures are more and more prone to resort to these alternative measures for families, Since the 6 July 2012 Circular on the removal of families accompanied by children,[435] enacted following the ECtHR's ruling in *Popov v France*,[436] Prefects are encouraged to make house arrest the rule, and limit (but not prohibit) the placement of children with their families in administrative detention to a last resort measure; it is important to note that the circular is not applicable to Mayotte. This principle was already foreseen in the Ceseda following the 2011 reform of the law.

There has been an increase in detained families with children in 2015 and 2016.[437] In 2016, 182 children have been placed in administrative detention with their parents.[438] It seems that the majority of the families detained were subjected to a house arrest order.[439]

---

429 Article L.551-1 Ceseda.
430 Article L.561-2 II Ceseda.
431 Article L.723-3 Ceseda.
432 *Ibid*.
433 Assfam et al., *2016 Detention report*.
434 *Ibid*.
435 Circulaire INTK1207283C of 6 July 2012 sur la mise en œuvre de l'assignation à résidence prévue à l'article en alternative au placement des familles en rétention administrative (Circular on the implementation of house arrest as an alternative to the administrative retention of families).
436 ECtHR, *Popov v France*, Application Nos 39472/07 and 39474/07, Judgment of 19 January 2012.
437 Assfam et al., *2016 Detention report*.
438 La Cimade, 'Mettre fin à l'enfermement des enfants en rétention', 11 July 2017, available in French at: http://bit.ly/2FD9vzc.
439 Assfam et al., *2016 Detention report*.

In **Mayotte**, 4,285 chilren have been placed in detention in 2016.[440] Children are often detained with adults who are not their parents. After the Administrative Court of Mamoudzou had approved this practice, the Council of State has twice condemned the Prefect of Mayotte, reminding him that it is compulsory to verify the parenthood link between a child and the adult he or she is linked to.[441]

Some prefectures have not resorted to detention to expel families in 2016, while others such as **Doubs** or **Moselle** account for 50% of cases.

On 12 July 2016, the ECtHR condemned France on five occasions for detaining children. In these decisions, the Court recalled that the detention of minors must be used as a last resort.[442] Despite the Court decisions, some Prefectures detain families without attempting to find alternative solutions, such as in **Toulouse** where a family with a 2 years-old child has been detained by the end of July 2016.[443]

Another issue is raised in relation to victims of human trafficking. Detention places are not meant to guarantee protection and the police officers hearing third-country nationals in these centres mainly focus on their administrative status. Potential asylum-seeking victims of trafficking do not feel safe and confident to submit an asylum claim, or to express their fear and their situation. They encounter difficulties to trust police officers unable to protect them against their traffickers.

4. Duration of detention

Indicators: Duration of Detention	
1. What is the maximum detention period set in the law (incl. extensions):	45 days
2. In practice, how long in average are asylum seekers detained?	12.7 days

A foreign person can remain in administrative detention for a maximum of 45 days.[444]

The reform of immigration law in March 2016 has maintained the maximum time limit of 45 days but modified the division of different periods of detention. The decision of placement in administrative detention taken by the administration is valid for 2 days, down from 5 days before the reform. Beyond this period, a request before the Judge of Freedoms and Detention (JLD) has to be lodged by the Prefect to prolong the duration of administrative detention.[445] This judge can order an extension of the administrative detention for an extra 28 days after the initial placement, which was 20 days before the reform. A second prolongation for 15 days (compared to 20 days before the reform) can only be granted under certain conditions, in particular if the persons deliberately obstruct their return by withholding their identity, the loss or destruction of travel documents,[446] or the fact that despite the goodwill of the executing administration, the removal measure has not yet been finalised. Beyond this period of 45 days, any foreigner who has not been removed must be released.

However, a forthcoming reform of asylum and immigration law is likely to extend the maximum detention time limit to 135 days.

---

440 La Cimade, 'Mettre fin à l'enfermement des enfants en rétention', 11 July 2017, available in French at: http://bit.ly/2FD9vzc.

441 Conseil d'Etat, Order of 5 October 2014 and 9 January 2015. See Assfam et al., *2014 Detention report*, 30 June 2015.

442 ECtHR, *A.B. v. France,* Application No 11593/12, *R.M. and M.M. v. France,* Application No 33201/11, *A.M. v. France*, Application No 24587/12, *R.K. v. France,* Application No 68264/14 and *R.C. v. France,* Application No 76491/14, Judgments of 12 July 2016.

443 La Cimade, 'Une enfant de deux ans en centre de rétention', 28 July 2016, available in French at: http://bit.ly/2jjyHzO.

444 Originally set at a maximum of 7 days, the length of administrative detention has been extended to 32 days in 2003 and to 45 days in 2011.

445 Article L.552-1 Ceseda.

446 Article L.552-7 Ceseda.

In practice, the length of stay of asylum seekers who have claimed asylum while in CRA is difficult to assess. However, on average, third-country nationals remained 12.7 days in administrative detention centres in 2016. In many CRA, the average detention duration was largely beyond 12.7 days:

Average duration of detention: 2016	
CRA	Average duration of detention (days)
Toulouse	17.5
Marseille	17.2
Mesnil-Amelot	15.9
Paris-Vincennes	15.3
Hendaye	14.8
Lyon-Saint-Exupéry	14.3
Plaisir	13.2
Total	**12.7**

Source: Assfam et al., 2016 Detention report.

In 2016, 794 persons were detained for 45 days, until the expiry of the maximum time limit, without deportation, whereas this did not occur at all in 2015. 2,646 were detained for more than 30 days in 2016.[447]

Finally, the duration of the stay in waiting zones where the Border Procedure is applied can be up to 20 calendar days; 26 days in exceptional cases.

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

Administrative detention centres (CRA) are controlled and managed by the border police. Under the law, these administrative detention centres are not part of the regular prison administration. Placement in an administrative detention centre results from an administrative decision (not a judicial decision). Despite being held together with other third-country nationals, asylum seekers are never held with common law criminals or prisoners.

There are 27 CRA and 26 administrative detention places (LRA)[448] on French territory (including in overseas departments). This amounts to a total of 2,054 places.

447 Assfam et al., *2016 Detention report*.

448 The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefet.

1.1. Administrative detention centres (CRA)

CRA	Capacity	Persons detained in 2016
Mainland France		
Bordeaux	20	257
Coquelles	79	2,996
Hendaye	30	57
Lille-Lesquin	86	2,111
Lyon-Saint Exupéry	112	1,205
Marseille	136	1,401
Mesnil-Amelot (2 facilities)	240	2,841
Metz-Queuleu	98	1,149
Nice	38	957
Nimes	66	930
Palaiseau	40	506
Paris-Palais de Justice	40	434
Paris-Vincennes (3 facilities)	178	3,582
Perpignan	46	808
Plaisir	26	333
Rennes	56	902
Rouen-Oissel	72	1,149
Sète	28	351
Toulouse-Cornebarrieu	126	861
Overseas		
Guadeloupe	40	284
Guyane	45	1,350
Mayotte	136	19,488
La Réunion (closed for repairs)	6	-
Total	**1,744**	**43,952**

Source: Assfam et al., 2016 Detention report.

The CRA of **Paris-Palais de Justice** is dedicated for detention of women, while other CRA have specific places for women and families, including **Hendaye** (6 out of 30 places), **Mesnil-Amelot** (40 out of 240), **Rennes** (12 out of 70 places), **Rouen-Oissel** (19 out of 72 places) and **Guyane** (12 out of 38 places). **Bordeaux** only accommodates men.

1.2. Places of administrative detention (LRA)

LRA	Capacity	Persons detained in 2016
Mainland France		
Vosges - Epinal	Not communicated	:
Savoie-Modane	8	:
Haut-Rhin – Saint-Louis	9	:
Corse-du-Sud - Ajaccio	6	:
Haute-Corse - Bastia	8	:
Doubs- Pontarlier	2	:
Indre-et-Loire - Tours	6	:
Finistère - Brest	4	:
Manche-Cherboug	7	:
Aisne - Soissons	4	:
Aube - Troyes	4	:
Indre - Châteauroux	2	:
Eure-et-Loire - Dreux	1	:
Sarthe - Allonnes	8	:
Overseas		
Mayotte – Pamandzi and Dzaoudzi (temporary)	100	:
Martinique (airport and Lamentin)	Not communicated	:
Saint-Martin	Not communicated	:
Total	**169**	**:**

Source: Assfam et al., 2016 Detention report.

