

Country Report: France



2022
Update



Acknowledgements & Methodology

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

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

The information in this report is up-to-date as of 31 December 2022, 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 which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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.



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Glossary & List of Abbreviations

Administrateur <i>ad hoc</i>	<i>Ad hoc</i> administrator i.e. legal representative appointed for unaccompanied children
Déclaration de domiciliation	Document thanks to which asylum seekers declare the address at which they can be contacted throughout the asylum procedure
Domiciliation	Legal address where the asylum seeker is registered
Guichet unique	Single desk i.e. system set up to gather the Prefecture and OFII desks to register asylum claims and provide orientation to reception centres following a vulnerability assessment
Jour franc	Full day i.e. 24-hour period during which a person may not be removed
Non-lieu	No case to decide on
Pôle emploi	Employment Office
Ordonnance	Order, decision taken by a single judge without a hearing
Recours gracieux	Discretionary administrative appeal before the Prefect
ADA	Allowance for asylum seekers Allocation pour demandeurs d'asile
AME	State Medical Assistance Aide médicale d'Etat
Anafé	National Association of Border Assistance to Foreigners Association nationale d'assistance aux frontières pour les étrangers
ASSFAM	Association service social familial migrants
CADA	Reception Centre for Asylum Seekers Centre d'accueil pour demandeurs d'asile
CAES	Reception and Administrative Situation Examination Centre Centre d'accueil et d'examen de situation administrative
CASNAV	Academic Centres for Schooling of Foreign-Speaking Children Centre académique pour la scolarisation des enfants allophones nouvellement arrivés et des enfants issus de familles itinérantes et de voyageurs
CDG	Charles de Gaulle Roissy Airport
Ceseda	Code on Entry and Residence of Foreigners and on Asylum Code de l'entrée et du séjour des étrangers et du droit d'asile
CGLPL	General Controller of Places of Detention Contrôleur Général des lieux de privations de liberté
CJA	Code of Administrative Justice Code de justice administrative
CNCDH	National Consultative Human Rights Commission Commission nationale consultative des droits de l'homme
CNDA	National Court of Asylum Cour nationale du droit d'asile
Comede	Medical Committee for Exiles Comité médical pour les exilés
CPAM	Local representation of the health insurance administration Caisse primaire d'assurance maladie
CPH	Temporary shelter Centre provisoire d'hébergement
CRA	Administrative Detention Centre Centre de rétention administrative
Ctrav	Labour Code Code du travail
DNA	National Reception Scheme Dispositif national d'accueil
DRC	Democratic Republic of Congo

ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
GISTI	Groupe d'information et de soutien des immigrés
GUDA	Single desk for asylum seekers Guichet unique pour demandeur d'asile
HUDA	Emergency accommodation for asylum seekers Hébergement d'urgence dédié aux demandeurs d'asile
IOM	International Organisation for Migration
JLD	Judge of Freedoms and Detention Juge des libertés et de la détention
LRA	Place of Administrative Detention Local de rétention administrative
MSF	Doctors without Borders Médecins Sans Frontières
OFII	French Office for Immigration and Integration Office français de l'immigration et de l'intégration
OFPPRA	French Office for the Protection of Refugees and Stateless Persons Office français de protection des réfugiés et des apatrides
OQTF	Order to leave French territory Ordre de quitter le territoire français
PASS	Open and free centres for Access to Health Care Permanence d'accès aux soins de santé
PRAHDA	Programme for Reception and Accommodation of Asylum Seekers Programme d'accueil et d'hébergement des demandeurs d'asile
PUMA	Universal Health Protection Scheme Protection Universelle Maladie
SPADA	Initial reception service for asylum seekers Service du premier accueil des demandeurs d'asile
UMCRA	Medical Units of Administrative Detention Centres Unités médicales des centres de rétention administrative
UNHCR	United Nations High Commissioner for Refugees
VTA	Transit Airport Visa Visa de transit aéroportuaire
ZAPI	Waiting zone Zone d'attente pour personnes en instance

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 2023, several months after the end of the reporting year.¹ Statistics on the second instance procedure are to be found in the National Court of Asylum (CNDA) annual reports, which are also published several months after the end of their reporting period.²

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

Discrepancies in statistics

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

- ❖ OFPRA statistics only cover persons who have lodged an asylum application with OFPRA. As discussed in [Registration](#), those falling under a Dublin procedure are not allowed to lodge their claim. The statistics on France provided to Eurostat were incomplete until 2020 insofar as these were based on OFPRA figures;
- ❖ Ministry of Interior statistics refer to persons registered at a “single desk” (*guichet unique de demande d’asile*, GUDA).
- ❖ Persons re-channelled from a Dublin procedure to a regular or accelerated procedure (*requalifiés*) do not clearly appear in Ministry of Interior statistics if their application has been registered at the GUDA in previous years. They do, however, appear in OFPRA statistics.
- ❖ Persons arrived in resettlement programs and persons applying for asylum in detention are not registered at the GUDA but appear in OFPRA statistics.

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

In 2022, 156,103 persons were registered as asylum seekers by the Ministry of Interior (compared to 121,368 in 2021), of which 137,046 as first applicants (104,381 in 2021) and 19,057 as subsequent applicants (16,987 in 2021). For its part, OFPRA reported a total of 130,933 asylum seekers (compared to 103,164 in 2021). The latter include *requalifiés* from previous years (not included in 2021 GUDA statistics) and people whose asylum application is not registered in GUDA (i.e. asylum claims in detention and persons arriving through resettlement programmes).

According to the Ministry of Interior, the nationality breakdown of people registered in GUDA for the first 10 countries of origin in 2022 was as follows: Afghanistan, Bangladesh, Türkiye, Georgia, DR Congo, Guinea, Ivory Coast, Albania, Pakistan, Nigeria.

¹ OFPRA, *Rapports d’activité*, available in French at: <http://bit.ly/3my3uOr>.

² CNDA, *Rapports annuels*, available in French at: <https://bit.ly/3wMbqh9>.

³ Ministry of Interior, *Chiffres clés – Les demandes d’asile*, 26 January 2023, available in French at: <http://bit.ly/4039Kel>.

⁴ For a discussion, see Forum refugees, ‘Asile : comprendre et analyser les données statistiques’, 14 January 2022, available in French at: <https://bit.ly/3wgljmr>.

Applications and granting of protection status at first instance: 2022

Detailed statistics on applications and first instance decisions were not made available by the national authorities at the time of writing of this report. The only indicative statistics published by the Ministry of Interior indicate a total of 156,103 applicants for international protection, out of which 137,046 first-time applicants and 19,057 subsequent applicants. The main nationalities represented were Afghanistan, followed by the Bangladesh, Türkiye, Georgia and DRC.⁵

As regards decisions on international protection, OFPRA indicated that the overall protection rate at first instance stood at 29% % in 2022.⁶ A detailed breakdown by nationality was not available at the time of writing of this report.

The following statistics are based on Eurostat statistics, which must be read with caution as they include inadmissibility decisions in rejections. Moreover, data on applications are not those related those cases that will go to the first instance procedure but include all applications registered by authorities (including asylum seeker under Dublin regulation).

	Applicants in 2022	Pending at the end of 2022	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	156,455	142,940	29,305	6,235	94,195	22.6%	4.8%	72.6%
Breakdown by countries of origin of the total numbers								
Afghanistan	23,755	23,605	11,585	75	5,235	68.6%	0.4%	31.0%
Türkiye	11,420	11,135	1,160	40	6,805	14.5%	0.5%	85.0%
Bangladesh	11,295	12,045	350	115	7,455	4.4%	1.5%	94.1%
Georgia	9,785	5,290	165	215	7,265	2.2%	2.8%	95.0%
DRC	7,285	6,615	1,110	205	3,970	21.0%	3.9%	75.1%
Guinea	7,225	6,435	1,720	115	3,695	31.1%	2.1%	66.8%
Albania	6,735	3,640	155	540	6,500	2.2%	7.5%	90.3%
Ivory Coast	6,635	5,635	1,640	165	4,900	24.5%	2.5%	73.1%
Pakistan	5,075	7,345	185	50	3,160	5.4%	1.5%	93.1%
Nigeria	3,940	3,920	275	45	4,245	6.0%	1.0%	93.0%

Source: Eurostat.

* Statistics on decisions cover the decisions taken throughout the year, regardless of whether they concern applications lodged that year or in previous years.

* "Rejection" includes inadmissibility decisions, as under the available data they are not distinguished.

* "Applicants in year" refers to the total number of applicants, and not only to first-time applicants.

⁵ Ministry of Interior, *Chiffres clés – Les demandes d'asile*, 26 January 2023 available in French at: <http://bit.ly/4039Kel>.

⁶ OFPRA, 'Les premières données de l'asile 2022 à l'OFPRA sont disponibles [chiffres provisoires]', 17 January 2023, available in French at: <https://bit.ly/3QTlgXc>.

Gender/age breakdown of the total number of applicants: 2022

	Number	Percentage
Total number of applicants	156,455	100%
Men (incl. children)	104,190	66.6%
Women (incl. children)	52,270	33.4%
Children	37,025	23.7%
Unaccompanied children	1,000	0.6%

Source: Eurostat. These figures may differ from the forthcoming figures that will be published by national authorities later in 2022 that were not yet available by the time of writing of this report.

Comparison between first instance and appeal decision rates: 2022

	First instance (provisional)		Appeal (definitive)	
	Number	Percentage	Number	Percentage
Total number of decisions	129,735	100%	67,142	100%
Positive decisions	35,540	28.5%	14,450	21.5%
• <i>Refugee status</i>	29,305	22.6%	10,513	15.7%
• <i>Subsidiary protection</i>	6,235	4.8%	3,937	5.9%
Negative decisions	94,195	72.6%	52,692	78.5%

Sources:

- ❖ Eurostat. These figures may differ from the forthcoming figures that will be published by national authorities later in 2022 that were not yet available by the time of writing of this report.
- ❖ Cour nationale du droit d'asile, Activity report 2022; available in French at: <https://bit.ly/3GCMs90>.

Overview of the legal framework

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

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

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

Title in English	Original Title (FR)	Abbreviation	Web Link
Bylaw of 12 April 2022 fixing for the year 2022 the objectives of proportionate distribution of the reception of the minors deprived temporarily or definitively of the protection of their family (NOR : JUSF2211038A)	Arrêté du 12 avril 2022 fixant pour l'année 2022 les objectifs de répartition proportionnée des accueils des mineurs privés temporairement ou définitivement de la protection de leur famille (NOR : JUSF2211038A)		https://bit.ly/3XOMBfD (FR)

Information of 15 January 2021 about the management of accommodation centers for asylum seekers and refugees (NOR :INTV2100948J)	Information du 15 janvier 2021 relative à la gestion du parc d'hébergement des demandeurs d'asile et des bénéficiaires d'une protection internationale (NOR : INTV2100948J)		https://bit.ly/3a5uWZH (FR)
Bylaw of 13 May 2022 taken pursuant to Article L. 551-1 of the Code on the Entry and Residence of Foreigners and the Right of Asylum(NOR: CITC2212434A)	Arrêté du 13 mai 2022 pris en application de l'article L. 551-1 du code de l'entrée et du séjour des étrangers et du droit d'asile (NOR : CITC2212434A)		https://bit.ly/3ZU4kE3 (FR)
OFPRA Decision of 2 July 2019 on organisational modalities for the interview, implementing Article L.723-6 Ceseda	Décision OFPRA du 2 juillet 2019 fixant les modalités d'organisation de l'entretien en application de l'article L.723-6 du Ceseda		http://bit.ly/3KSlafX (FR)
Information on the implementation of the Law of 20 March 2018 on the proper application of European asylum system (NOR : INTV1808045N)	Information relative à l'application de la loi n° 2018-187 du 20 mars 2018 permettant une bonne application du régime d'asile européen (NOR : INTV1808045N)		https://bit.ly/2OI1iEN (FR)
OFPRA Decision of 20 December 2022 setting the list of approved premises intended to receive asylum seekers, applicants for stateless persons, refugees or beneficiaries of subsidiary protection heard in a professional interview conducted by OFPRA by an audiovisual communication procedure	Décision OFPRA du 20 décembre 2022 fixant la liste des locaux agréés destinés à recevoir des demandeurs d'asile, demandeurs du statut d'apatride, réfugiés ou bénéficiaires de la protection subsidiaire entendus dans le cadre d'un entretien professionnel mené par l'OFPRA par un moyen de communication audiovisuelle		http://bit.ly/3KPPusN (FR)
Bylaw of 23 October 2015 on the questionnaire for assessing vulnerabilities of asylum seekers (NOR: INTV1523959A)	Arrêté du 23 octobre 2015 relatif au questionnaire de détection des vulnérabilités des demandeurs d'asile (NOR : INTV1523959A)		http://bit.ly/1RaHNen (FR)
Bylaw of 2 May 2017 establishing the ceiling for deductions in case of undue payment of the asylum seeker allowance (NOR: INTV1709507A)	Arrêté du 2 mai 2017 fixant le plafond des retenues en cas de versement indu de l'allocation pour demandeur d'asile (NOR : INTV1709507A)		http://bit.ly/2En0Qj6 (FR)
Bylaw of 20 October 2015 on the form to declare the asylum seeker's address (NOR: INTV1524994A)	Arrêté NOR : INTV1524994A du 20 octobre 2015 fixant le modèle du formulaire de déclaration de domiciliation de demandeur d'asile		http://bit.ly/1MVoi49 (FR)