1.3. Waiting zones at the border

In the context of the Border Procedure, asylum seekers are held in one othe 13 “waiting zones” while awaiting a decision on their application for an authorisation to enter the territory on asylum grounds.[449] This zone may include accommodation "providing hotel type services" as is currently the case for the waiting zone of the **Paris Roissy CDG airport** (in the ZAPI 3 - *zone d’attente pour personnes en instance*), which can receive up to 160 people. In other waiting zones, the material accommodation conditions vary: third country nationals are sometimes held in a nearby hotel (like in **Orly airport** at night) or in rooms within police stations. Not all are equipped with hotel type services.

In these accommodation areas, there should be an area for lawyers to hold confidential meetings with the foreign nationals.[450] In practice, those are only established in the **Roissy CDG airport** (ZAPI 3) and can accommodate up to 160 persons. In the other waiting zones, the material conditions for accommodation can vary greatly: foreign nationals are sometimes accommodated in a nearby hotel (like in **Orly** at night time), or in rooms within police stations. They do not all have access to "hotel-type" services.

Finally, in **Alpes-Maritimes**, an informal “temporary detention zone” has been set up in the premises of the Menton Border Police in 2017 to detain newly arrived migrants from Italy for short periods before their removal from the country.

449 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.

450 *Ibid*.

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 the administrative detention centres do not receive a specific training with regard to migration and asylum law. This lack of specific training is, however, compensated by the fact that NGOs are present quasi-permanently in administrative detention centres in order to provide legal information and assistance.

Article R.553-3 Ceseda, sets out the conditions of administrative detention. They must meet the following standards:

1. A minimum usable surface of 10m² per detainee comprising bedrooms and spaces freely accessible during opening hours;
2. Collective bedrooms (separation men/women) for a maximum of six persons;
3. Sanitary facilities, including wash-hand basins, showers and toilets, freely accessible and of sufficient number, namely one sanitary block for 10 detainees;
4. A telephone for fifty detainees freely accessible;
5. Necessary facilities and premises for catering;
6. Beyond forty persons detained, a recreational and leisure room distinct from the refectory, which is at least 50m², increased by 10m² for fifteen extra detainees;
7. One or several rooms medically equipped, reserved for the medical team;
8. Premises allowing access for visiting families and the consulate authorities;
9. Premises reserved for lawyers;
10. Premises allocated to the OFII, which among others organises voluntary return;
11. Premises, furnished and equipped with a telephone allocated to the NGOs present in the centre;
12. An open-air area; and
13. A luggage room.

Centres in which families may be detained must provide specific rooms, including nursery equipment.[451] Men and women held in detention centres have separated living spaces ("*zones de vie*"). The set-up of the rooms varies from one detention centre to the other, ranging from 2 to 6 persons per room. Specific provisions have been adopted concerning Mayotte. The detention centre cannot exceed a 140 places capacity, will integrate unisex rooms, free-access sanitary facilities, an open-air area, one room medically equipped, reserved for the medical team and a free-access telephone for organisations intervening in the centre.[452]

Overall, the administrative detention conditions are deemed adequate in France (on the mainland) but there are quite important variations between centres. Throughout 2016, several riots have broken out, including cases of arson, in a number of CRA such as **Paris-Vincennes** and **Mesnil-Amelot**.[453] In December 2017, a **Paris-Vincennes** unit was burned during a riot.[454]

The 2016 Detention report gives a specific description of the detention conditions in each of them.

451 Article R.553-3 Ceseda.
452 *Ibid.*
453 See Assfam, Forum réfugiés – Cosi, France terre d'asile and La Cimade, *Incendies en rétention : illustrations de la violence de l'enfermement*, 13 July 2016, available in French at: http://bit.ly/2jU9qPm.
454 Le Parisien, 'Bois de Vincennes : une unité du centre de rétention part en fumée après une évasion', 5 December 2017, available in French at: http://bit.ly/2FGK27V.

2.1. Living conditions in administrative detention centres (CRA)

CRA	General conditions / specific elements	Sanitation and food	Collective spaces
Mainland France			
Bordeaux	Completely renovated in 2011 All Sahrawi asylum seekers are detained after being placed under Dublin procedure. No alternative to detention is offered.	2 showers and 2 toilets 3 nurses on site every day, 2 doctors part time	Canteen with 2 TVs One TV room 20m² secured outdoor patio with table-soccer game, free access
Coquelles	The detention centre is the closest one to Calais. It has operated for 15 years and is dilapidated. The detention centre is divided into 3 zones. Numerous technical and equipment problems have been reported.	3 to 4 showers per zone and 1 toilet per room Toilets regularly clogged 1 nurse on site every day and 4 nurses and 2 doctors part time Rats and cockroach found in collective areas Poor quantity and quality of food provided	2 to 5 beds per room (25 rooms and one confinement room) 1 TV per zone 1 collective space with table-soccer game and a phone box Outdoor courtyard, free access
Hendaye	The detention centre is located within the premises of the police station. It has the particularity to be located at the border with Spain. A lot of detainees there are under the Dublin procedure.	2 nurses present 6-7 days, 1 doctor part time Access to hygiene products Perishable products such as fruits are forbidden	15 rooms of 20m² with 2 beds in each TV room and board games Outdoor courtyard with a table-soccer game and basketball field, free access
Lille-Lesquin	Many transfers from the Coquelle detention centre have been observed, thus increasing the number of persons detained in Lille-Lesquin.	45 showers and toilets 2 nurses, 4 doctors Poor quality of food, no halal food	42 rooms with 2 to 4 beds 180m² hallway with a bench and a fountain Outdoor courtyard with a table tennis and a playground slide
Lyon-Saint Exupéry	The detention centre is located in a former low cost hotel. Insulation and humidity problems are regularly encountered. Works are regularly done to improve conditions. Video conferencing for interviews with OFPRA is available and used as well for detainees kept in the Nîmes detention centre.	1 shower and 1 toilet per room 3 nurses and 1 doctor but no permanent access to the medical unit	28 rooms with 4 beds and 1 TV each and 1 confinement room 2 collective rooms with 3 tables tennis 2 outdoor courtyards (1 big, 1 smaller) partly planted with grass, free access
Marseille	The detention centre has been designed as a prison, there is no free circulation (police escort). A “free circulation zone with controlled access” is being constructed. Detention conditions are degraded: leakage (sometimes floods of common	1 shower and 1 toilet per room 4 nurses and 3 doctors Regular self-harm situations have been reported to protest	69 rooms with 2 beds per room TV room, canteen and walking zone, free access during the day Outdoor courtyard covered by wires, free

	areas), bad isolation, dirt, etc. Video conferencing for interviews with OFPRA is available and used as well for detainees from the Nice detention centre.	against detention conditions (especially food) and ill-treatment from police officers: self-injury and hunger strikes Detainees often complain about difficulties to shave properly and keep themselves clean	access during the day
Mesnil-Amelot	The detention centre is geographically close to 3 prisons. Detention conditions are precarious: poor hygienic conditions, deteriorating infrastructures, limited equipment (not replaced when not functioning any more), dirt, no activities offered etc.	2 showers and 4 toilets for 20 people 6 nurses, 5 doctors and 1 psychiatrist twice a week Sheets are changed once a month No food or hygienic products for babies and children are provided to families	120 rooms with two beds in each of the 2 buildings and 1 confinement room per building 2 collective spaces of 16.5m² per building with 1 TV One 80m² courtyard per building, free access Playground for children
Metz-Queuleu	Since the beginning of 2014, asylum seekers (including detained asylum seekers from Strasbourg Geispolsheim) can have their interview with OFPRA conducted through videoconferencing.	4 showers and 4 toilets per building 3 nurses and 2 doctors consulting on demand Several cases of suicide attempts reported	7 buildings of 14 rooms each in which there are 2 beds Canteen and TV room in each building Large outdoor courtyard separated in two zones (men and women/families) with a playground for children and football and basketball fields
Nice	The detention centre is dilapidated and deteriorated. Common areas are dirty and problems with the air conditioning and the heating have created difficult conditions of living. Several cases of personal belongings having been stolen have been reported.	8 showers and 9 toilets 1 nurse every day and 1 doctor part time during the week Insufficient quantity of food, no halal food, which causes many tensions between the detainees and the police	7 rooms with 7 beds in each 1 shared room with a TV, free access during the day 1 outdoor secured courtyard. Nothing in there. Ongoing works to put wires above.
Nîmes	The detention centre is a recent building, built on two floors. The detention conditions are similar to those in prison and detainees report that dirt, boredom, lack of intimacy, stress and tensions prevail.	1 shower and 1 toilet per room 1 nurse every day and 1 doctor every day during the week Detainees often complain about difficulties to shave properly	64 rooms with 2 beds each 2 TV rooms and 2 rooms with a table-soccer game 1 fenced courtyard built in concrete with a tennis table
Palaiseau	The detention centre is closed to a prison. In addition, a lot of detainees are	1 shower and 1 toilet per room	20 rooms with 2 beds each and 1

	under the Dublin procedure. The detention centre is never full.	1 nurse every day, 1 doctor 2 half-days a week	confinement room 1 TV room and 1 collective room with a TV and a table-soccer game 1 outdoor courtyard
Paris-Palais de Justice	Most detainees are women from Romania and Bulgaria arrested for soliciting (*racolage*). No specific procedure is in place for victims of trafficking. No alternatives to detention are proposed.	6 showers and 6 toilets 3 doctors and 8 nurses	14 rooms with 2 to 4 beds in each 1 collective room with a TV and 1 console 1 tiny courtyard
Paris-Vincennes		10 showers and 10 toilets per building (3 buildings) 3 doctors, 8 nurses everyday	2 to 4 beds per room 1 collective room with a TV and 1 console 1 fenced courtyard with a tennis table
Perpignan	Recent building, clean and well maintained facilities.	3 showers and 3 toilets per building (5 buildings) Nurses everyday and 1 doctor 3 times a week	23 rooms with 2 beds in each 1 TV room 2 outdoor courtyards built in concrete with a football field and a tennis table
Plaisir	The detention centre was supposed to close in 2013 but the plan was abandoned in December 2014. The detention centre is located within the premises of the police station. Directions to the CRA are nowhere indicated. Video conferencing for interviews with OFPRA is available.	1 shower and 1 toilet per room 1 nurse everyday and 1 doctor 2 half-day in the week Detainees are not allowed to bring food or plastic bottles in their room. Meals are taken under the surveillance of a police officer.	14 rooms with 2 beds per room 1 canteen with a TV and a table-soccer game One 108m² fenced outdoor courtyard (also covered with wires).
Rennes	The detention centre is composed of 7 buildings.	16 showers and 18 toilets 1 nurse every day and 1 doctor 3 half-days a week	29 rooms with 2 beds per room and 2 family rooms for 4 to 8 people 1 confinement room (set up in 2014) 1 collective room with TV and a table-soccer game 1 collective room per building with TV 1 fenced and opaque outdoor courtyard with a basketball field and greenery areas.
Rouen-Oissel	The detention centre is located in the Londe-Rouvray forest, within the premises of the police station. No direct public transportation leads to the detention centre.	1 shower and 1 toilet per room 3 nurses	14 rooms with between 2 and 6 beds, and 2 confinement rooms In the “men’s area”

	The building is old but is globally well maintained even though there are regular water leaks (certain rooms are particularly moist). The heating is not functioning well in common areas.		there are 1 table-soccer game, 1 table-tennis game and 2 rooms with TV In the "women and family area" there is a 40 m² room for children with toys and a tennis-table game. There is also a TV room In each area there is a small fenced outdoor courtyard
Sète	The detention centre is dilapidated. Works were done in 2014 to improve insulation and plumbing (there was not all the time hot water) in particular. There are cockroaches in detainees' rooms.	1 shower and 1 toilet per room 2 nurses and 1 doctor on demand Meals are tense and detainees complain that food is insufficient. No halal food.	13 rooms with 2 beds and 1 room for 4 people 1 collective room of 50 m² with TV and a table-soccer game 1 fenced, covered and opaque courtyard of 47m²
Toulouse-Cornebarrieu	The detention centre was built in 2006. The buildings dilapidate quickly: problems with the heating, insulation and breaks in the walls. Video conferencing for interviews with OFPRA is available and used as well for detainees from Hendaye, Bordeaux, Sète and Perpignan detention centre.	1 shower and 1 toiler per room 2 doctors and 3 nurses part time Perishable products are forbidden Several severe cases of psychological distress have been reported, leading in some cases to suicide attempts	5 areas (3 for men, 1 for women and 1 for families 61 rooms of 12m² (up to 20m² for family rooms) 1 TV room One 200m² fenced and covered outdoor courtyard per area
Overseas			
Guadeloupe	Detention in degraded conditions and particularly poor medical follow-up.	5 showers and 3 toilets 1 medic two hours everyday	Canteen with TV, free access for men, on demand for women Secure outdoor courtyard, accessible only on demand and in presence of the police
Guyane	Poor medical follow-up even though detention conditions have improved.	9 showers and 16 toilets 1 medic on site every day in the morning until 3 pm The medical unit is separated and not easily accessible for persons detained, only with a police escort	12 rooms with no proper beds (concrete platforms with wood planks and tatami) 2 secured outdoor courtyards closed during the night
Mayotte	A new detention centre was opened in	15 sanitation areas	26 shared rooms (16

	Mayotte in September 2015, to replace the old centre whose conditions have been criticised on several occasions. The centre has been recently renovated and the detention conditions are significantly improved.	plus 2 for disabled people 15 showers plus for 2 disabled people 1 medic on site every afternoon and three nurses on site every day from 8 am to 6 pm	for individuals and 10 for families) 1 canteen 1 outdoor courtyard for all with a playground for children, free access
Réunion	This centre is closed for renovation.		

Separate places are provided for families in the 10 centres which are duly authorised. Access to education is not foreseen in France in CRA since children are not supposed to stay there. However, the prohibition of administrative detention for children is only applicable to unaccompanied children; children with their families (although it should be exceptional as of July 2012) can be detained for 45 days without access to educational activities. Despite the prohibition of administrative detention for unaccompanied children, social workers have reported cases of such children detained, like in **Lille** for instance.

Access to open-air areas depends on the facilities. Facilities built after 2006, such as in **Marseille**, have become prison-like. In the majority of the centres, no activity is provided. As revealed in the above table, depending on the CRA, there may be a TV room (sometimes out of order or only broadcasting programmes in French language), a few board games, a table football or even several ping pong tables but, in any event, this proves to be insufficient when administrative detention can last up to 45 days.[455] Lack of activity and boredom are the day to day reality for persons held in these centres. The detainees can in principle keep their mobile phones if they do not include camera equipment. Most people are therefore not authorised to keep their phones and the police refuses to authorise them even if the detainees offer to break the camera tool. Detainees may have access to reading material, depending on 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).

2.2. Health care and special needs in detention

There is no specific mechanism to identify vulnerable persons or persons with special reception needs while in detention.