Bylaw of 9 October 2015 on the validity of the asylum claim certificate (NOR: INTV1524094A)	Arrêté du 9 octobre 2015 fixant la durée de validité de l'attestation de demande d'asile (NOR : INTV1524049A)		http://bit.ly/1jnCZEL (FR)
Circular of 6 July 2012 on the implementation of alternatives to administrative detention of families (NOR : INTK1207283C)	Circulaire du 6 juillet 2012 sur la mise en œuvre de l'assignation à résidence prévue à l'article en alternative au placement des familles en rétention administrative (NOR : INTK1207283C)		http://bit.ly/1RTunjM (FR)
Bylaw of 30 December 2016 on the list of associations entitled to send representatives to access administrative detention facilities (NOR: INTV1638569A)	Arrêté du 30 décembre 2016 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder aux lieux de rétention (NOR: INTV1638569A)		https://bit.ly/2ugzVIX (FR)
Bylaw of 23 August 2021 on the list of associations entitled to propose representatives for access to waiting areas (NOR: INTV2120838A)	Arrêté du 23 août 2021 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente (NOR: INTV2120838A)		https://bit.ly/3rPm973 (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)
Bylaw setting the technical characteristics of the communication means to be used at the CNDA (NOR : JUSE1314361A)	Arrêté du 12 juin 2013 pris pour l'application de l'article R. 733-20-3 du code de l'entrée et du séjour des étrangers et du droit d'asile et fixant les caractéristiques techniques des moyens de communication audiovisuelle susceptibles d'être utilisés par la Cour nationale du droit d'asile (NOR : JUSE1314361A)		http://bit.ly/1dA3rba (FR)
Instruction of 19 July 2016 relating to the application of the Dublin III Regulation – Resort to house arrest and administrative detention in the context of execution of transfer decisions (NOR: INTV1618837J)	Instruction du 19 juillet 2016 relative à l'application du règlement (UE) n°604/2013 dit Dublin III – Recours à l'assignation à résidence et à la rétention administrative dans le cadre de l'exécution des décisions de transfert (NOR : INTV1618837J)		https://bit.ly/3mtpj1H (FR)
Decision of 21 April 2023 establishing the list of organisations competent for proposing representatives to accompany asylum seekers or	Décision du 21 avril 2023 fixant la liste des associations habilitées à proposer des représentants en vue d'accompagner le demandeur d'asile ou le réfugié ou le		https://bit.ly/40ZnxDF (FR)

refugees or beneficiaries of international protection to a personal interview held by OFPRA (NOR : INTV1833858S)	bénéficiaire de la protection internationale à un entretien personnel mené par l'OFPRA (NOR : INTV1833858S)		
Decision of 28 December 2018 establishing the list of languages in which asylum seekers, applicants for stateless status, refugees and beneficiaries of subsidiary protection can be heard in the context of a personal interview (NOR: INTV1836064S)	Décision de l'OFPRA du 28 décembre 2018 fixant la liste des langues dans lesquelles les demandeurs d'asile peuvent être entendus dans le cadre d'un entretien personnel mené par l'OFPRA (NOR : INTV1836064S)		http://bit.ly/412YSyO (FR)
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/2kKouGq (FR)
CNDA Decision of 17 December 2018 on audience by videoconferencing	Décision de la Cour nationale du droit d'asile du 17 décembre 2018 sur la vidéo-audience		https://bit.ly/2JmI8za (FR)
Circular of 5 November 2018 on provisions of the Law of 10 September 2018 related to criminal law immediately applicable	Circulaire du 5 novembre 2018 présentant les dispositions de droit pénal immédiatement applicables de la loi n°2018-778 du 10 septembre 2018 pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie		https://bit.ly/2Y3VXpE (FR)
Instruction of 31 December 2018 on Law of 10 September 2018 – provisions applicable from 1 January 2019	Instruction du 31 décembre 2018 relative à l'application de la loi pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie – dispositions entrant en vigueur le 1 ^{er} janvier 2019		https://bit.ly/2CnZaak (FR)
Bylaw of 19 June 2019 on missions of emergency centres for asylum seekers	Arrêté du 19 juin relatif au cahier des charges des lieux d'hébergement d'urgence pour demandeurs d'asile		https://bit.ly/2QQ1dLX (FR)

Bylaw of 19 June 2019 on missions of accommodation centers for asylum seekers	Arrêté du 19 juin 2019 relatif au cahier des charges des centres d'accueil pour demandeurs d'asile		https://bit.ly/35PnWMj (FR)
Decree of 13 January 2021 on mission of centers for accommodation and evaluation of administrative situations	Décret du 13 janvier 2021 relatif au cahier des charges des centres d'accueil et d'évaluation des situations		https://bit.ly/3cFRV0p (FR)
Instruction of 28 February 2019 on Law of 10 September 2018 – provisions applicable from 1 March 2019	Instruction du 28 février 2018 relative à l'application de la loi pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie - dispositions relatives au séjour et à l'intégration entrant en vigueur le 1er mars 2019		https://bit.ly/2TJRAS9 (FR)
Bylaw of 17 December 2021 on health care for persons detained in administrative detention centres NOR : INTV2119154A	Arrêté du 17 décembre 2021 sur la prise en charge sanitaire des personnes placées en centre de rétention administrative ; NOR : INTV2119154A		https://bit.ly/3H3t2bb (FR)
Bylaw of 9 February 2022 related to financial participation of persons accommodated in accommodation centres for asylum seekers. NOR : INTV2119255A	Arrêté du 9 février 2022 relatif à la participation financière des personnes hébergées dans un lieu d'hébergement pour demandeurs d'asile. NOR : INTV2119255A		https://bit.ly/3XGB2XK (FR)

Overview of the main changes since the previous report update

The previous update of the report was published in **April 2022**.

International protection

- ❖ **Key asylum statistics:** In 2022, a total of 156,455 persons registered to apply for international protection in France, the main countries of origin represented being Afghanistan (23,755), Türkiye (11,420) and Bangladesh (11,295). This marks an increase compared to 120,685 applications in 2021 and 62,067 applications in 2020. The overall recognition rate at first instance stood at 27% (22.6% refugee status, 4.8% subsidiary protection), but with significant variations just among the top 10 nationalities of applicants, from 2.2% (Albania, Georgia) to 68.6% (Afghanistan). The National Court of Asylum further granted protection in 14,450 cases (which may concern single persons or families). The rate of first instance decisions overturned on appeal stood at 21%. The average length of first instance proceedings returned to levels similar to pre-covid, with an average of 158 days. Lastly, of the approx. 131,000 applications lodged before OFPRA, 16,150 were subsequent applications, thus representing 12.3% of the total number of applications lodged.

Asylum procedure

- ❖ **Access to the territory – land borders:** During 2022, France again renewed its temporary border controls, in place since 2015. Between January and October 2022 included, 72,581 decisions refusing entry were issued at the border with Italy (40,274), Spain (16,988), Belgium (10,761) and Switzerland (4,558). Reports of people being refused entry without their protection needs being taken into account at the Italian border persisted in 2022. Local authorities report almost 40,000 arrests and 33,000 returns to Italy. NGOs confirm many violations of fundamental rights continue to be observed in the main places of detention at the French-Italian border. Border controls were reinforced following Italy's refusal to welcome the Ocean Viking NGO rescue ship in November 2022.
- ❖ **Sea crossings:** French authorities detected 51,786 persons trying to cross the Channel in 2022, a 46% increase compared to 2021. 8,323 persons were rescued at sea; least 31 persons died at sea trying to join the United Kingdom in 2022. A new agreement between the UK and France related to Channel crossings was signed in November 2022. Meanwhile, 8,003 persons were arrested at sea trying to reach the overseas department of Mayotte.
- ❖ **Rescues at sea:** following a refusal of Italy to welcome the Ocean Viking NGO boat operating in having rescued 230 persons in the Mediterranean Sea, and after some deliberation, French authorities allowed the Ocean Viking to port in Toulon in November 2022. However, they were not immediately granted access to the territory to apply for asylum in the regular way. Instead, this gave rise to the creation of an ad hoc temporary waiting area, in which 188 adults applied for asylum; 67 were granted access to the territory to ask for asylum (others were released for procedural issues except 2 persons returned to Mali). Despite government announcements upon arrival of the ship, no relocation seems to have been implemented to other European states.
- ❖ **Appeal:** the National Court of Asylum continued to increasingly hold video hearings in 2022, with 267 video hearings up from 165 in 2021. In addition to video hearings for persons in overseas territories, there were also 35 hearing sessions from Lyon and Nancy.

Reception conditions

- ❖ **Access to reception conditions:** out of the 142,940 asylum seekers with applications pending at the end of 2022 (according to Eurostat), only 100,598 persons benefitted from reception conditions according to the French reception authority OFII, meaning over 40,000 asylum seekers do not access any reception conditions (accommodation, allowance, etc) in France.
- ❖ **Withdrawal of reception conditions:** in the first 7 months of 2022, OFII took 16,877 decisions of withdrawal of reception conditions. Detailed grounds are not known although refusal of orientation in the framework of national reception scheme seems to be the main explanation of these high figures: between January 2021 and July 2022, 27% of asylum seekers in Ile-de-France region refused the orientation to another region.
- ❖ **Access to accommodation:** at the end of 2022, according to the Ministry of Interior, 62% of asylum seekers eligible to material reception conditions – i.e. 100,598 persons in total at the end of December 2022 according to OFII – were effectively accommodated, a minor increase compared to 58% at the end of 2021. When adding those asylum seekers who do not benefit from reception conditions, this means at least 80,000 asylum seekers were not accommodated in France as of December 2022. This lack of access to accommodation was one of the several points condemned by the UN Committee on the Elimination of Racial Discrimination in its latest appraisal of France published in December 2022.
- ❖ **Accommodation – informal camps:** in Calais, despite the regular dismantlement operations which continued in 2022, as of January 2023 there were still about 800 migrants living in and around Calais in makeshift camps. In 2022 and early 2023, the authorities attempted to limit the distribution of water or food, through for example as blocking vehicle access to water and food distribution sites with rocks, etc. and limiting authorised distributions only to organisations funded by the State. However, the latter were considered as illegal by the Administrative court in October 2022.

Detention of asylum seekers

- ❖ **Statistics:** in 2022, 657 third country nationals lodged a first asylum application while in administrative detention, i.e. less than 2% of persons administratively detained.
- ❖ **Detention of children:** France was again condemned by the European Court of Human Rights for detaining children in conditions contrary to article 3 ECHR, the prohibition of inhumane and degrading treatment (length of detention too long and/or very young children and/or unsuitable place of detention); this marks the 9th condemnation of France for detention of migrant children since 2012.
- ❖ **Detention at the border with Italy:** in the context of border controls with Italy in Alpes-Maritimes, in 2022 the border police continued to detain newly arrived asylum seekers without formal order in a “temporary detention zone”. Local authorities’ ban on NGO access to the zone was ruled unlawful.

Content of international protection

- ❖ **Civil registration:** beneficiaries of international protection continued to experience long delays in receiving their civil status documents that have to be drawn up by OFPRA. Although additional resources were allocated to this mission by OFPRA in 2022, this has not yet produced any significant effect on the waiting time, in a context of increasing asylum claims.

- ❖ **Inclusion:** Several programmes are in place to try and facilitate the transition, including the Accelair programme managed by Forum Réfugiés, and the 2022 newly launched government programme 'AGIR', influenced in large part by the Accelair programme. The programme aims to provide global support for refugee inclusion re. housing, employment and benefits. In 2022, the programme was deployed in 27 departments and should be generalised to the entire territory in 2024.

Temporary protection

The information given hereafter constitute a short summary of the 2022 Report on Temporary Protection, for further information, see [Annex on Temporary Protection](#).

- ❖ **Key temporary protection statistics:** according to the French border police, approx. 65,358 persons displaced from Ukraine were registered at French borders between 24 February and 31 December 2022. Numbers of temporary protection beneficiaries vary between 65,800 and 86,000 active temporary protection residence permits at the end of 2022 depending on the source, without there being an obvious explanation for the discrepancy. Arrivals of Russian nationals are not monitored however the number of asylum applications by Russian nationals, including first time and subsequent applicants, increased steadily over the year 2022, up to a 418% increase in January 2023 compared to January 2022.

Temporary protection procedure

- ❖ **Scope of temporary protection:** the scope of temporary protection is the same as that of the EU decision. According to the media and NGO on the ground, hundreds of students mainly from African countries arrived from Ukraine without being eligible to protection. They initially received orders to leave French territory (OQTF). The majority were apparently repatriated to their countries of origin. In July, the French authorities invited French universities to allow the remaining students still present in France to enrol and continue their studies in France. Moreover, although data on arrivals of Russian nationals is not available. However, numbers on asylum applications by Russians rose after the beginning of the war, based on grounds related to military issues (conscientious objection, desertion, etc.).
- ❖ **Documentary evidence:** in general, there were no particularly widespread problems reported. However, Ukrainian nationals without a passport and who only have the internal Ukrainian passport (movement document in Ukraine) were asked by prefectures to go to the Ukrainian embassy to receive a consular attestation that proves that they are indeed Ukrainian. Costs of travel, procedure to fulfil these requirements are borne by the applicants, or by the NGOs hosting them.
- ❖ **Information provision:** overall, information provision was quite extensive. Information was provided in French, English, Ukrainian and Russian both in paper (flyers) and with many digital tools, including a regularly updated information booklet, and a 'For Ukraine' platform, which presents administrative information in French and Ukrainian, registers all volunteer offers (translation, interpretation, citizen accommodation), lists mobilisation initiatives from certain local authorities and collects job offers.