Sanitary and social support is provided by medical and nursing staff. Their availability varies from one centre to the other (from 2 days to 7 days a week). The care is given by doctors and nurses who belong to an independent hospital staff. They are grouped in medical administrative detention centres (UMCRA).[456] In principle, each person placed in administrative detention is seen by the nurse upon arrival. The person is seen by the doctor upon request or on the request of the nurses, in principle within 2 days of arrival. According to the 2015 Detention report of the five NGOs working in CRA centres, some people suffering from serious psychological problems are held in detention centres.[457] The threshold to determine that a health status is incompatible with administrative detention seems to vary a lot depending on the doctors and the detention centres. In case of high-risk pregnancy, doctors of the UMCRA may provide a certificate stating the incompatibility of the health of the person with placement in administrative detention – but this is not automatic and this recommendation is not always followed by the Prefect. In the detention centre of **Paris – Palais de Justice**, many cases of pregnant women, detained and further removed from the French territory, have been reported. The same is true for the possibility of the doctors to consider that the health status of the person is incompatible with his or her

455 *Ibid*.
456 Ministry of Interior, *The Centres of Administrative Detention*, available in French at: http://bit.ly/1dM8BkC.
457 Assfam et al., *2015 Detention report*, 28 June 2016.

removal if no appropriate treatment exists in the country of origin. In **Rennes**, detainees with no access to appropriate treatment in their country of origin have nevertheless been deported.

The practical problems observed regarding access to healthcare relate to a lack of consideration for psychological or psychiatric problems of the detainees. Dozens of suicide attempts are reported each year in these centres. In some detention centres, the lack of continuing presence of medical units leads police officers to assess the needs of patients, as is the case for example in **Guadeloupe**. In **Bordeaux**, in only one occasion a detainee has been released for medical reasons whereas many of them suffer from physical or psychological pathologies.

The lack of medical confidentiality is another concern.

The six NGOs working in detention centres have also identified an important issue regarding victims of human trafficking. In some cases, these victims have been properly orientated and supported by the medical unit and the police, in **Lille** for example. The aforementioned NGOs have nevertheless pointed out that victims of trafficking were mostly not provided with specific support. Their number in detention centres is increasing, namely in **Coquelles**, **Metz** or **Sète**.

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). The following NGOs have access to CRA:

- ❖ Lot 1 (Bordeaux, Nantes, Rennes, Toulouse, Hendaye): **La Cimade**;
- ❖ Lot 2 (Lille 1 and 2, Metz, Geispolsheim): **Ordre de Malte**;
- ❖ Lot 3 (Lyon, Marseille and Nice): **Forum réfugiés-Cosi**;
- ❖ Lot 4 (Nîmes, Perpignan and Sète): **Forum réfugiés-Cosi**;
- ❖ Lot 5 (Overseas): **La Cimade**;
- ❖ Lot 6 (Le Mesnil-Amelot 1, 2 and 3): **La Cimade**;
- ❖ Lot 7 (Palaiseau, Plaisir, Coquelles and Rouen-Oissel): **France Terre d'Asile**;
- ❖ Lot 8 (Bobigny and Paris): **Assfam**;
- ❖ Mayotte: **Solidarité Mayotte**.

Some accredited NGOs can have access to all CRA. A Decree, adopted in June 2014,[458] regulates the access of NGOs to CRA. The list of accredited NGOs whose representatives (national and local) are able to access the administrative detention places will be valid for 5 years. The exhaustive list of accessible rooms and facilities is described; this excludes the police offices, the registry, the video surveillance room, the kitchen, the technical premises. A maximum of 5 persons can make a visit within 24 hours. The time of the visits should not hinder the proper functioning of the centre, preferably during

[458] Décret du 24 juin 2014 modifiant les articles R.553-14-4 à R.553-14-8 du Ceseda complété par une note d'information du 28 octobre 2014 du ministre de l'intérieur relative aux modalités d'accès des associations humanitaires aux lieux de rétention.

the day and the week. The head of the centre will be informed of the visit 24 hours in advance and can report the visit by giving reasons and for a limited period.

In addition, some people enjoy free access to the CRA:

- The Council of Europe Commissioner for Human;
- The members of the European Committee for the Prevention of Torture;
- The French and European Members of Parliament;
- The General Controller of places of freedom deprivation;
- The Prefects;
- Public prosecutors; and
- JLDs.

Some others have more limited access: consulate staff; lawyers; families of persons held.[459] Only families (or friends) are subject to restricted hours. In **Marseille**, however, the frequent lack of police staff in the detention centre leads the police to decide to focus on surveillance rather than providing the opportunity for the visits to take place. Family visits are therefore sometimes simply cancelled for the morning. Since the reform of the law on asylum, representatives from UNHCR have access to the administrative detention centres in France under the same conditions as for waiting zones, meaning they have to get an individual agreement whose validity is of 3 months renewable. They are authorised to conduct confidential interviews with detainees who have applied to asylum in France.[460]

The law also allows access of journalists to administrative detention centres.[461] This access must be authorised by the Prefect.[462] In case of denial of access, the decision has to be motivated.[463] Their presence must be compatible with detainees' dignity, security measures and the functioning of administrative detention centres.[464] The detainees can refuse to appear on photographs or to be mentioned in articles. The journalists have to preserve the anonymity of the detained children under any circumstances. This condition does not apply to adults giving their authorisation for their identity to be revealed.[465] The reform has also established the rule that journalists following Members of Parliament visiting detention centres cannot be denied access to these centres. The same limitations regarding the anonymity apply in this case.[466]

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, initially established by order of the Ministry of the Interior in June 2012 for a 3-year period,[467] was revised in June 2015.[468] It includes 13 organisations, whereas Human Rights Watch has also been accredited as of July 2016:[469]

---

459 Ministry of Interior, *Persons having access to centres and locations of administrative detention*, available in French at: http://bit.ly/1SanmeE.

460 Article R.556-11 Ceseda.

461 Article L.553-7 Ceseda.

462 Article R.553-19 Ceseda.

463 Article R.553-20 Ceseda.

464 Article L.553-7 Ceseda.

465 *Ibid.*

466 Articles R.553-15, R.553-16 and R.553-17 Ceseda.

467 Arrêté du 5 juin 2012 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente, NOR: INTV1222472A, available in French at: http://bit.ly/1NyRmiU.

468 Arrêté du 3 juin 2015 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente, NOR: INTV1511516A, available in French at: http://bit.ly/1FXTpav.

469 Arrêté du 29 juillet 2016 portant habilitation d'une association à proposer des représentants en vue d'accéder en zone d'attente, NOR: INTV1621861A, available in French at: http://bit.ly/2k7FJH6.

- Accueil aux médecins et personnels de santé réfugiés en France (APSR);
- Amnesty International France;
- Association nationale d'assistance aux frontières pour les étrangers (ANAFE);
- Cimade;
- French Red Cross;
- France Terre d'asile;
- Forum réfugiés-Cosi;
- Groupe accueil et solidarité (GAS);
- Groupe d'information et de soutien des immigrés (GISTI);
- Human Rights Watch
- Ligue des Droits de l'Homme (Human Rights League);
- Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP);
- Médecins du monde (Doctors of the World); and
- Ordre de Malte (Order of Malta).

This authorisation is valid until June 2018. It should be noted that Médecins Sans Frontières (MSF), which was previously authorised under the 2012 order, is no longer included in the list.

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)	28 days	

Foreigners held in administrative detention centres are informed about the reasons for their placement in these centres through the notification of the administrative decision to detain them with a view to their removal. This notification must state clearly which removal ground serves as a basis for the detention and why the removal cannot be implemented immediately. This document also mentions the legal remedies available to challenge this decision.

Foreigners also receive a notification of all their rights including the right to apply for asylum and their right to linguistic and legal support in submitting their claim.[470] According to the law,[471] this notification should be made (orally) to the foreigner in a language he or she understands. In practice, this is done in most of the cases but not always. Detainees are also notified that their asylum claim will be inadmissible if it is submitted 5 days after their rights have been notified. The claim is deemed to be admissible after 5 days only if it is based on elements or events occurred after these 5 days. This condition is not applicable to foreigners from safe countries of origin; their claim will be deemed inadmissible in any case when it is submitted five days after they have had their rights notified.[472]

French law foresees a judicial review of the lawfulness of the administrative detention for all foreigners. The legality of detention falls under the dual control of the administrative court and the civil court. Each court examines specific and complementary aspects of the procedures. The March 2016 reform of immigration law has deeply modified the scope of judicial control. It is now quite difficult to assert there is a judicial review of the lawfulness of administrative detention. Indeed, the administrative court now reviews the lawfulness of the removal order and house arrest if this measure has been taken by the

470 Article L.551-3 Ceseda; Article R.553-11 Ceseda.
471 Articles L.551-2, L.111-7 and L.111-8 Ceseda.
472 Article L.551-3 Ceseda.

Prefect before the placement in detention. The civil court i.e. Judge of Freedoms and Detention (JLD) intervenes two days after this placement.

1.1. Administrative Court: Legality of administrative decisions of removal and house arrest

The Administrative Court is seized by a foreigner (asylum seeker if relevant) who challenges the legality of the decisions taken by the Prefect, i.e. the measures of removal and/or house arrest.[473] Removal orders and house arrest can be challenged within a period of 48 hours. This period starts from the notification of the measure, and not from the arrival at the administrative detention centre, if this notification is concomitant to notification of the measure of placement in administrative detention. The administrative judge can, for example, verify that the Prefect has not committed a gross error of appreciation by ordering the removal of the territory when the foreigner is entitled to stay on the French territory. The court basically has to make a decision on the reasons why a foreigner has been placed in detention, not on whether the measure itself is lawful. The judge can also verify if the Prefect's decision of house arrest does not contravene the best interests of the foreigner and if the measure is proportionate. The administrative court must make a decision within 72 hours.[474]

The Administrative Court can, only in cases of an asylum claim, control the lawfulness of the detention. If an asylum claim is submitted during detention, it is possible to challenge the decision of placement in detention within 48 hours after the notification of the detention. The claimant has to prove his or her claim has not been submitted in order to make the removal measure fail. The court has to make a decision within 72 hours after the claim has been lodged.[475]

In 2017, NGOs have reported Dublin transfers of asylum seekers *de facto* without any judicial scrutiny. In several Prefectures, including **Ile de France** and **Rhône**, the asylum seeker is placed in detention on a Friday, to avoid the possibility for him to access legal assistance during the weekend, and to carry out the transfer within 48 hours. In these frequent cases, there is no effective appeal for those people. This method of Prefectures circumvents the prohibition placed by the Court of Cassation on detaining asylum seekers in Dublin cases for want of a definition of the criteria for the existence of a "significant risk of absconding" in legislation (see Grounds for Detention).

1.2. Judge of Freedoms and Detention (JLD): Conformity of deprivation of liberty

The JLD i.e. the civil court, whose competences are set out in Article 66 of the Constitution, is seized by the Prefect at the end of the 2 days of administrative detention in order to authorise a prolongation after having examined the lawfulness of the administrative detention. For example, the JLD will check whether the police have respected the procedure and the rights of the person during the arrest, the legality of the police custody and the placement into administrative detention. The judge will also check whether the custody is compatible with the personal situation of the detainee.[476] The JLD intervenes a second time after 28 days of detention if the person is still detained and has not been removed. This judge can also be seized at any moment by the person detained in administrative detention centres but these requests have to be very solidly argued (serious health problems for instance) and are hardly considered admissible.[477]

473 Article L.512-1 Ceseda.
474 *Ibid.*
475 Article L.556-1 Ceseda.
476 Article L.552-1 Ceseda.
477 Article R.552-17 Ceseda.

Appeals lodged against the measure of removal or house arrest have suspensive effect over its execution.[478] It also possible for the foreigner to seize the JLD at any moment upon a motivated request during the first 48 hours.[479]

The law enables then to challenge the removal decision from the moment of its notification. It implies it will be impossible, theoretically, to remove someone before he or she has been in a position to seize the judge, either administrative or civil. The last years, in practice, many foreigners had been removed during the first 5 days of detention. They were not able to see the JLD and therefore did not benefit from judicial review.[480] This lack of judicial control can also involve families. For example, in 2015 in **Nîmes**, two asylum seekers were arrested and removed to Sudan without any legal control.[481] They had had their rights notified and had filled the asylum claim form to be registered, but were removed before OFPRA made a decision on their claim.

Since the end of 2017, there have been cases of court hearings conducted by videoconference from the CRA of **Toulouse**. These have been denounced by NGOs on the ground that individuals are not provided with the minimum guarantees set out in the law, namely the accessibility of the hearing to the public.[482]

As regards detention in the context of the Border Procedure, the Judge of Freedoms and Detention (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,[483] renewable once.[484] 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."[485] The administrative authority must make a request to the JLD to extend custody in the waiting zone and must explain the reasons for this (impossible to return the foreign national due to lack of identity documents, pending asylum application, etc.)

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
   ☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
   ☒ Yes ☐ No

Legal assistance for persons held in administrative detention (including asylum seekers) is provided by law. Currently, six NGOs which assist foreigners are authorised, by agreement (public procurement) with the Ministry of Interior, to provide "on duty" legal advice in CRA. They inform the detainees and help them to exercise their rights during the detention procedure (hearings in front of the judge, the filing

478 Article L.512-3 Ceseda.
479 Articles R.552-10-1 and R.552-17 Ceseda.
480 This is also criticised in details in a report from the Observatoire de l'enfermement des étrangers OEE), *Rapport d'observation « Une procédure en trompe l'oeil » Les entraves à l'accès au recours effectif pour les étrangers privés de liberté en France*, May 2014, based on field research made between September 2013 and May 2014 in several detention places and on interviews with many stakeholders. This report makes a concerning overview of the numerous elements that thwart access to effective remedy and a fair trial which often results in the judicially unfair, if not illegal, deportation of detained migrants. The report calls for urgent reforms and makes a set of recommendations to this end.
481 Assfam et al., *2015 Detention report*, 28 June 2016.
482 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.
483 Article L.222-1 Ceseda.
484 Article L222-2 Ceseda.
485 Article L.222-3 Ceseda.

of an appeal, request for legal aid etc.).[486] 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.

As for the assistance given by lawyers, the law foresees that foreigners held in administrative detention can be assisted by a lawyer for their appeals (during the hearing) in front of the administrative court or for their presentation in front of the JLD. Therefore, for the prolongation of administrative detention by the JLD, Article R.552-6 Ceseda foresees that "the foreigner is informed of their right to choose a lawyer. The judge can appoint one automatically if the foreigner so requests". Within the context of the procedure in front of the administrative court, "the foreigner can, at the latest at the start of the hearing, ask for a lawyer to be appointed automatically. They are informed by the Clerk of the Court at the time of the beginning of their request."[487]

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 detention centres are usually located quite far from the city centre. Lawyers can easily contact their clients by calling a public phone or by calling the NGO present in the centre that will make sure the call is forwarded to the detainee.

E. Differential treatment of specific nationalities in detention

With regard to accessing the asylum procedure from detention, the law clarifies that detainees, upon hearing their rights, are notified that their asylum claim will be inadmissible if it is submitted 5 days after their rights have been notified. The claim is deemed to be admissible after 5 days only if it is based on elements or events occurred after these 5 days. However, for persons coming from safe countries of origin (see Safe Country of Origin), a claim submitted 5 days after they have had their rights notified may be deemed inadmissible.[488]

The organisations working in detention places have reported that **Algerian** and **Albanian** nationals were more likely to be detained than other nationalities. According to the organisations, the fact that Albanians do not need a visa to enter to the French territory does not encourage them to challenge the removal orders they are subject to. In practice, it implies it is much easier to set in force these orders. The average rate of an effective execution of such an order is 22.8% against 47.8% specifically regarding Albanian nationals.[489]

---

486 French Public Administration, *Rights of Foreigners Placed in Detention*, available in French at: http://bit.ly/1Mh1exu.
487 Article R.776-22 CJA.
488 Article L.551-3 Ceseda.
489 Assfam et al., *2016 Detention report*, 14.