Content of temporary protection

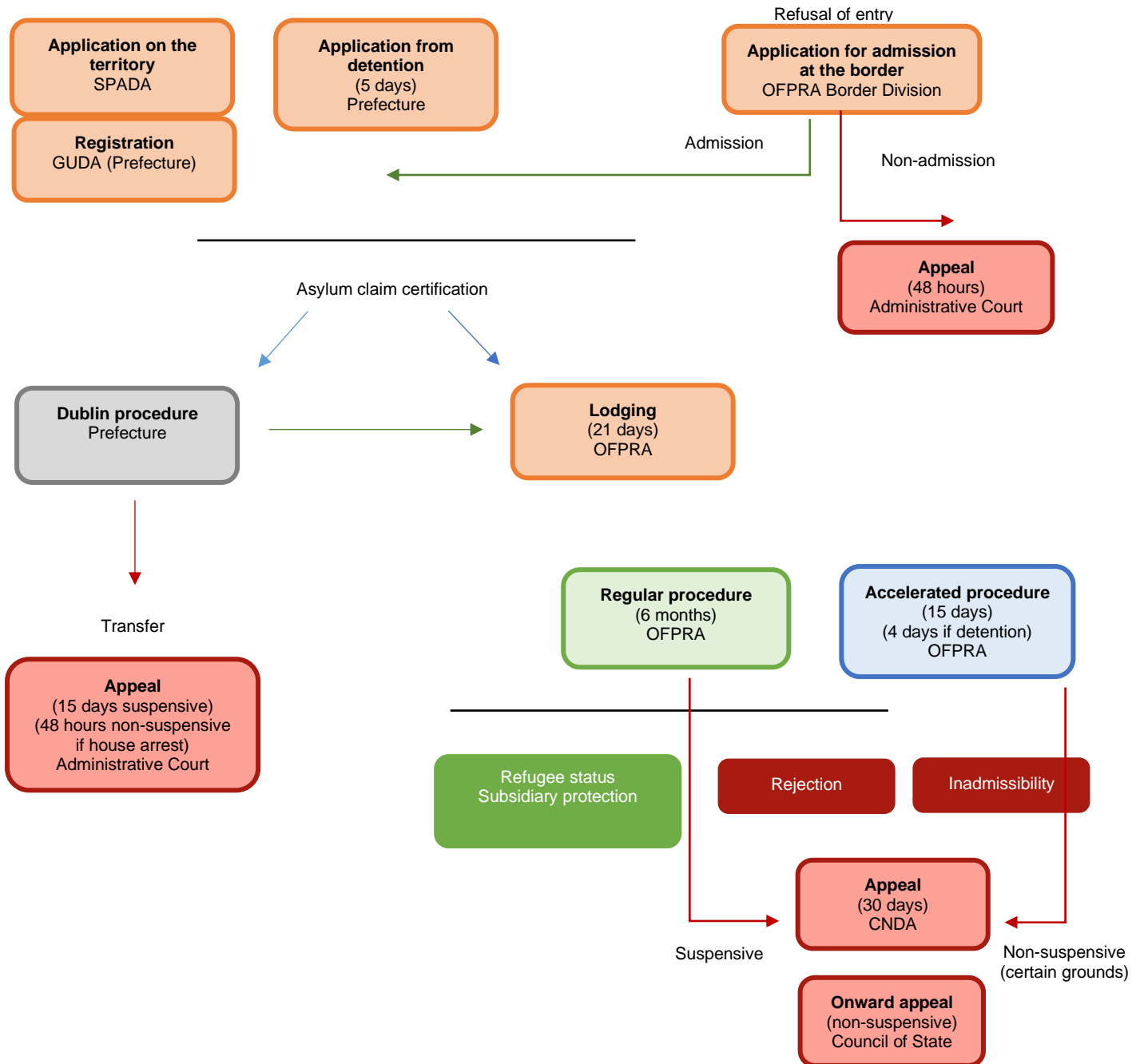
- ❖ **Residence permit:** contrary to other countries which provided one year permits, France decided to deliver temporary residence certificates, to be renewed automatically every 6 months rather than 1 year.

- ❖ **Rights of beneficiaries of temporary protection:** BTPs benefit from the allowance for asylum seekers. In addition, contrary to asylum seekers who only receive it if they do not have an accommodation solution, initially BTPs all benefitted from an additional top-up of € 7.40 / day. Since November 2022, the raise is granted only if BTPs pay for their accommodation, and no longer to those benefitting from a free of charge form of accommodation, such as free private hosting. BTPs also benefit from immediate access to public healthcare without being subjected to a 3 month waiting period (as asylum seekers are). BTPs are granted access to the labour market with their residence permit without any further procedure. They also benefit from social welfare benefits.
- ❖ **Accommodation:** BTPs do not benefit from the accommodation solutions contained in the DNA (national reception system for asylum seekers). Solutions were found outside of the DNA. Notably, 87,000 places in reception centres were created. At the end of February 2023, according to the Government 40% of BTPs currently in France were accommodated by their own means, independently from state housing programmes. The other 60% are divided in three housing solutions: about 27,000 BTP had access to independent housing, 18,000 were in a collective housing solution and around 12,000 benefitted from citizen housing. In November 2022, the State decided to provide financial support to individuals having accommodated, free of charge and for a minimum period of 90 days, beneficiaries of temporary protection.
- ❖ **Access to asylum:** Between February and December 2022, 2,187 Ukrainian nationals registered asylum applications (the data does not differentiate first and subsequent applications). Decision-making regarding Ukrainian nationals before both the OFPRA and the CNDA was suspended at the start of the full-scale invasion and resumed towards the end of the year. In December 2022 / early 2023, the National Court of Asylum published several decisions in which it mainly granted subsidiary protection (8 cases, another 4 were not granted any form of protection).

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|---|---|-----------------------------|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ⁷ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ⁸ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: ⁹ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | | |

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

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

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

4. Number of staff and nature of the determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?
French Office for the Protection of Refugees and Stateless Persons (OFPRA)	1,003	Ministry of Interior	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: OFPRA.

⁷ For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive. This is now included in Article L.531-10 Céseda.

⁸ Accelerating the processing of specific caseloads as part of the regular procedure.

⁹ Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

OFPPA is a specialised authority responsible for examining applications for international protection and competent to take decisions at first instance. It is an administrative body falling under the responsibility of the Ministry of Interior and its institutional independence is explicitly laid down in law, which means that it does not take instructions from the Ministry of Interior.¹⁰ In 2022, the budget of OFPPA was set at € 93.2 million and the Office included 1,003 staff members at the end of the year.¹¹ The OFPPA website states that there are approx. 450 protection officers in charge of the examination of asylum applications.¹² The budget law for 2023 provide for a budget of €103.4 million (1,011 staff members).

As regards its internal structure, OFPPA has different units dealing with different procedures as well as different asylum applicants. This includes a unit entitled “asylum at the border”, which is responsible exclusively for claims lodged in waiting zones and detention centres. OFPPA also has five thematic groups (“*groupes de référents thématiques*”) each dealing with vulnerable applicants,¹³ as will be explained further below. Another administrative arrangement visible in OFPPA relates to the units which are organised according to geographical criteria.¹⁴

Quality control and assurance

Following a 2013 action plan for the reform of OFPPA, an internal mechanism monitoring the quality of the decisions was put in place. It consists of an assessment of several sample cases. In addition, a “harmonisation committee”, chaired by the Executive Director, was created to harmonise the *doctrine*. Its tasks include monitoring the jurisprudence of the CNDA.¹⁵

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

In this context, three evaluations were carried out by OFPPA and UNHCR in 2013, 2015 and 2017, based on representative samples of asylum decisions taken in 2013, 2014 and the first half of 2016 respectively. The results of the monitoring are available online.¹⁶ Since then, there is no information as to whether another evaluation has been or will be conducted.

The latest report published in November 2018 contained mostly positive conclusions concerning interviews and decision-making at OFPPA. However, it also highlighted important shortcomings.¹⁷

Taking into account the results of these quality controls, regular trainings are provided to caseworkers, in particular regarding the interview, the assessment of proof and supportive documents and the reasoning of decisions taken. Trainings are provided in-house by OFPPA as well as a by the EUAA.¹⁸

¹⁰ Article L. 121-7 Ceseda.

¹¹ *Budget law 2023, Annex on immigration, asylum, integration*, October 2022, available in French at: <https://bit.ly/3XwtEOe>.

¹² OFPPA, ‘Organisation – Les poles d’instruction’, available in French at: <http://bit.ly/41ags42>.

¹³ OFPPA, ‘Organisation – Les divisions d’appui’, available in French at: <http://bit.ly/3GJLhUW>.

¹⁴ For further information, see OFPPA, ‘Organisation – Les poles d’instruction’, available in French at: <http://bit.ly/41ags42>.

¹⁵ See a description of the action plan for the reform of OFPPA, *2014 Activity report*, 10 April 2015, available in French at: <http://bit.ly/419s2MY>, 54-55.

¹⁶ OFPPA, *Contrôle qualité: premier exercice d’évaluation*, September 2014; *Contrôle qualité: deuxième exercice d’évaluation*, May 2016; *Contrôle qualité: troisième exercice d’évaluation*, November 2018 (no longer online as of March 2023).

¹⁷ For further details see AIDA, *Country Report: France – 2021 Update*, April 2022, available at: <https://bit.ly/407wxpU>.

¹⁸ OFPPA, *2019 Activity report*, June 2020, available in French at: <http://bit.ly/3A1awhO>, 84.

Role of the Council of State in status determination

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

However, outside of asylum proceedings and especially in expulsion proceedings when examining refoulement, the Council of State considers it may pronounce someone is a refugee or a beneficiary of subsidiary protection, although this does officially grant the status and rights attached, nor is it binding before the actual asylum authorities.¹⁹

5. Short overview of the asylum procedure

An asylum application in France may be made:

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

Registration: In order to lodge an asylum application on French territory, asylum seekers must first present themselves to the locally competent orientation platform (*Structure de premier accueil pour demandeurs d'asile*, SPADA) whose task is to centralise intentions to lodge asylum claims and to give asylum seekers appointments to the “single desk” (*guichet unique pour demandeur d'asile*, GUDA) of the Prefecture. At the single desk their asylum claim is registered and they are granted an asylum claim certificate.²⁰ This certificate is their temporary residence permit. Intentions to lodge expressed before other authorities have no effect under French law despite EU law on the matter. The certificate does not allow asylum seekers to travel to other Member States.

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

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

The certificate is not delivered to asylum seekers who lodge a claim at the border or from a detention centre. In addition, the Prefecture may refuse to grant an asylum claim certificate for two reasons, thus in practice banning the foreign national from remaining on French territory as they then do not have a temporary residence permit:²¹

- (a) The foreign national introduces a subsequent application after final rejection of their first subsequent application; or

¹⁹ Council of State, 9 November 1966, No. 58903, available in French at: <https://bit.ly/426fC8T>; Council of State, 30 December 2011, No. 347624, available in French at: <https://bit.ly/3nv29sq>; Council of State, 30 January 2017, No. 394173, available in French at: <https://bit.ly/3NEMe5j>.

²⁰ 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.

²¹ Article L.521-7 Céseda.

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

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

The Prefecture also channels an asylum claim under the accelerated procedure in several cases provided by law.

An accelerated procedure entails that the person has 21 calendar days to lodge their application with OFPRA and that the latter has, in theory, 15 days to examine and decide on the case. The deadlines are even more limited both for the asylum seeker and OFPRA if the person is held in administrative detention. The accelerated procedure does not entail lower social rights than under the regular procedure. Yet, following the 2018 reform, the law provides for the termination of reception conditions for certain categories of asylum seekers whose claims are rejected at first instance in the accelerated procedure, before their appeal. Under normal procedure, asylum seekers still have 21 calendar days to lodge their application but OFPRA has 6 months to examine and decide on their case.

French legislation provides for systematic personal interviews of applicants at first instance, except if OFPRA is about to take a positive decision or if the asylum seeker's medical situation prevents him/her from attending the interview. All personal interviews are conducted by OFPRA. Asylum seekers can be accompanied to their interview by a third person (e.g. a lawyer or member of an accredited NGO). This third person cannot intervene during the interview but may formulate remarks at the end of the interview. This provision also applies to claims introduced at the border and from detention. After the asylum seeker and potential third person have been heard, the caseworker writes an account and a draft decision. The caseworker's decision must be signed and validated by the Head of section, but in practice around one-third of caseworkers, who have significant professional experience, are allowed to sign their own decisions.

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

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

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

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

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

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No
2. Is there a border monitoring system in place? ☐ Yes ☒ No
3. Who is responsible for border monitoring? ☐ National authorities ☐ NGOs ☐ Other
4. How often is border monitoring carried out? ☐ Frequently ☐ Rarely ☐ Never

Land and air borders

Persons refused entry into the territory after arriving at the border have the possibility to ask for a "full day" (*jour franc*) that allows them to be protected from removal for 24 hours.²² In the case of adults, this right must be requested, whereas under the law unaccompanied children cannot be removed before the expiry of the *jour franc* unless they specifically waive it. The *jour franc* does not apply to refusals of entry issued at land borders or in **Mayotte** since September 2018, in accordance with the modifications adopted through the 2018 reform.²³

²² Article L. 333-2 Ceseda.