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: 1 year, renewable for 2 years

Residence permits are granted to **refugees** for 10 years ("*Carte de resident*").[490] That permit is also granted *ipso jure* to their family, in particular to:

- Spouses, partners (PACS) or their domestic partners if they have been admitted to join them according to the family reunification provisions;
- Spouses, partners (PACS) or their domestic partners in case their union has been sealed after the asylum application and under the condition it has been lasting for already over a year, and if they are genuinely living together;
- Children within the year after turning 18 years old;
- Parents if the refugees are still under 18 years old by the day the asylum is granted.[491]

Some difficulties have been identified in practice regarding this provision. Young girls are regularly granted asylum on the grounds of the Refugee Convention, considering the risk of being exposed to female genital mutilation (FGM). In 2017, over 6,000 girls received protection on these grounds (see Special Procedural Guarantees). Their mothers or fathers accompanying them often have their asylum application dismissed, since it is stated that opposing FGM does not expose them to a risk of persecution. In that case, they should nevertheless be delivered a 10-year residence permit according to the abovementioned provision.

Residence permits delivered to **subsidiary protection** beneficiaries are granted for one year (*Carte de séjour temporaire "Vie privée et familiale"*).[492] The same residence permits are granted to their family on the basis of the same pattern than the one used for refugees.[493] After the first year, the permits can be renewed for 2 years. Indeed, it is possible for the renewal to be denied if the situation in the country of origin has changed. However, refusal is mostly theoretical since it would require a constant reassessment of the individual cases when the protection beneficiaries request the renewal of their residence permits. In practice, the French administration rarely operates such an assessment; only 6 cases have been reported in 2014,[494] and 7 in 2015.[495] Data for 2016 are not available.

Refugees may encounter difficulties to get their residence permits issued or renewed.[496] Their residence permits have to be issued the next 3 months following their request for such documentation. The same goes for the subsidiary protection beneficiaries.[497] OFPRA may take longer than expected to deliver the necessary documentation that has to be submitted for the issuance of their permits. There have been cases of refugees waiting for more than a year before getting their documentation issued by OFPRA, sometimes because of a mere typo in their names. That mistake can prevent refugees from getting their identity documents transcribed. It is then mandatory for them to get this mistake corrected otherwise the

490 Article L.314-11(8) Ceseda.
491 Article L.314-11(8)(d) Ceseda.
492 Article L.313-13(1) Ceseda.
493 Article L.313-13(2)-(5) Ceseda.
494 OFPRA, *2014 Activity report*, 106.
495 OFPRA, *2015 Activity report*, 122.
496 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.
497 Articles R.743-3 and R.743-4 Ceseda.

transcription will not be possible. It can take type correct typos and it often depends on the due care of the protection officers.

In practice, the main difficulties are encountered by **beneficiaries of subsidiary protection**. In administrative terms, OFPRA used to grant two types of subsidiary protection: type 1 and type 2. The type 1 subsidiary protection implies that the issuance of the personal documentation of the beneficiaries is made by OFPRA, because it is assumed that the beneficiaries cannot request such documentation from their embassy. This is obviously the case of people fleeing persecutions where the perpetrators are State agents or because they come from a failed State. Type 2 is applied to beneficiaries able to get their documentation issued by their country of origin because the perpetrators are independent or private groups, or because the persecutions those groups are responsible for are tolerated by the authorities.

In type 2 cases, it may occur that beneficiaries mistrust their authorities, whether they are responsible for the persecution they have fled or not. Yet the issuance of the residence permits without any identity documentation is not possible. Some beneficiaries are not in a position then to have their residence permits issued. OFPRA has discussed this point, through meetings with the main stakeholders, by announcing it would put an end to this practice soon, in order to overcome the gap between the two types of protection among the subsidiary protection beneficiaries. OFPRA will thereon deliver the necessary documentation to all subsidiary protection beneficiaries.

According to provisional Ministry of Interior statistics, France granted 23,545 residence permits to refugees and stateless persons and 12,280 to subsidiary protection beneficiaries in 2017.[498] According to OFPRA, about 43,000 persons (including accompanying minors) have received protection in 2017.[499]

2. Civil registration

When protection is granted, a “family reference form” is sent to the beneficiary of international protection by OFPRA, with the notification of the OFPRA protection decision or later, when the protection has been granted by the CNDA.

Upon receipt of the family reference form duly completed, signed by the beneficiary of international protection and sent by post, OFPRA begins the instruction for the establishment civil status documents begin. The time limit for issuing documents is 3 months, insofar as possible.

OFPRA takes into account the documents provided by the beneficiary of international protection in his or her asylum application file, namely foreign civil status documents, identity or travel documents (national identity card, passport). Statements of the beneficiary at the time of filing of his or her application for asylum, during the interview at OFPRA and on the family reference form, are also taken into account.

French law applies to all events subsequent to the grant of international protection. The beneficiary may therefore marry, enter into a civil union (PACS) or divorce according to French law.[500]

In practice, however, organisations supporting beneficiaries of international protection denounce very long delays in obtaining civil documents.

498 Ministry of Interior, *Chiffres clés – titres de séjour*, available in French at: http://bit.ly/2DQrS3f.
499 OFPRA, ‘Les données de l’asile 2017 à l’OFPRA’, 8 January 2018, available in French at: http://bit.ly/2EVQB5y.
500 OFPRA, *Guide of procedures*, 2015, available at: http://bit.ly/2mI3utk.

3. Long-term residence

Indicators: Long-Term Residence	
1. Number of long-term residence permits issued to beneficiaries in 2017:	Not available

According to French law, **refugees** obtain a long-term resident status from the moment they are granted asylum. It is possible at the moment of the renewal of this permit to be issued *ipso jure* permanent resident status.[501] This permanent residence permit is only issued if the third-country national can prove his or her proficiency of the French language,[502] and if her or his presence is not a threat to the public order.[503]

The threat to the public order is in practice assessed through the potential criminal sentences pronounced against a third-country national. No systematic discrimination against specific nationalities has been reported in this regard. The difficulty encountered to benefit from this status is more likely linked to a lack of information. As mentioned in the law 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 moment of the renewal of the first residence permit, do not automatically indicate to refugees they can be issued such a document.

4. Naturalisation

Indicators: Naturalisation	
1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	None
❖ Subsidiary protection	5 years
2. Number of citizenship grants in 2017:	65,654

There are several ways to obtain citizenship according to French law. It is possible to be naturalised by declaration or by decree. Naturalisation by declaration is only possible for refugees and beneficiaries of subsidiary protection's children born in France or arrived in France before turning 13 years-old. Otherwise, their children will either have to lodge an asylum claim of their own or submit a residence permit request. It is also possible to access citizenship by marriage to a French citizen.

Beneficiaries of international protection usually obtain citizenship by decree. The criteria and conditions for naturalisation are listed in the Civil Code and the 1993 Decree on citizenship,[504] as follows:

1. Five years of previous regular residence;[505]
2. Strong knowledge of French: the candidate can produce a diploma or any document certifying his or her linguistic skills, proving he or she is able to have a conversation about any topic of his or her interest;[506]
3. Strong knowledge of History of France and its institutions, culture, and place in the world, as well as strong knowledge of the exercise of the French citizenship;[507]
4. The candidate must not be subjected during his or her stay in France to a sentence of 6 months or more of imprisonment;[508]
5. Entire subscription to the values and symbols of French Republic.[509]

501 Article L.314-14 Ceseda.
502 *Ibid*. and Article L.314-10 Ceseda.
503 Article L.314-14 Ceseda.
504 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.
505 Article 21-17 Civil Code.
506 Article 37(1) Decree n. 93-1362.
507 Article 37(2) Decree n. 93-1362.
508 Article 21-23 Civil Code.
509 Article 21-24 Civil Code.

A leaflet is issued to any candidate to citizenship. This document describes the criteria the candidates have to meet to be deemed eligible for citizenship. The law establishes integration in the French society as a compulsory condition. This leaflet is then not distributed in other languages. Along with the leaflet, the candidates are issued the list of documents they have to produce.[510] 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.[511] The difficulty they encounter is linked to their knowledge of the language.