²³ Article L. 361-4 Ceseda. Note that in response to a report by the General Controller of Places of Detention (CGLPL), the Ministry of Interior stated in June 2018 that the *jour franc* does not apply in the context of reintroduction of Schengen border controls: Ministry of Interior, *Response to the CGLPL, 18-019754-A/BDC-CARAC/JT*, 7 June 2018, available in French at: <https://bit.ly/2SEfU7k>, 5.

As regards external borders, Eurostat statistics seems inconsistent as it indicates that a total of only 9,180 third country nationals were refused entry at the external borders in 2022.²⁴ In 2021, the Ministry of Interior communicated the following data on refusals of entry at the external border: 94,692 decisions were notified during 2021, mainly at the French-Italian border.²⁵ In the first 10 months of 2022, 72,581 such decisions were issued at the border with Italy (40,274), Spain (16,988), Belgium (10,761) and Switzerland (4,558).²⁶

In December 2019, several NGOs requested a parliamentary commission with the aim to investigate violations of the law at the border.²⁷ The issues reported by these NGOs include violent practices, pushbacks, the absence of medical and social care as well as a lack of support to vulnerable applicants including unaccompanied minors. The setting up of a parliamentary commission had already been requested by several French Deputies in November 2019.²⁸ A parliamentary commission on migration – not limited to border issues - was launched in April 2021 and published a report in November 2021.²⁹ This report recalls that ‘the violations of rights at our borders have been abundantly documented and denounced’ and ‘it’s time to put an end to it’.

Since 2015, the French police has intensified border controls which aim to prevent asylum seekers from accessing France. Despite the fact that the reintroduction of border control at the internal borders must be applied as a last resort measure, in exceptional situations, and must respect the principle of proportionality, France has regularly re-introduced border controls at its internal borders in recent years, since 2015. The current temporary border control is valid from 1 November 2022 to 30 April 2023 and justified by ‘new terrorist threats, organised criminality and activity of organised groups of smugglers, risk of arrival of persons who could pose a threat among the flow of refugees, irregular migration, secondary movements, the situation at the external border (Ukraine war)’³⁰ Moreover, the Council of State validated in October 2019 a temporary border control decision that had been taken in 2018.³¹ The Council of State considered that this measure, which is based on “current events and the high level of the terrorist threat prevailing in France”, leads to a limitation of the freedom of movement that is proportionate to the aim pursued. The decision reintroducing border controls was challenged by NGOs again in 2022, following the CJUE decision on this issue (26 April 2022, C-368/20 and C-369/20).³² However, the Council of State validated the measure in July 2022, considering that the threat was renewed (despite the CJUE requiring a new threat).³³

In a decision issued in November 2020, the Council of State indicated that European law does not allow issuing a refusal of entry to a foreigner arrested while crossing an internal border or close to it, nor does it automatically deprive an asylum seeker from reception conditions i.e. accommodation. The rules from

²⁴ Eurostat, [migr_eirfs], available at: <https://bit.ly/3cUzchP>.

²⁵ Annual meeting between the ministry of Interior and NGOs on the management of waiting zones, November 2022 – reported by La Cimade and ANAFE. Map of refusal of entries in 2021 provided by La Cimade, available in French at: <https://bit.ly/3Ea43DG>.

²⁶ Ministry of Interior, *Débat au Parlement sur l’immigration en France*, Press kit, 6 December 2022, available in French at: <https://bit.ly/3lpLQmW>.

²⁷ Amnesty International France, La Cimade, Médecins du Monde, Médecins sans Frontières, Secours Catholique-Caritas France, Anafé, MRAP, Syndicat des avocats de France, ‘Nous demandons une commission d’enquête parlementaire pour le respect des droits des personnes exilées à nos frontières’, 3 December 2019, available in French at: <https://bit.ly/2FS8Vix>.

²⁸ Assemblée nationale, ‘Proposition de résolution n° 2394 tendant à la création d’une commission d’enquête sur la violation des droits humains aux frontières françaises’, available in French at: <https://bit.ly/3cj0fD4>.

²⁹ Assemblée nationale, *Rapport de la commission d’enquête sur les migrations, les déplacements de populations et les conditions de vie et d’accès au droit des migrants, réfugiés et apatrides en regard des engagements nationaux, européens et internationaux de la France*, 10 November 2021, available in French at: <https://bit.ly/34aftsC>.

³⁰ European Commission, ‘Member States’ notifications of the temporary reintroduction of border control at internal borders pursuant to Article 25 et seq. of the Schengen Borders Code’, available at: <https://bit.ly/3pnjCid>.

³¹ Council of State, 16 October 2019, available in French at: <https://bit.ly/2wHgW8p>.

³² CJEU, Joined cases C-368/20 and C-369/20, 26 April 2022, available at: <http://bit.ly/3o41xd2>.

³³ Council of State, Decision No 463850, 27 July 2022, available in French at: <https://bit.ly/3l3BERa>.

Return directive must apply.³⁴ However, in a decision issued in April 2021, the Council of State made a distinction between people arrested after crossing the border, who must be subject to the Return Directive (case law of November 2020), and those who are arrested before crossing the border for whom the refusal of entry is considered compatible with European law.³⁵

It should be further noted that France has signed around 40 cooperation agreements with other countries, including readmission agreements with European countries such as Kosovo, Serbia, Switzerland, Italy, Lithuania, Estonia, Hungary, Latvia.³⁶ These agreements should not impact the right to ask for asylum but are often interpreted in practice as taking precedence over all other considerations, especially at the Italian land border.³⁷

Sea borders

According to the UK authorities, attempts to cross the Channel to join the United Kingdom reached a record number of 45,756 in 2022³⁸ compared to 28,395 persons in 2021 (three times more than the number reported in 2020).³⁹ According to French authorities, 51,786 persons were detected trying to cross the Channel in 2022 (compared to 35,382 in 2021).⁴⁰ Similarly, the number of migrants rescued at sea reached 8,323 persons, compared to 8,609 in 2021 and 2,036 in 2020.⁴¹ In 2022, at least 31 persons died at sea trying to join the United Kingdom⁴² (27 persons in 2021) Analysis shows that majority of people in small boats crossing Channel are refugees.⁴³

In November 2022, a new agreement was signed between the UK and France related to Channel crossings⁴⁴ following many others bilateral agreements signed since 2014.⁴⁵ Moreover, on 27 April 2022 the Nationality and Border Bill became an Act of law in the UK. As mentioned by the British NGO Refugee Council, the provisions of the Act relating to refugees and the asylum system focus heavily on penalising refugees who travel to the UK through 'irregular' means.⁴⁶ In addition, the UK government is pursuing its idea of implementing an agreement with Rwanda to externalise asylum process of people arriving illegally in UK.⁴⁷

1.1. Access at the Italian land border

Reports of people being refused entry without their protection needs being taken into account at the Italian border persisted in 2022. In July 2020, the Council of State highlighted to the French Government its legal obligations regarding asylum at the border.⁴⁸ The Council of State concluded that by refusing entry onto

³⁴ Council of State, Decision No. 428178, 27 November 2020, available in French at: <https://bit.ly/3ac7REC>.

³⁵ Council of State, Decision No. 450879, 23 April 2021, available in French at: <https://bit.ly/34sw8Hv>.

³⁶ GISTI, *Accords bilatéraux*, available in French at: <https://bit.ly/3tCVLQb>.

³⁷ Practice-informed observation by Forum-Réfugiés, including feedback from other NGOs, January 2023.

³⁸ The Guardian, 'Channel crossings: 45,756 people came to UK in small boats in 2022', 1st January 2023, available at: <https://bit.ly/3ka44AK>.

³⁹ France 24, 'Plus de 28 000 migrants ont traversé la manche en 2021, un record', 4 January 2022, available in French at: <https://bit.ly/37nx9SI>.

⁴⁰ Le Monde, 'Plus de 45 000 traversées de la Manche à bord de navires de fortune en 2022', 5 January 2023, available in French at: <https://bit.ly/3lGRutm>.

⁴¹ Préfet maritime de la Manche et de la Mer du Nord, 'Bilan opérationnel de la préfecture maritime manche et mer du nord 2022', 31st January 2023, available in French at: <https://bit.ly/3YCDSxJ>.

⁴² AFP, '45 000 migrants ont risqué la traversée de la Manche en 2022, un nouveau record', 1st January 2023, available in French at: <https://bit.ly/3ltlAJP>.

⁴³ Refugee Council, 'Majority of people in small boats crossing Channel last year are refugees', 31 January 2023, available at: <https://bit.ly/3xNyCf3>.

⁴⁴ AFP, 'France, UK sign new deal on thwarting migrant Channel crossings', 14 November 2022, available at: <https://bit.ly/3YCGpYL>.

⁴⁵ House of Commons Library, *Irregular migration: A timeline of UK French co-operation*, 16 December 2022, available at: <https://bit.ly/3l5J46f>.

⁴⁶ Refugee Council, 'What is the Nationality and Refugee Act?', available at: <http://bit.ly/3A152nw>.

⁴⁷ BBC, 'What is the UK's plan to send asylum seekers to Rwanda?', 16 January 2023, available at: <https://bbc.in/3KtqmZ6>.

⁴⁸ Council of State, Decision No. 440756, 8 July 2020, available in French at: <https://bit.ly/3acd5QQ>.

the territory the authorities had manifestly infringed the right to asylum of the applicants. In a joint statement, six NGOs welcomed the ruling, condemning the fact that these illegal practices are systematically being carried out by the police. The NGOs also urged the Ministry of the Interior to issue public instructions to the border police so that people wishing to seek international protection in France can do so at the French-Italian border as well.⁴⁹

A network of researchers focusing on the Italian land border was also established in 2018 to raise awareness on the issue and to establish a dialogue with civil society.⁵⁰ Illegal police operations at the border have been extended from the **Menton** and **Nice** areas to the **Hautes-Alpes** since 2016. Such practices of mass arrest have had an effect on shifting migratory routes, leading migrants to take increasingly dangerous routes through the mountains. By way of illustration, the Italian organisation Doctors for Human Rights (MEDU) denounced at the beginning of 2021 the critical situation of migrants who attempt to reach France from Italy through the Alpine border, highlighting *inter alia* that snow and freezing winter temperatures make the journey through the mountains particularly dangerous.⁵¹

Figures on the number of apprehended persons and refusals of entry at the Italian border are not fully available for 2022 at the time of writing of this report. In the first 10 months of 2022, 40,274 refusals of entry were issued at the French-Italian border,⁵² compared to 25,998 in the same period in 2021⁵³ (36,000 over the whole year 2021).⁵⁴ In January 2023, local authorities declared that almost 40,000 arrests had taken place at the border in 2022 with 33,000 returns to Italy and 4,909 unaccompanied minors coming from Italy accommodated in emergency shelters in France.⁵⁵ Following the refusal of Italy to welcome the ship *Ocean Viking* in November 2022, border controls were reinforced,⁵⁶ with over 500 policemen in the region of Menton (Alpes Maritimes).⁵⁷

Racial profiling by the Border Police and other police forces deployed in the region of **Hautes-Alpes** has been reported, whereby passengers who appear to be of African origin are checked on board trains arriving from Italy.⁵⁸ Moreover, persons who explicitly express the intention to seek asylum have been refused entry by the French authorities on the basis that Italy is responsible for their claim, without being placed under the formal procedure foreseen by the Dublin Regulation.

Border controls have also led to new forms of **Detention**, including *de facto* detention in areas such as the police station of **Menton**, which cannot be accessed by civil society organisations.⁵⁹ This has been upheld by the Council of State as lawful during the period necessary for the examination of the situation of persons crossing the border, subject to judicial control.⁶⁰ In October 2019, a French Member of European Parliament was refused access to the police station in **Menton** as it is not considered formally as a place

⁴⁹ Amnesty International and others, 'La France viole le droit d'asile à la frontière italienne', 10 July 2020, available in French at: <https://bit.ly/2JWslIM>.

⁵⁰ See official website available in French at: <https://obsmigration.hypotheses.org/>.

⁵¹ InfoMigrants, 'Critical situation for migrants at Italian-French border', 9 February 2021, available at: <https://bit.ly/3aMpBHa>; See also: ECRE, 'France: Evictions Continue amid Winter Emergency while Council of State Allows Preventing Media Access', 12 February 2021, available at: <https://bit.ly/3jRTbip>.

⁵² Ministry of Interior, *Débat au Parlement sur l'immigration en France*, Press kit, 6 December 2022, available in French at: <https://bit.ly/3lpLQmW>.

⁵³ 20Minutes, 'Alpes-Maritimes : A la frontière italienne, le nombre d'interpellations de migrants augmente, ainsi que « les atteintes aux droits fondamentaux »', 8 December 2021, available in French at: <https://bit.ly/3Ev5ME6>.

⁵⁴ Liberation, 'Après l'accueil de l'«Ocean Viking», démonstration de force à la frontière franco-italienne', 11 November 2022, available in French at: <https://bit.ly/3XShRKm>.

⁵⁵ InfoMigrants, 'À la frontière franco-italienne, « une politique d'usure » pour « décourager les migrants »', 26 January 2023, available in French at: <https://bit.ly/3XNB0Im>.

⁵⁶ InfoMigrants, 'La France a renforcé ses contrôles aux frontières avec l'Italie après l'affaire de l'Ocean Viking', 21 November 2022, available in French at: <https://bit.ly/3Zbrioz>.

⁵⁷ Liberation, 'Après l'accueil de l'«Ocean Viking», démonstration de force à la frontière franco-italienne', 11 November 2022, available in French at: <https://bit.ly/3XShRKm>.

⁵⁸ Politis, 'Visite surprise d'élus à la police aux frontières de Menton', 1 April 2018, available in French at: <http://bit.ly/2jdMOaV>.

⁵⁹ ECRE, *Access to asylum and detention at France's borders*, June 2018, available at: <https://bit.ly/2JaRrSu>, 18-19.

⁶⁰ Council of State, Order No 411575, 5 July 2017, available in French at: <https://bit.ly/3msP3vj>.

of detention.⁶¹ In a report on detention conditions in the context of immigration in France, published in March 2020, the European committee for the prevention of torture (CPT) reported that the material conditions in the premises in **Menton** were extremely poor and could jeopardise the right to human dignity of the people placed there. The Committee expressed serious doubts on whether people who are refused entry to the territory are able to know, understand and exercise their rights.⁶²

On 10 December 2020, the administrative court of Marseille suspended the decision of the Prefect prohibiting NGO access to the place where migrants are detained at the border in **Hautes-Alpes**.⁶³ A similar decision was issued by the administrative court of Nice on 30 November 2020 regarding access to the police station in **Menton**.⁶⁴ In 2021, the prefects of Alpes-Maritime and Hautes-Alpes again issued new decisions denying the access to NGO's, but the administrative courts of Nice (4 March 2021) and Marseille (16 March 2021), and then the Council of State (23 April 2021), confirmed the illegality of these decisions.⁶⁵ However, the Council of State refused the main request, which was the closure of these places of detention. In a similar decision published in September 2022, the administrative court of Grenoble ordered the administration to authorise access to the detention center in the Fréjus tunnel but did not order the closure of this place.⁶⁶ The administration complied with the decision.

In a report published in September 2022, the NGO Anafe described the main places of detention at French-Italian border (Menton Garavan, Menton Pont Saint Louis, Montgenèvre, Frejus) and confirmed that many violations of fundamental rights have been observed there.⁶⁷

Media reports documented incidents of unaccompanied children being refused entry by police authorities and directed back towards the Italian border.⁶⁸ The Italian Minister of Interior also accused France of such practices back in October 2018. In 2020, French Administrative courts regularly condemned the Prefecture for its illegal practices at the border violating the rights of the children.⁶⁹ Several NGOs further published a report in October 2020 on the illegal practices of the French authorities in this regard, which seem to be applied at several borders.⁷⁰ In a report published in May 2021, Human Rights Watch stated that 'French police summarily expel dozens of unaccompanied children to Italy each month in violation of French and international law'.⁷¹

⁶¹ Francetvinfo, 'Migrants : Manon Aubry interdite d'accès au centre d'accueil de la police aux frontières de Menton', 31 October 2019, available in French at: <https://bit.ly/2RjtmKq>.

⁶² Council of Europe, CPT, *Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 23 au 30 novembre 2018*, 24 March 2020, available in French at: <https://bit.ly/39rfnJw>.

⁶³ Le Monde, 'Frontière franco-italienne : l'interdiction faite aux ONG d'assister les migrants suspendue par la justice', 17 December 2020, available in French at: <https://bit.ly/39okCgi>.

⁶⁴ Anafe, 'Refus d'assistance médicale et juridique aux personnes exilées enfermées à la frontière franco-italienne : le tribunal administratif de Nice sanctionne l'Etat', 1 December 2020, available in French at: <https://bit.ly/3GCxLj6>.

⁶⁵ Ligue des droits de l'homme, 'Locaux de la PAF : le Conseil d'État rejette la demande de fermeture des locaux', April 2021, available in French at: <https://bit.ly/3HKPxCs>.

⁶⁶ Administrative Court of Grenoble, Order No. 2205652, 22 September 2022, available in French at: <https://bit.ly/3zXFxTN>.

⁶⁷ ANAFE, 'À l'abri des regards - L'enfermement ex frame à la frontière franco-italienne', September 2022. Available in French at: <https://bit.ly/3ls7RS4>.

⁶⁸ Repubblica, "Migranti prigionieri per ore", nuovo caso al confine francese', 17 July 2019, available in Italian at: <https://bit.ly/2Urx8Vh>; News Deeply, 'Dodging death along the Alpine passage', 25 January 2018, available at: <https://bit.ly/2H99SDP>; France Culture, 'Quand les mineurs africains sont abandonnés dans la montagne', 17 November 2017, available in French at: <https://bit.ly/3bar89f>.

⁶⁹ See e.g. Administrative Court of Nice, Orders No. 2000856, 2000858, 24 February 2020, available in French at: <https://bit.ly/3A2fgUB>; Administrative Court of Nice, Orders No. 2000570, 2000571 2000572, 7 February 2020.

⁷⁰ Amnesty International and others, *Les manquements des autorités françaises aux devoirs élémentaires de respecter, protéger et mettre en œuvre les droits des mineur.e.s isolé.e.s étranger.e.s en danger aux frontières intérieures terrestres de la France (frontières franco-italienne, franco-espagnole et franco-britannique)*, October 2020, available in French at: <https://bit.ly/3acF5Um>.

⁷¹ Human Rights Watch, 'France: police expelling migrant children', May 2021, available at: <https://bit.ly/3iEsDlb>.

Despite strong condemnation by monitoring bodies,⁷² civil society organisations,⁷³ as well as court rulings condemning Prefectures for failing to register the asylum applications of people entering through Italy,⁷⁴ practice and official stances remain unchanged. In the report quoted above, ANAFE continued to note in 2022 an ‘unashamed violation of the right of asylum’.⁷⁵

A preliminary inquiry into unlawful police practices in **Menton** was launched in February 2019,⁷⁶ but was still pending at the beginning of 2022. In July 2019, several NGOs sent documented requests to the Prosecutor in Nice and to the Special rapporteur on the human rights of the migrants in order to cease violations of fundamental rights at the French-Italian border.⁷⁷

Local habitants support asylum seekers at the border *inter alia* by rescuing them on the mountain, but the increased restrictions on access to the territory have been coupled with criminalisation of humanitarian assistance. Several persons helping migrants have been prosecuted and ultimately convicted by French courts. Although Cedric Herroux’s sentence was deemed unconstitutional for violating the fraternity principle and quashed,⁷⁸ convictions continue to be delivered in other cases.⁷⁹ On 26 February 2020, the Court of Cassation further held that the protection of acts of solidarity is not limited to individual and personal actions but also extends to a militant action carried out within an association.⁸⁰ Consequently, another conviction of Cedric Herroux was quashed by the Court of appeal of Lyon in May 2020.⁸¹ As reported by a Member of the European Parliament, Damien Carême, actions of volunteers trying to help migrants at the border were still being hindered by the police in the beginning of 2021.⁸²

1.2. Access at the Spanish land border

Due to the increasing number of migrants arriving in Spain, the French-Spanish land border has become one of the main entry points to France since 2018. Spanish media have reported that migrants are pushed back from France to Spain without appropriate guarantees, in procedures lasting less than 20 minutes.⁸³ Reports have shown Border Police officials controlling groups of migrants in **Hendaye**, placing them on

⁷² CGLPL, *Rapport de visite des locaux de la police aux frontières de Menton (Alpes-Maritimes) – Contrôle des personnes migrantes à la frontière franco-italienne*, June 2018, available in French at: <http://bit.ly/2JjUpzY>; National Consultative Commission for Human Rights (CNCDH), *Avis sur la situation des migrants à la frontière franco-italienne*, 18 June 2018, available in French at: <https://bit.ly/41tSsZv>.

⁷³ See e.g. Anafé, *Persona non grata : Conséquences des politiques sécuritaires et migratoires à la frontière franco-italienne*, January 2019, available in French at: <https://bit.ly/2E2EJQ6>; ECRE, *Access to asylum and detention at France’s borders*, June 2018, available at: <https://bit.ly/2JaRrSu>; La Cimade, *Dedans, dehors: Une Europe qui s’enferme*, June 2018, available in French at: <https://bit.ly/2MrlSQj>; Forum réfugiés-Cosi, ‘Pour une pleine application du droit d’asile à la frontière franco-italienne’, 24 April 2017, available in French at: <http://bit.ly/3A1nkEU>.

⁷⁴ See e.g. Council of State, Decision No. 440756, 8 July 2020, available in French at: <https://bit.ly/43s4Dbb>; 20 Minutes, ‘Nice : La préfecture à nouveau épinglée pour des violations du droit d’asile à la frontière franco-italienne’, 3 March 2020, available in French at: <https://bit.ly/39p6CTI>; Administrative Court of Marseille, Order No. 1901068, 18 March 2019; Administrative Court of Nice, Order No. 1701211, 31 March 2017; Order No. 1800195, 22 January 2018; Order No. 1801843, 2 May 2018.

⁷⁵ ANAFE, ‘À l’abri des regards - L’enfermement ex frame à la frontière franco-italienne’, September 2022, available in French at: <https://bit.ly/3ls7RS4>.

⁷⁶ Ligue des Droits de l’Homme, ‘Violences policières et administratives contre des migrants : une enquête préliminaire à Menton’, 5 February 2019, available in French at: <http://bit.ly/3KZWRTn>.

⁷⁷ Médecins du Monde, ‘Atteintes aux droits à la frontière franco-italienne’, 16 July 2019, available in French at: <http://bit.ly/3UEec2s>.

⁷⁸ For further information, see AIDA, *Country Report: France – 2021 Update*, April 2022, available at: <https://bit.ly/407wxpU>, 30.

⁷⁹ See e.g. La Croix, ‘Le délit de solidarité est toujours sanctionné’, 15 January 2020, available in French at: <https://bit.ly/35UplBq>; Anafé et al, ‘Les 7 de Briançon lourdement condamné-e-s par le tribunal de Gap’, 13 December 2018, available in French at: <http://bit.ly/3mzOTCd>.

⁸⁰ Court of Cassation, Decision 19-81.561, 26 February 2020, available in French at: <http://bit.ly/41v9tCr>.

⁸¹ Le Monde, ‘Symbole de l’aide aux migrants, Cédric Herrou relaxé par la cour d’appel de Lyon’, 13 May 2020, available in French at: <https://bit.ly/3ohlBmM>.

⁸² Damien Carême, ‘Le harcèlement, lors des maraudes, à la frontière avec l’Italie doit cesser !’ 19 January 2021, available in French at: <https://bit.ly/36gPKfS>.

⁸³ El País, ‘Francia usa una medida antiterrorista para devolver migrantes a España’, 1 September 2018, available in Spanish at: <https://bit.ly/2Cxr85Q>.

board a van and leaving them at the border instead of handing them over to their Spanish counterparts.⁸⁴ In February 2021, the border police illegally returned a 16-years old unaccompanied child from **Bayonne** (France) to **Irun** (Spain). The NGOs which reported the incident indicated that these illegal practices are recurrent and recalled that the authorities must consider the best interest of the child, in accordance with the United Nations Convention on the Rights of the Child.⁸⁵

Civil society organisations have denounced what appears to be a practice mirroring the methods of the Border Police on the Italian border.⁸⁶ *Médecins Sans Frontières* (MSF) alerted in February 2019 that “[p]eople are denied the opportunity to apply for asylum in France, and minors are not considered as such; they are routinely turned away and sent back to Spain, instead of being protected by the French authorities as the law requires.”⁸⁷ Local authorities in **Bayonne** have also criticised current practice vis-à-vis migrants arriving from Spain.⁸⁸ According to the Fundamental Rights Agency (FRA) of the UE, intensified police checks implemented since the beginning of 2021, with the deployment of 1,200 to 1,600 police officers each week, led migrants to take more risks. For instance, a migrant died in June 2022 when trying to enter France by crossing the Bidasoa River which marks the French–Spanish border, the press reported.⁸⁹

In the first 8 months of 2021, 31,213 refusal of entry were notified at the Spanish land border, up 146% compared to the same period the previous year.⁹⁰ In the first 10 months of 2022, 16,988 such decisions have been issued at the border with Spain (16,988).⁹¹

1.3. Access at borders in overseas territories

In **Mayotte**, thousands of people arrive each year from Comoros and sometimes from African or Asian countries, especially Sri Lanka. In 2022, 8,003 migrants (6,355 in 2021, 3,989 in 2020) were arrested at sea trying to reach Mayotte illegally according to the authorities.⁹² In French **Guyana**, 2,500 refusals of entry were reported in the first semester of 2020.⁹³ No data is available for 2021 and 2022 in Guyana and the Reunion Island.

1.4. Access at airports

ANAFE (the National Association of Border Assistance to Foreigners – *Association nationale d'assistance aux frontières pour les étrangers*) is an organisation that provides assistance to foreigners in airports. In its Annual report published in September 2020, the organisation highlighted several difficulties in accessing the right of asylum at airports.⁹⁴ According to the latter, there is a general lack of information on the right to seek asylum and difficulties occur in the registration of asylum claims at the border. It further highlights the important role of the Police in practice and the obstacles it may create regarding the asylum

⁸⁴ *Ibid.*

⁸⁵ ANAFE, 'L'Etat français renvoie illégalement un enfant à la frontière franco-espagnole', 10 February 2021, available in French at: <https://bit.ly/3aXP1I0>.