Beneficiaries of **subsidiary protection** fall under the general rules. They have to wait for 5 years before being authorised to lodge their citizenship claim. This period can be shortened to 2 years if they graduate after 2 years spent in a French college, if they render an exceptional service to France or if they can demonstrate they are particularly well-integrated.[512]

The citizenship application has to be lodged at the Prefecture. The prefecture has 6 month to process the claim,[513] during which an interview is conducted to assess the level of integration of the candidate, regarding especially his or her knowledge of the language and of the French "culture".[514] If the Prefecture takes a positive decision, it is transmitted to the Ministry of Interior in charge of adopting a decree relating to the acquisition of citizenship by the candidate.[515] The Ministry has to make its decision within 18 months following the transfer of the notice by the prefecture.[516] These deadlines can be extended once for three months on the basis of a written and motivated decision.[517]

In practice, refugees encounter many difficulties beyond the mere ones linked to their knowledge of the language. The interview conducted aims also to determine the level of integration on the French society of the candidates. This assessment is very wide since, according to lawyers supporting refugees in this process, economic and cultural aspects are taken into account, as well as their ties with their original community. The Prefecture will particularly scrutinise the relationship claimants have with French people. In that sense, claimants are used to submitting more documents than those required by law. For example, they will produce testimonies from teachers if they have children, proof of their economic situation or testimonies of French friends.

A total 65,654 persons were granted French citizenship by decree in 2017 compared to 68,067 in 2016, though this number is not limited to beneficiaries of international protection.[518]

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

510 Article 37-1 Decree n. 93-1362.
511 Article 21-19 Civil Code.
512 Article 21-18 Civil Code.
513 Article 41 Decree n. 93-1362.
514 Article 46 Decree n. 93-1362.
515 *Ibid.*
516 Article 21-25-1 Civil Code.
517 *Ibid.*
518 Ministry of Interior, *L'accès à la nationalité*, 16 January 2018, available in French at: http://bit.ly/2lmtGHC.

Cessation is not applied to specific groups. There are no systematic difficulties in relation to the application cessation either. In practice, people who were granted asylum on the grounds of the family unit may, following divorce, no longer be considered as refugees; the family unit is not applied to subsidiary protection beneficiaries.

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.[519]

As regards cessation grounds due to the individual conduct of the beneficiary pursuant to Article 1C of the Refugee Convention, the CNDA ruled in 2017 that cessation was applicable in the case of a beneficiary who travelled to the country of origin despite warnings that his or her Travel Document does not allow travel to that country, and who obtained authorisation to travel from the country's consular authorities in France.[520]

There is no systematic review of protection status in France. In 2015, OFPRA has applied cessation to 77 cases in 2014, 139 cases in 2015 and 151 in 2016. 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.[521]

The cessation decision can be made without any interview by OFPRA. OFPRA has however the obligation to address a notice to the refugee or beneficiary of subsidiary protection about the decision to initiate the cessation proceedings and the grounds of this decision. The beneficiary is therefore put in a position to formulate observations against this decision. He or she may summoned to an interview at OFPRA upon the regular procedure scheme.

The cessation decision made by OFPRA can be challenged before the CNDA under the same conditions as an appeal lodged under the Regular Procedure: Appeal. In such a case, the CNDA shall examine the applicability of all cessation clauses and not limit itself to the specific cessation ground raised by OFPRA, according to a recent ruling of the Council of State.[522]

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the withdrawal procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

The withdrawal of the residence permit is only possible in France if the status is also withdrawn.

The law foresees two additional reasons for which which it is possible to withdraw **refugee status**. Firstly, the status can be withdrawn if there are serious reasons to consider that the beneficiary is a serious threat for national security. The status can also be withdrawn when a beneficiary has been sentenced for a crime related to terrorism or for an offence by 10 years of imprisonment.[523]

519 Article L.712-3 Ceseda.
520 CNDA, *M. Q.*, Decision No 16032301, 6 July 2017.
521 CNDA, *M. D.*, Decision No 14018479, 25 February 2016.
522 Conseil d'Etat, Decision No 404756, 28 December 2017.
523 Article L.711-6 Ceseda.

Subsidiary protection will no longer be granted in the event where OFPRA or the Prefecture discover, after the protection is granted, the beneficiary should have been excluded from protection according to the Refugee Convention exclusion clauses, the beneficiary had fled his or her country to avoid prosecution for a crime or because the grant relies on fraudulent declarations.[524]

Withdrawal can also be applied when beneficiaries have committed a severe offence against the interests of the French nation. That is the case also when OFPRA has been informed of elements regarding the involvement of beneficiaries in crimes falling under Article 1F of the Refugee Convention.

The proceedings are the same as in case of a Cessation procedure. A total 150 statuses were withdrawn in 2016.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No
   - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application? ☐ Yes ☒ No
   - ❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? ☐ Yes ☒ No

The same legal framework is applicable to refugees and beneficiaries of subsidiary protection in terms of family reunification. As soon as refugees and subsidiary protection beneficiaries are granted protection, they are entitled to apply for it. Family reunification is permitted for:[525]

1. Spouses or partners (PACS) with whom they were in a relationship previously the lodge of their asylum claim if they are at least 18 years old;
2. Partners who are at least 18 years old in case their union has been sealed prior to the lodging of the asylum claim if they demonstrate they durably and steady lived together;
3. Children within the year after turning 18 years old;
4. First degree parents if the beneficiaries are still under 18 years old by the day asylum is granted.

The application for family reunification is not time limited. Since the 2015 reform has entered into force only 18 months ago, it is really difficult to have sufficient feedback on the difficulties beneficiaries might encounter if they would not apply for reunification in the first months following the asylum grant. Family reunification is not subjected to income or health insurance requirements.[526]

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.[527] The embassy communicates to OFPRA the elements collected and asks for certification. If the

524 Article L.712-3 Ceseda.
525 Article L.752-1 I Ceseda.
526 Article L.752-1 I Ceseda.
527 Article L.752-1 II Ceseda.

information collected by the embassy corresponds to the declarations the beneficiary made to OFPRA, his or her family members must be issued a visa without delay.[528]

In practice, beneficiaries and their family members face difficulties in gathering the documentation proving their family ties. In case of traditional or religious uniosn, they do not to have any certificate of the celebration and cannot then prove they are married or partners. The same problems have been identified concerning birth certificates. Such documentation does not even exist in some countries and the delays for being issued a visa in order to come to France, in the framework of family reunification, can be very long.

2. Status and rights of family members

Family members are not granted the same status as sponsors, even though they are issued the same residence permit. Upon their arrival in France, they have to present themselves at the Prefecture in order to be issued this permit. They have to comply with the same obligations as any third-country national allowed to stay in France. They will have the same rights as their sponsors, especially in terms of integration. Family members are not beneficiaries of international protection even if they have benefited from family reunification with such a beneficiary.

C. Movement and mobility

1. Freedom of movement

Beneficiaries of protection are entirely free to settle in any part of the French territory. They are not restricted to specific areas.

2. Travel documents

The law states that the duration of validity of travel documents is defined by Article 953 of the General Tax Code: 5 years for **refugees**, if it is a biometric travel document, and one year for **beneficiaries of subsidiary protection**.[529] French law does not provide for duration of validity of non-biometric travel documents. Official French websites, however, assert that the duration of validity of travel documents for refugees is 2 years.[530] In practice, whereas the law is clear on the 5-year duration, Prefectures issue only 2-year travel documents for refugees.

Geographical limitations are applied to these travel documents. Refugees and beneficiaries of subsidiary protection are not allowed to travel to countries where personal fears have been identified.[531] Failure to respect these limitations may lead to the Cessation of the protection grant, as confirmed by a 2017 ruling of the CNDA.[532]

In 2015, the CNDA confirmed a cessation decision adopted by OFPRA, regarding an Afghan refugee who had spent two months in his country in order to celebrate his marriage. However, considering the current situation in Afghanistan, he has been granted subsidiary protection.[533]

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.