⁸⁶ MSF, 'Migrants trapped in relentless cycle of rejection on French-Spanish border', 6 February 2019, available at: <http://bit.ly/3L0ZVdh>. See also Accem et al., 'Augmentation des arrivées en Espagne : l'Europe doit sortir la réforme de Dublin de sa paralysie', 4 December 2018, available in French at: <http://bit.ly/3UFwcKa>.

⁸⁷ MSF, 'Migrants trapped in relentless cycle of rejection on French-Spanish border', 6 February 2019, available at: <http://bit.ly/3L0ZVdh>.

⁸⁸ New York Times, 'French Mayor Offers Shelter to Migrants, Despite the Government's Objections', 12 February 2019, available at: <http://bit.ly/3UyOVXG>.

⁸⁹ Le Matin, 'Corps d'un migrant retrouvé dans le fleuve qui sépare Espagne et France', 18 June 2022, available in French at: <https://bit.ly/3Z1u3cW>.

⁹⁰ La Dépêche du Midi, 'Route migratoire : la frontière franco-espagnole est désormais la deuxième porte d'entrée sur le territoire français', available in French at: <https://bit.ly/3uDe4FE>.

⁹¹ Ministry of Interior, *Débat au Parlement sur l'immigration en France*, Press kit, 6 December 2022, available in French at: <https://bit.ly/3lpLQmW>.

⁹² Préfet de Mayotte, 'Lutte contre l'immigration clandestine - Bilan 2022 de l'opération Shikandra', January 2023, available in French at: <https://bit.ly/3kvemM6>.

⁹³ France Info, 'Guyane : 2 500 refus d'entrée sur le territoire au premier semestre', 12 November 2020, available in French at: <https://bit.ly/3oop7Mf>.

⁹⁴ ANAFE, *Annual report 2019*, available in French at: <https://bit.ly/3a5GM6k>, 66.

application. The same difficulties have been reported by ANAFE in a report published in January 2022⁹⁵ and in an open-letter in October 2022.⁹⁶ Similar issues are further described below under the

Border procedure (border and transit zones).

Legal access to the territory

For information regarding family reunification as a way to access the territory, see [Family Reunification](#).

Refugees can legally access the territory through resettlement programmes. France had undertaken to resettle 5,000 people per year in 2020 and 2021, from sub-Saharan Africa or the Middle East, thereby adding to the initial resettlement commitment of around 100 households per year under a framework agreement concluded with UNHCR in 2008. However, only 1,211 persons were resettled in 2020 and 1,827 in 2021.⁹⁷ France further committed to resettle 5,000 people in 2022 within the framework of European commitments. To this are added a hundred families resettled each year under an agreement with the UNHCR signed in 2008. According to the UNHCR, a total of 3,136 persons have been resettled in 2022 in France.⁹⁸

Regarding pledges for resettlement and humanitarian admission of Afghans in the EU 'Afghan support scheme', France committed to admitting 2,500 from mid-August 2021 to the end of 2022.⁹⁹ During this period, 3,134 Afghans were admitted in France: 2,635 during Summer 2021,¹⁰⁰ 526 from September 2021 to December 2021 and 1,095 in 2022.¹⁰¹

France also contributes to relocations from Greece to other European countries through a voluntary relocation scheme. From August 2020 to March 2023, 501 unaccompanied minors and 510 members of families (417 asylum seekers and 93 beneficiaries of international protection) were relocated from Greece in this context.¹⁰²

In the framework of the Declaration on a voluntary solidarity mechanism endorsed by 19 EU countries and 4 Schengen associated countries in June 2022, France is committed to relocating 3,000 persons but at the end of 2022 only 127 people (out of only 207 for all European countries) had been relocated.¹⁰³

As mentioned on OFPRA website, a foreign national can apply for an asylum visa at a French representation in their country of origin. In practice, this possibility (considered as a favour and not as a right)¹⁰⁴ is only available in a few embassies, following specific commitments by France. A report on immigration sent by the Ministry of the Interior to the French Parliament in 2022, covering 2020 data, mentions the implementation in recent years of visa programmes for Syrians, Iraqis, and Yazidi women.¹⁰⁵

⁹⁵ ANAFE, *Fermons les zones d'attente*, January 2022, available in French at: <https://bit.ly/339UjKt>.

⁹⁶ ANAFE, 'Lettre ouverte : l'Anafé appelle les parlementaires à visiter et fermer les zones d'attente [Communiqué de presse]', 25 October 2022, available in French at: <https://bit.ly/3kEBmbs>.

⁹⁷ UNHCR, Resettlement data finder, available at: <https://bit.ly/3ohG5I4>.

⁹⁸ *Idem*.

⁹⁹ European parliament, 'Overview of pledges for resettlement and humanitarian admission of Afghans, 2021-2022', available at: <https://bit.ly/3mfmp6s>.

¹⁰⁰ Ministry of Foreign Affairs, Centre de crise et de soutien, *Activity report 2022*, available in French at: <https://bit.ly/3KDMFv9>.

¹⁰¹ DIAIR, 'Opération APAGAN : accueillir les réfugiés menacés par les Talibans', 23 January 2023, available in French at: <https://bit.ly/3UeEEQp>.

¹⁰² IOM-UNHCR, *Voluntary scheme for the relocation from Greece to other European countries*, available at: <https://bit.ly/370FDyL>.

¹⁰³ InfoMigrants, 'Seulement 207 migrants relocalisés par le programme de volontariat de l'Union européenne', 3 February 2023, available in French at: <https://bit.ly/3yRrxY>.

¹⁰⁴ Conseil d'Etat, 9 July 2015, *M. Allak*, No. 391392, available in French at: <https://bit.ly/3JW5LMj>.

¹⁰⁵ Ministère de l'Intérieur, 'Les étrangers en France – rapport au Parlement sur les données de l'année 2020', 15 March 2022, available in French at: <https://bit.ly/3tSRQyN>.

Public data on this type of visa does not allow for a clear understanding of this issue, as the "humanitarian visa" category includes all these different legal pathways to the territory (including probably family reunification) and probably other unknown practices:¹⁰⁶

	2018	2019	2020	2021	2022
Total Humanitarian visas	12,333	12,246	4,573	14,035	15,806
<i>Refugees and stateless persons</i>	11,931	10,874	4,402	13,807	13,763
<i>Subsidiary protection</i>	402	1,372	171	228	2,043

Following the takeover of the Taliban in Afghanistan in August 2021, France evacuated 3,134 Afghans who entered the asylum system and obtained protection (2,635 in August and September 2021,¹⁰⁷ and 499 until the end of 2022).¹⁰⁸

2. Registration of the asylum application

Indicators: Registration

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

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

2.1. Making and registering an application

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

However, the law specifies that one reason for OFPRA to process an asylum claim in **Accelerated Procedure** is that "without legitimate reason, the applicant who irregularly entered French territory or remained there irregularly did not introduce their asylum claim in a period of 90 days as from the date they has entered the French territory."¹⁰⁹ Prior to the 2018 reform, this time limit was 120 days. In Guiana, the time limit is 60 days.¹¹⁰

¹⁰⁶ Ministry of Interior, *La délivrance de visas aux étrangers*, 26 January 2023, available in French at: <https://bit.ly/43IJAqy>.

¹⁰⁷ Forum réfugiés, *Quelle protection pour les femmes afghanes depuis la prise de pouvoir des talibans*, January 2023, available in French at: <https://bit.ly/3yR1rrz>.

¹⁰⁸ Senat, Written question to the government No. 03519, answered 22 December 2022, available in French at: <https://bit.ly/3TtYDKt>.

¹⁰⁹ Article L. 531-27 3° Ceseda.

¹¹⁰ Art. L.767-1 Ceseda.

The registration of asylum claims in France is conducted by “single desks” (*guichet uniques de demande d’asile*, GUDA) introduced in order to register both the asylum claim and the need for material reception conditions. There are 33 GUDA across France (mainland).¹¹¹

In order to obtain an appointment at the GUDA, asylum seekers must present themselves to orientation services (SPADA). In practice, these are manned by local organisations who are thus responsible for this pre-registration phase and deliver the appointments at the Prefecture for the asylum seekers. According to the law, the appointment has to take place within 3 working days after asylum seekers have expressed their intention to lodge an asylum claim.¹¹² 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.¹¹³

While the introduction of the “single desk” system in 2015 aimed at reducing delays relating to registration and avoid long lines of people presenting themselves in front of Prefectures, this additional step has led to more complexity and delays in accessing the procedure in practice. To restore the 3-day time limit, the Minister of Interior published a Circular on 12 January 2018 which increased the staff in Prefectures and in the French Office for Immigration and Integration (OFII) to reorganise services. This plan ensures fully operational GUDA every day of the week, as well as overbooking to compensate for ‘no show’ appointments.¹¹⁴

In 2019, the average time at national level was 5,8 working days.¹¹⁵ In July 2019, the Council of State recognised that the waiting time for an appointment remained a current issue and urged the authorities to take appropriate measures to comply with the legal time foreseen before January 2020.¹¹⁶ In February 2020, the average time was around 3,5 working days but exceeded 10 days in Lyon.¹¹⁷ According to the authorities, the average time was 4 days in 2020,¹¹⁸ 2,6 days in 2021 and 3,7 days in 2022.¹¹⁹

In a report published in May 2020, the Court of Auditors (*Cour des comptes*) highlighted however the existence of “hidden delays” before accessing a SPADA and stressed that “making people wait several weeks or even several months before the deposit of their request and the assessment of their vulnerability is unsatisfactory not only with regard to their rights but also for the effectiveness of the asylum system”.¹²⁰

Indeed, asylum seekers have faced difficulties in accessing SPADAs, especially in the **Ile-de-France** region (Paris and surroundings). Since May 2018, the French Office of Immigration and Integration (OFII) operates a telephone appointment system in this region, whereby applicants obtain an SMS appointment to appear before a SPADA, which in turn books them an appointment with the GUDA to register their application.¹²¹ The telephone appointment system therefore constitutes an additional administrative layer in the registration process. In 2018 (from the launch on 2 May 2018 until 31 December 2018), the telephone platform answered 61,957 calls and granted 46,139 appointments for registration. In 2019, the platform answered 82,339 calls and granted 64,328 appointments.¹²² OFII described this system as “very positive”.¹²³ In December 2020, OFII reported that 200,682 calls were answered and 151,478

¹¹¹ OFII, *Activity report 2021*, 25 July 2022, available in French at: <https://bit.ly/3Z5COBV>, 93.

¹¹² Article L. 521-4 *Ceseda*.

¹¹³ *Ibid.*

¹¹⁴ Ministry of Interior, *Circulaire NOR INTV1800126N du 12 janvier 2018 Réduction des délais d’enregistrement des demandes d’asile aux guichets uniques*, 12 January 2018, available in French at: <http://bit.ly/2EEPkJQ>.

¹¹⁵ Figure disseminated by OFII during a meeting with NGOs in January 2020.

¹¹⁶ Council of State, 31 July 2019, Decision 410347, available in French at: <https://bit.ly/38jVdRH>.

¹¹⁷ Data collected from NGOs managing platforms.

¹¹⁸ *Annexe au projet de loi de règlement du budget et d’approbation des comptes pour 2020, Immigration asile, et intégration*, available in French at: <https://bit.ly/3JltH8Z>.

¹¹⁹ *Projet de loi de finances 2023, Mission « immigration, asile, intégration »*, available in French at: <https://bit.ly/3FGL30F>.

¹²⁰ Cour des Comptes, *L’entrée, le séjour et le premier accueil des personnes étrangères*, 5 May 2020, available in French at: <https://bit.ly/36m6eTK>.

¹²¹ Asile en France, ‘Enregistrement : Plateforme téléphonique OFII en IDF’, available in French at: <https://bit.ly/3KPhX0S>.

¹²² OFII, *Rapport d’activité 2019*, October 2020, available in French at: <https://bit.ly/2MrpKaP>, 24.

¹²³ *Op. cit.* P.23

appointments were granted during the first 600 days operation.¹²⁴ In the context of a legal dispute (described further below – relating to Council of State decision 447339), OFII reported 57,000 eligible calls from 11,679 different numbers each month during the first semester of 2021: 8,335 were processed by OFII and 4,800 resulted in an appointment.¹²⁵ No more recent data are available.

NGOs have criticised the telephone platform as inefficient, referring to people unsuccessfully attempting to call several times, or waiting for over half an hour on the phone before speaking to OFII. According to La Cimade in a 2021 publication, the telephone platform is only operative a couple of hours per day and after 12:00 pm, individuals are asked to call again on the next day as all the appointments have already been booked.¹²⁶ As a result, the access to the asylum procedure reaches 1 month on average. In addition, despite initial announcements of free-of-charge access, calls to the telephone platform are charged € 0,15 to 0,19 per minute by phone operators. The cost can be exorbitant for asylum seekers given that they have no access to reception conditions before their claim is registered and are often destitute.¹²⁷

In February 2019, following an urgent action (*référé-liberté*) brought by several civil society organisations, the Administrative Court of Paris ordered OFII to deploy at least two more full-time staff members until the end of February 2019 so as to reinforce the capacity of its telephone platform.¹²⁸ For the asylum seekers directly concerned by the action, the Court ordered OFII to grant appointments within 48 hours. The Court acknowledged the efforts of OFII to overcome delays and avoid physical queues before the different SPADA in Paris. However, it held that the technical and practical obstacles to access to the telephone platform have resulted in “virtual queues” of asylum seekers who do not manage to receive a response despite repeated attempts during several days.

In November 2019, another legal action was filed by several NGOs. The Administrative Court of Paris ordered the Prefecture to increase the number of daily appointments up to 100 for the Ile de France region and urged the OFII to take the necessary steps to set up a free phone number.¹²⁹ However, the Court did not order to provide an alternative way to obtain an appointment in this region.

In December 2020, 16 migrants supported by 12 NGOs again asked the court to note that the telephone platform is, for many, inaccessible and constitutes an obstacle to access asylum applications.¹³⁰ In July 2021, the Council of State conceded legal deadlines were not met in Ile-de-France due to the telephone platform and ordered the State to respect it within 4 months.¹³¹

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

In order for their claim to be registered by the Prefecture, asylum seekers have to provide the following:¹³²

¹²⁴ OFII on Twitter, [no](#) longer available.

¹²⁵ La Cimade, 'Enregistrement des demandes d'asile : le Conseil d'État enjoint au ministre de l'intérieur de respecter le délai en ile de France', January 2022, available in French at: <https://bit.ly/3Lx4Wsi>.

¹²⁶ La Cimade, 'Asile en Ile de France : comment contourner (légalement) la plateforme de l'OFII ?', 9 February 2021, available in French at: <https://bit.ly/3pexgTD>

¹²⁷ Ligue des Droits de l'Homme et al., 'Campements, loterie, service payant : le système d'asile ne répond plus', 7 February 2019, available in French at: <https://bit.ly/3GO1Rml>.

¹²⁸ Administrative Court of Paris, Order No. 1902037, 13 February 2019, available in French at: <https://goo.gl/Fv4vG4>.

¹²⁹ Administrative Court of Paris, Order No. 1924867/9, 25 November 2019, available in French at: <https://bit.ly/3ajddxq>.

¹³⁰ ACAT and others, 'Exilés en errance en Ile-de-France, l'impossible enregistrement des demandes d'asile', Press release. 10 December 2020, available in French at: <https://bit.ly/2LbFpdP>.

¹³¹ Council of State, Decision No. 447339, 30 July 2021, available in French at: <https://bit.ly/3suMcRu>.

¹³² Article R. 521-5 Ceseda.

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

The asylum claim certificate

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

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

The asylum claim certificate is delivered for a specific period of time, renewable until the end of the procedure. Depending on the procedure, the period of validity varies:¹³³

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

The Prefecture may refuse to grant an asylum claim certificate for 2 reasons:¹³⁴

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

By being refused an asylum claim certificate, foreign nationals are refused the right to stay on French territory. As they have no right to stay, they might be placed in an administrative detention centre in view of their removal.

In addition, the renewal of an asylum claim certificate can be refused, or the asylum claim certificate can be refused or removed when:¹³⁵

- ❖ OFPRA has taken an inadmissibility decision because the asylum seeker has already been granted asylum in another EU Member State or third country, where the protection provided is effective; or the subsequent application is inadmissible;
- ❖ The asylum seeker has withdrawn their asylum claim;

¹³³ Ministerial ruling on application of Article L.741-1 Ceseda, published on 9 October 2015, available in French at: <https://bit.ly/3LtZyqF>.

¹³⁴ Article L. 521-7 Ceseda.

¹³⁵ Article L. 542-3 Ceseda.

- ❖ OFPRA has closed the asylum claim. OFPRA is entitled to close an asylum claim if it has not been lodged within 21 days; or if the asylum seeker did not present themselves to the interview; or if the asylum seeker has consciously refused to provide fundamental information; or if the asylum seeker has not provided any address and cannot be contacted;¹³⁶
- ❖ A first subsequent application has been introduced by the asylum seeker only to prevent a notified or imminent order of removal;
- ❖ The foreign national introduced a subsequent application after the final rejection of their first subsequent application; or
- ❖ The foreign national is subject to a final decision of extradition towards another country than his country of origin, or is subject to a European arrest warrant or an arrest warrant issued by the International Criminal Court. In case of a refusal, or refusal of a renewal, or removal of the asylum claim certificate, the asylum seeker is not allowed to remain on the French territory and this decision can be accompanied by an order to leave the French territory (OQTF);
- ❖ OFPRA has taken a negative decision on an application lodged by an asylum seeker subject to an expulsion order or entry ban.

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

2.2. Lodging an application

Following registration, if the Dublin Regulation does not apply, the asylum seeker has 21 calendar days to fill in the application form in French and send it by registered mail to OFPRA, the determining authority in France.¹³⁷ In order for the claim to be processed by OFPRA, the filled out and signed application form has to be accompanied by a copy of the asylum claim certificate, 2 ID photos and, if applicable, a travel document and a copy of the residence permit. The file must contain a short explanation of the grounds of the claim in French.

A specific procedure applies in **Guiana, Martinique and Guadeloupe**: when there is an important increase of applications for international protection during three months in a row, the authorities have the possibility to take special measures during a period of 18 months maximum. This includes the possibility to require that the application for international protection be lodged with OFPRA in person and within 7 days following registration.¹³⁸

Upon receipt of the claim, OFPRA shall inform the asylum seeker as well as the competent Prefect and the OFII that the claim is complete and ready to be processed. In case the claim is incomplete the asylum seeker is asked to provide the necessary missing elements or information within 8 additional days from when he receives such request; 3 days in **Guiana, Martinique and Guadeloupe** in special circumstances and for subsequent applications.¹³⁹ When OFPRA receives a complete application within the required deadlines, it registers it and sends a confirmation letter to the applicant. If the information is not sent or filed in after the deadline, OFPRA refuses to lodge the application and takes a decision discontinuing the processing of the claim. If the case is not reopened within 9 months (which the asylum seeker must request), a new claim is considered as a **Subsequent Application**.

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

¹³⁶ Article L. 531-38 Ceseda.

¹³⁷ Article R. 531-2 Ceseda.

¹³⁸ Decree 2019-1329 of 9 December 2019 on procedures for processing asylum requests in the Antilles and Guyana and modifying the rules for appealing against OFPRA decisions, available in French at: <https://bit.ly/3ajeKDz>.

¹³⁹ Articles R.591-3, 591-6, 591-10 Ceseda.

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

Since 2018, the law provide that an asylum application made by adults whose minor children are present in France is also considered to have been made in the name of the children:¹⁴⁰ a rejection therefore concerns all the members of the family (if the children want to apply for asylum later it will be a subsequent application) and when two parents are protected for different reasons the children benefit from the most extensive protection¹⁴¹. When the child is born during the asylum procedure, the same legal framework applies.¹⁴² When the child is born after the final rejection of the parents' request, his request is considered as a first request.¹⁴³

2.3. Applications lodged in detention

In administrative detention centres for migrants in irregular situation (*centres de rétention administrative*), the notification of the individual's rights read out upon arrival indicates that they has 5 calendar days to claim asylum. This 5-day time limit is strictly applied in practice. That said, the CNDA has shown some flexibility in the specific cases of persons transferred between detention centres. In one case decided in April 2018, the individual had been notified of the right to seek asylum within 5 days upon his arrival in a detention centre. Four days later – before the expiry of the deadline – he was transferred to another facility and was informed again of the right to make an asylum application within 5 days. The Court found that, since the former deadline had not expired upon the second notification of the right to claim asylum, the applicant could rely on the latter notification in good faith.¹⁴⁴

The 5-day deadline is not applicable if the person calls upon new facts occurring after the 5-day deadline has expired,¹⁴⁵ However, asylum seekers who are nationals of a **Safe Country of Origin** do not benefit from this exception. They may only apply within 5 days.¹⁴⁶

Asylum seekers in detention can benefit from legal and linguistic assistance.¹⁴⁷ 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.¹⁴⁸

In criminal detention centres, it is very difficult to ask for asylum in practice whereas this fundamental right should be able to be exercised there.¹⁴⁹ An administrative court recalled in 2019 that it is up to the prefectural services as well as the prison administration to put in place procedures allowing the implementation of the right of asylum.¹⁵⁰ Subsequently, a circular specified the conditions for requesting asylum in detention,¹⁵¹ while a decision of the Council of State in 2021 recalled that the asylum request could be addressed to any authority.¹⁵²

¹⁴⁰ Article L. 521-3 Ceseda.

¹⁴¹ Article L. 531-23 Ceseda.

¹⁴² CE, 27 January 2021, No. 444958.

¹⁴³ CE, 20 December 2019, No. 436700, available in French at: <https://bit.ly/3MRsxa3>.

¹⁴⁴ CNDA, *M. D.*, Decision No 17024302, 6 April 2018, available in French at: <https://bit.ly/2BP0geZ>.

¹⁴⁵ Article L. 551-3 Ceseda.

¹⁴⁶ *Ibid.* If the claim by a national of such a country is made within the 5-day period, however, it cannot be deemed inadmissible: Administrative Court of Versailles, Order No 1800897, 9 February 2018.

¹⁴⁷ Article L. 744-6 Ceseda.

¹⁴⁸ CNDA, Decision No 16037938, 25 July 2017.

¹⁴⁹ CGLPL, *Avis du Contrôleur général des lieux de privation de liberté du 9 mai 2014 relatif à la situation des personnes étrangères détenues*, published 3 June 2014, available in French at: <https://bit.ly/41v1lwu>.

¹⁵⁰ Administrative court of Melun, 13 March 2019, No. 1902258, available in French at: <https://bit.ly/42OPLmE>.

¹⁵¹ Ministry of Justice and others, *Amélioration de la coordination du suivi des étrangers incarcérés faisant l'objet d'une mesure d'éloignement*, 16 August 2019, available in French at: <https://bit.ly/3FUqoWQ>, 13.

¹⁵² CE, 21 December 2021, No. 449560, available in French at: <https://bit.ly/3nr5ice>.

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: 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 2022: 47,000
4. Average length of the first instance procedure in 2022: 158 days

The determining authority in France, OFPRA, is a specialised institution in the field of asylum, under the administrative supervision of the Ministry of Interior since November 2007 (see number of staff and nature of the determining authority). Under French law, OFPRA has 6 months to take a decision under the regular procedure.¹⁵³ 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.¹⁵⁴ 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.¹⁵⁵ Nevertheless, the law provides no consequences to non-compliance with these time limits.

In 2017, the Government set a target processing time of 2 months for asylum applications examined by OFPRA.¹⁵⁶ However, the average first-instance processing time for all procedures was 158 days in 2022, compared to 258 days in 2021 (still to a certain extent in the context of COVID-19).¹⁵⁷

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

The backlog of pending cases reached 47,000 as of the end of 2022 (compared to 49,500 in 2021).¹⁵⁸ This decrease is mainly due both to the significant drop in asylum applications in 2020 and to a significant increase in OFPRA staff from September 2020.

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”.¹⁵⁹ No information is available on the use of this provision in recent years.

Since 2013, OFPRA also conducts decentralised and external missions in order to accelerate the examination of claims from asylum seekers with specific nationalities or having specific needs. This means that interviews are held in certain cities, instead of in the premises of OFPRA in the Paris region.

¹⁵³ Article R. 531-6 Ceseda.

¹⁵⁴ Article R. 531-7 Ceseda.

¹⁵⁵ Article R. 531-6 Ceseda.

¹⁵⁶ Le Monde, ‘Le gouvernement fait de la réduction du délai de demande d’asile une des clés du plan migrants’, 12 July 2017, available in French at: <https://bit.ly/40eltGn>.

¹⁵⁷ OFPRA, ‘*Premières données de l’asile 2021*’, 20 January 2022, available in French at: <https://bit.ly/3LDYqjB>.

¹⁵⁸ Ibid.

¹⁵⁹ Article L. 531-7 Ceseda.

This has resulted in 42 decentralised missions in 2019, 23 in 2020, 50 in 2021 and 35 in 2022 especially in Bordeaux, Lille, Lyon, Metz, Strasbourg, and overseas (6 missions in Mayotte).¹⁶⁰

In 2018, the reform introduced in law the possibility for OFPRA to carry out resettlement missions.¹⁶¹ In 2021, this included 21 missions in cooperation with UNHCR to resettle refugees especially from **Lebanon, Jordan, Cameroun, Egypt** and **Rwanda** as well as 9 missions in Europe for relocation from Greece and Italy. In 2022, 26 missions were done outside the European Union, and 10 missions in Europe.¹⁶²

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

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

The Ceseda provides for systematic personal interviews of applicants. There are two legal grounds for omitting a personal interview:¹⁶³

- (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 2021, 93.8% of asylum seekers were summoned for an interview,¹⁶⁴ compared to 92.6% in 2020, 96.5% in 2019. The rate of interviews actually taking place was 79% in 2021¹⁶⁵ compared to 76.3% in 2020, 74.4% in 2019.¹⁶⁶ Statistics on the number of interviews in 2022 were not available at the time of writing of this report.

All personal interviews are conducted by protection officers from OFPRA. Asylum seekers are interviewed individually without their family members. A minor child can also be interviewed alone if OFPRA has serious reasons to believe that they might have endured persecutions unknown to other family members.¹⁶⁷ 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.¹⁶⁸

The law provides that the asylum seekers can further ask the protection officer and the interpreter to be of a particular gender.¹⁶⁹ This guarantee is applied in practice, yet not systematically, as the law provides that this request has to be deemed justified by OFPRA due to the difficulties of the asylum seeker to

¹⁶⁰ OFPRA, 'Les premières données de l'asile 2022 à l'OFPRA sont disponibles [chiffres provisoires]', 17 January 2023, available in French at: <https://bit.ly/3QTlgXc>.