528 Articles R.751-1 to R.751-3 Ceseda.
529 Article L.753-4 Ceseda.
530 See Ministry of Interior, *Accueil des Etrangers*, at: http://bit.ly/2lmClJR.
531 Articles L.753-1 and L.753-2 Ceseda.
532 CNDA, *M. Q.*, Decision No 16032301, 6 July 2017.
533 CNDA, *M. Z.*, Decision No 14033523, 5 October 2015.

D. Housing

Indicators: Housing		
1.	For how long are beneficiaries entitled to stay in reception centres?	6 months
2.	Number of beneficiaries staying in reception centres as of 31 December 2017	Not available

Beneficiaries are allowed to stay in reception centres for asylum seekers (CADA) 3 months following their protection grant.[534] This period can be renewed for another 3 months with the express agreement of OFII.[535] During their stay in the CADA, beneficiaries are supported to find accommodation according to the mechanisms adopted by the local authorities. At the end of 2016, out of a total 33,459 people accommodated in CADA, 14% were beneficiaries of international protection.[536]

Beneficiaries can also be chanelled to temporary accommodation centres (*Centres provisoires d'hébergement*, CPH) upon an OFII decision. They will be then allowed to stay there for 9 months. This stay can be renewed for a 3-month period.[537] At the end of 2017, there were 2,207 accommodation places in CPH spread across the different regions as follows:

Capacity of CPH per region: 2017	
Region	Maximum capacity
Auvergne Rhône-Alpes	312
Bourgogne Franche-Comté	138
Bretagne	99
Centre	104
Grand Est	206
Hauts de France	200
Ile de France	377
Normandie	120
Nouvelle Aqutaine	120
Occitanie	221
Provence Alpes Côte d'Azur	153
Pays de la Loire	157
Total	**2,207**

Source: Circular of 4 December 2017 relative à l'évolution du parc d'hébergement des demandeurs d'asile et des réfugiés: http://bit.ly/2AJA3eo.

The implemenation of integration mechanims relies on Prefectures and local authorities. They sign in fact an agreement with the stakeholders to support and assist beneficiaries with their integration.[538] Beneficiaires have to sign a republican integration covenant in which they commit to respect French fundamental values and to comply with French legal obligations.[539] The agreement between Prefectures and local stakeholders determines the role of each actor and their obligations towards the beneficiaries.[540] The organisations running these centres have to house the beneficiaries but also

534 Article R.744-12 I(1) Ceseda.
535 *Ibid*.
536 OFII, *2016 Activity report*, 1 March 2017, available in French at: http://bit.ly/2wgCUxx, 38.
537 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.
538 Article L.751-1 Ceseda.
539 Article L.311-9 Ceseda.
540 This agreement is attached by to Decree n. 2016-253 of 2 March 2016.

support them in their integration process. They have to assist them in getting access to French classes, funded by the French State, and accompany them in determining their professionnal orientation. At the end of their stay in CPH, beneficiaries fall under the general rules applicable to foreigners and have to integrate in the private market to get housing.

The actions implemented to facilitate beneficiaries integration vary from an area to another. 12 months, in case the initial duration of stay has been extended, may not be enough for beneficiairies to get integrated. France terre d'asile and Forum réfugiés – Cosi manage systems intending to facilitate this access to integration. These mechanisms are focused on beneficiaries' integration but are based on the French general provisions dedicated to access to housing for insecure populations.

France terre d'asile runs three centres :

1. A temporary accommodation scheme dedicated only to refugees from Paris (*Dispositif provisoire d'hébergement des réfugiés statutaires de Paris*, DPHRSP). Families of refugees, previsouly accommodated in centres in Paris, are accommodated in this scheme. Referrals are made by the aforementioned centres. This scheme includes 350 places. In 2015, 510 persons have benefited from it.[541]
2. A one-place temporary accommodation centre in **Angers** : this centre is open to all beneficiaries and aims to facilitate their integration.
3. The *Réseau pour l'emploi et le logement des réfugiés* (RELOREF) : an accommodation scheme composed by 29 apartments and offering 139 places. This mechanism aims to facilitate the access to housing and the labour market for refugees.[542]

Forum réfugies – Cosi runs the Accelair programme. This programme is dedicated to refugees living in **Lyon** area and who have been granted asylum for less than one year. On the basis of this programme, places are saved for refugees within the real estates managed by providers of social housing. Refugees registered in this programme are supported from 6 to 18 months. The duration of the support may depend on the individualised project of each beneficiary. This assistance aims to make refugees autnomous and to ensure their integration.[543]

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 citizens. They are applied the Labour code (Ctrav) as any French national.

However, they encounter the same difficulties regarding the access to this market as those they face in terms of Housing. The same legal framework regulates the mechanisms of integration of beneficiaries regarding employment. The organisations running the CPH are funded to support beneficiaries in determining their professional path and facilitating their integration in the labour market.[544] 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.

---

541 France terre d'asile, *DPHRS de Paris*, available at: http://bit.ly/2jv6pAQ.
542 France terre d'asile, *RELOREF*, available at: http://bit.ly/2ljVMlN.
543 Forum réfugiés – Cosi, *Programme d'intégration des réfugiés – Accelair*, available at: http://bit.ly/1TCowBy.
544 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.

In practice, it is more difficult for them to find a job. The first obstacle is obviously linked to the language. Even if the law provides that the French State provides French classes,[545] is the current number of 240 hours of classes is rarely sufficient for beneficiaries to adequately command the language in order to get a job.[546] 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 regarding remoteness of location. Outside big French cities, it is compulsory to have a car in order to have a chance to find a job. However, these difficulties are not typical to beneficiaries even if they affect them more directly. They indeed cannot afford to buy a vehicle and do not benefit from any family support.

Finally, refugees and beneficiaries of international protection suffer from a lack of recognition of their national diplomas. This implies therefore that highly skilled beneficiaries face the main obstacles to enter to the labour market. They have to accept unqualified jobs, mostly without any link with their previous job in their country of origin. Social workers refer to protection beneficiaries as a "sacrificed generation". They have renounced practicing their original trade so that their children can graduate in France and be able to aim for highly skilled positions.

2. Access to education

Access to education is the same for beneficiaries as for asylum seekers (see Reception Conditions: Access to Education). The main difference is linked to access to vocational training for adults. These trainings fall under the professional integration systems described in the section on Housing.

Beneficiaries' children are allowed to get access to any school included into the national education system. They do not have to attend preparatory classes. In the event they have special needs, in terms of language or disability for example, they will be orientated accordingly to the general education system.

F. Social welfare

Once they are granted protection, beneficiaries have access to social rights under the same conditions as nationals nationals. This includes health insurance, family and housing allowances, minimum income, and access to social housing.

Several administrations are in charge of providing these services. These include: the health insurance fund (CPAM) for health insurance (CMU), the family allowance fund (CAF) for family allowances, the housing allowance (APL) and the minimum income (RSA), and "Pôle Emploi" for job search support and unemployment compensation.

The Court of Cassation has ruled in a judgment of 13 January 2011 that **refugees** can benefit retroactively from all benefits and other social welfare from the date of their arrival in France. This is linked to the declaratory nature of refugee status, which does not exist for beneficiaries of **subsidiary protection**.

Social welfare administrations are essentially regulated at *département* level. It is therefore necessary to inform them of any change of address and *département* for an effective follow-up of the files. The websites set up by these administrations facilitate such procedures.

545 Article L.311-9 Ceseda.

546 Libération, 'Intégration des réfugiés: «sur la langue on perd un temps fou», selon un rapport', 13 January 2018, available in French at: http://bit.ly/2DS08uT.

In practice, the difficulties encountered by beneficiaries of international protection are the same as those facing nationals and are linked to the inadequacies and shortcomings of the French system, which is sometimes dysfunctional. On the other hand, certain difficulties may remain due to the lack of proficiency in the French language, combined by the lack of cooperation of certain administrative agents.

G. Health care

Health care for beneficiaries is the same as provided to asylum seekers, which is the same provided to French citizens. The difficulties encountered by beneficiaries are not specific to their status but are typical of structural dysfunctions identified within the French health care system (see Reception Conditions: Health Care).

ANNEX I – Transposition of the CEAS in national legislation

Directives and other measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)