¹⁶¹ Article L. 520-1 Ceseda.

¹⁶² *Ibid.*

¹⁶³ Article L. 531-12 Ceseda.

¹⁶⁴ OFPRA, *2021 Activity report*, June 2022, available in French at: <https://bit.ly/3KHmAki>, 60.

¹⁶⁵ *Ibid.*

¹⁶⁶ OFPRA, *2017 Activity report*, April 2018, available in French at: <https://bit.ly/41tIMih>, 50.

¹⁶⁷ Article L. 731-14 Ceseda.

¹⁶⁸ *Ibid.*

¹⁶⁹ Article L. 731-17 Ceseda.

expose comprehensively the grounds of her/his claim, in particular if she/he has been subjected to sexual violence. Moreover, the law stipulates the request is granted “as far as possible”.

Videoconferencing

As a rule, interviews are conducted in the premises of OFPRA in **Fontenay-sous-Bois**, east of Paris. Interviews can be conducted through video conferencing in 3 cases:¹⁷⁰

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

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

An OFPRA Decision of 23 December 2020 has established the updated list of approved premises intended to receive asylum seekers, applicants for stateless status, refugees or beneficiaries of subsidiary protection heard in a professional interview conducted by OFPRA by an audio-visual communication procedure.¹⁷¹ This includes several administrative detention centres, as well as waiting zones (see [Border Procedure](#)). La Cimade noted in a 2018 report that videoconferencing has negative effects on the quality of interview in detention. This was mainly due to material problems, communication difficulties as well as interpretation issues.¹⁷²

In 2021, 4% of all interviews were conducted through video conferencing¹⁷³, compared to 2.9% in 2020, 2.3% in 2019 (2.2% in 2018, 3.1% in 2017 and 4.2% in 2016). Statistics on the number of interviews conducted through video conferencing in 2022 were not available at the time of writing of this report. However, OFPRA did not use videoconferencing during the first lockdown in the context of COVID-19 as a way of maintaining its activity. Instead, all personal interviews on the mainland were cancelled between 16 March and 11 May 2020.

Accompaniment by a third party

Asylum seekers have the possibility to be accompanied by a third person, either a lawyer or a representative of an accredited NGO.¹⁷⁴ In a Decision of 2 July 2019,¹⁷⁵ OFPRA’s Director-General updated and further detailed the conditions for the organisation and the proceedings of an interview in a presence of a third party.

The third party has to give prior notice of her/his presence at the interview. However, since COVID-19, OFPRA requires a 48 hours prior notice. Asylum seekers with disabilities may also ask OFPRA to be accompanied by their health worker or by a representative of an association providing assistance to people with disabilities. The absence of a third person does not prevent OFPRA from conducting the interview. The third person is not allowed to intervene or to exchange information with the asylum seeker or the interpreter during the interview, but they can formulate remarks and observations at the end of the interview (except for the health worker or association helping persons with disabilities) These observations are translated if necessary and written down in the interview report. The interview is also fully recorded. Neither the third party nor the asylum seeker have the right to record the interview. The content of the interview and any notes taken are confidential and must not be disclosed by the third party, without prejudice to the necessities of a subsequent appeal.

¹⁷⁰ Article R. 531-16 Ceseda.

¹⁷¹ OFPRA, Decision of 23 December 2020, available in French at: <https://bit.ly/44a5Rbf>.

¹⁷² La Cimade, *Le droit d’asile en rétention – Analyse d’une chimère*, June 2018, available in French at: <https://bit.ly/2EWkvls>, 29.

¹⁷³ OFPRA, *2021 Activity report*, June 2022, available in French at: <https://bit.ly/3KHmAKi>, 60.

¹⁷⁴ Article L. 531-15 Ceseda.

¹⁷⁵ OFPRA, *Decision of 2 July 2019 establishing organisational modalities for the interview according to the implementation of Article L.723-6 of the Ceseda*, 2 July 2019, available in French at <https://bit.ly/3KSlafX>.

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 sent to them before a decision is taken.¹⁷⁶ OFPRA Decision of 2 July 2019 allows for the possibility of providing further comments or documents after the interview, within a reasonable time-limit not hampering the decision-taking.

According to OFPRA decisions of 10 December 2018 and 30 July 2020, 38 organisations are authorised to accompany asylum seekers in interviews.¹⁷⁷ These organisations are frequently requested to accompany asylum seekers, most of the time from applicants not accommodated in the centres they run. However, the lack of specific funding dedicated to this mission renders such assistance difficult in practice. Only 1.58% of asylum seekers interviewed in 2021 were accompanied by a third party, compared to 1.4% in 2020 and 1.7% in 2019.¹⁷⁸ Figures for the year 2022 were not available at the time of writing.¹⁷⁹

1.3.1. Interpretation

The presence of an interpreter during the personal interview is provided if the request has been made in the application form. Following the 2018 asylum reform, the language declared by the asylum seeker upon registration at the GUDA is binding for the entire procedure and can only be challenged at the appeal stage.¹⁸⁰

Failure by OFPRA to provide interpretation may affect the validity of the first instance decision. The Council of State ruled in 2018 that where the asylum seeker has been unable to communicate and to be understood during the interview, due to the absence of an interpreter for their language or a language they sufficiently comprehend, and the deficiency is imputable to OFPRA, the asylum decision shall be annulled by CNDA.¹⁸¹

OFPRA interviews can be conducted in 117 languages.¹⁸² Interpreters are not OFPRA staff but are recruited as service providers through public procurement contracts.

The law provides for a choice of interpreter according to gender considerations, in particular if the asylum seeker has been subjected to sexual violence.¹⁸³ This provision also applies to protection officers.

In 2020, 91.6% of interviews were held in the presence of an interpreter¹⁸⁴, compared to 86.9% in 2019, 92% in 2018 and 93% in 2017. No data was available regarding 2021 and 2022 at the time of writing.

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

According to some stakeholders, the quality of interpretation can vary significantly. Some asylum seekers have reported that translations are too simplified (e.g. approximate translations or not in line with their

¹⁷⁶ Article R.723-7 Ceseda.

¹⁷⁷ OFPRA, *Décision du 21 avril 2023 fixant la liste des associations habilitées à proposer des représentants en vue d'accompagner le demandeur d'asile ou le réfugié ou le bénéficiaire d'une protection internationale à un entretien personnel mené par l'Ofpra*, available in French at : <https://bit.ly/41VNpBL>.

¹⁷⁸ OFPRA, *2017 Activity report*, April 2018, available in French at: <https://bit.ly/41tlMih>, 51.

¹⁷⁹ OFPRA, *2020 Activity report*, June 2021, available in French at: <https://bit.ly/3GPni7b>, 56.

¹⁸⁰ Article L. 521-6 Ceseda, inserted by Article 10 Law n. 2018-778 of 10 September 2018.

¹⁸¹ Council of State, Decision No 412514, 11 April 2018, EDAL, available at: <https://bit.ly/2NiyFrb>.

¹⁸² OFPRA, *Decision NOR: INTV1836064S of 28 December 2018 establishing the list of languages in which asylum seekers, applicants for stateless status, refugees and beneficiaries of subsidiary protection can be heard in the context of a personal interview*, available in French at: <https://bit.ly/412YSyO>.

¹⁸³ Article L. 531-17 Ceseda.

¹⁸⁴ OFPRA, *2020 Activity report*, June 2021, available in French at: <https://bit.ly/3GPni7b>, 95.

answers) or carried out with inappropriate behaviour (e.g. inattentive interpreters or interpreters taking the liberty to make personal reflections or laughing with the protection officer). Moreover, OFPRA's protection officers may sometimes act as interpreters themselves, which can have a diverse impact. Some asylum seekers report difficulties to open up to a person who speaks the language of the country involved in the alleged persecution. Nevertheless, some advantages have also been reported, such as demonstrating a particular interest for the region of origin.

OFPRA published a Code of Conduct for interpreters in November 2018.¹⁸⁵ It has also conducted trainings for interpreters, specifically concerning certain vulnerabilities of asylum seekers. There is no information yet on whether the Code of conduct is being well applied in practice, however.

1.3.2. Recording and report

An audio recording of the interview is also made. It cannot be listened to before a negative decision has been issued by OFPRA, in view of an appeal of the decision.¹⁸⁶ In case a technical issue prevents audio recording, additional comments can be added to the transcript of the interview. If the asylum seeker refuses to confirm that the content of the interview as transcribed complies with what was effectively said during the interview, the grounds for their refusal are written down. However, it cannot prevent OFPRA to issue a decision on their claim.¹⁸⁷ Moreover, the absence of an audio recording due to technical reasons does not in itself affect the validity of OFPRA's decision, as it does not constitute an essential procedural guarantee according to the CNDA.¹⁸⁸

Getting access to the audio recording after a negative decision has been issued by OFPRA is quite challenging for asylum seekers. During the time-frame between the notification of the negative decision and the lodging of the appeal, the recording can only be listened to in OFPRA offices, in **Fontenay-sous-Bois**. This makes it impossible for asylum seekers accommodated outside Paris and its surroundings to get access to recordings. In addition to travel difficulties, it would require them to be able to understand both French and the translation and to take notes of the details of the interview while listening to the recording. As a result, only 4 asylum seekers went to OFPRA to listen to the recording of their interview in 2021, they were 7 in 2020.¹⁸⁹

Once an appeal is lodged in CNDA, the audio recording can be obtained by asylum seekers' lawyers (although this is not mandatory). Even if most of lawyers pleading to the Court are based in **Paris** and its surroundings, it is much easier for asylum seekers to get access to the audio recording through them. The audio recording can be relied upon to substantiate the appeal.

A transcription of the interview is made by the protection officer in charge. The report is not a verbatim transcript of the interview as in practice the protection officer takes notes themselves at the same time as they conduct the interview. The report is a summary of the questions asked by the protection officer, the answers provided by the asylum seeker and, since the adoption of the 2018 reform of the law on asylum, the observations formulated by the third person if applicable. It also mentions the duration of the interview, the presence (or not) of the interpreter and the conditions in which the asylum seeker wrote their application. It also includes, if applicable, the grounds for protection regarding the underaged children of the asylum seeker, the observations of the protection officer and the publicly available sources which may have been consulted by the protection officer for the examination of the case. The report is sent to the asylum seeker together with the notification of a negative decision; in the regular procedure it can be sent before the notification, if the applicant so requests. The report is written in French and is not translated for the applicant. In practice, the quality of the interview report can vary, as highlighted in OFPRA and UNHCR quality control reports (see [Regular Procedure: General](#)).

¹⁸⁵ OFPRA, *Charte de l'interprétariat*, November 2018, available in French at: <https://bit.ly/3GO9n19>.

¹⁸⁶ Article L. 531-19 and 531-20 Ceseda.

¹⁸⁷ Article R. 531-15 Ceseda.

¹⁸⁸ CNDA, *Mme N.*, Decision No 16040286, 29 October 2018, available in French at: <https://bit.ly/2GVpl5O>.

¹⁸⁹ OFPRA, 2021 Activity report, June 2022, available in French at: <https://bit.ly/3KHmAki>, 69.

The interview report and the draft decision written by the protection officer are then submitted for validation to the section manager. In September 2013, a procedure of signature transfer was set up in order to accelerate the processing delays by enabling some protection officers to sign off on their own decisions.

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

❖ If yes, is it	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it suspensive	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Some grounds <input type="checkbox"/> No
2. Average processing time for the appeal body to make a decision: 198 days in 2022

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 before the National Court of Asylum (CNDA). The CNDA is an administrative court specialised in asylum. It is divided into 23 chambers. These chambers are divided into formations of the court, each of them made up of 3 members:¹⁹⁰ a President (member of the Council of State, of an administrative court or appellate court, the Revenue Court or magistrate from the judiciary, in activity or honorary)¹⁹¹ and 2 designated assessors, including one appointed by UNHCR. The presence of a judge appointed by UNHCR at the CNDA is a unique feature of the French asylum system.

The CNDA is competent for appeals against decisions granting or refusing refugee status or subsidiary protection, against decisions withdrawing refugee status or subsidiary protection and against inadmissibility decisions pertaining to subsequent applications and to asylum seekers benefiting from an effective asylum protection in another country. The CNDA may also hear “upgrade appeals” from applicants who have been granted subsidiary protection by OFPRA but who want to be recognised as refugees. In this case, the CNDA can grant the refugee status. If not, the persons retain subsidiary protection.

The appeal must be filed by registered mail or fax within 1 month from the notification of the negative decision by OFPRA. For asylum applications lodged in French overseas departments (except Guyana),¹⁹² asylum seekers have 2 months to appeal the OFPRA decision.¹⁹³ However, the calculation of this time-limit has been made more difficult by the 2018 Asylum and Immigration Law, which provides that the number of days used to present the legal aid application from the notification of the OFPRA decision, is deducted from the 1 month (or 2 months) time-limit for lodging the appeal (see [legal assistance](#)).

There are specific form requirements to submit this appeal:¹⁹⁴

- ❖ It has to be written in French;
- ❖ It must contain the name, last name, nationality, date of birth and administrative address of the claimant;
- ❖ It must be based on law and facts;
- ❖ The certificate of asylum claim and the OFPRA decision must be attached;

¹⁹⁰ 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.

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

¹⁹² Guadeloupe, Martinique, Réunion, Saint-Barthélemy, Saint-Martin, Mayotte, Saint Pierre and Miquelon, French Polynesia, the Wallis and Futuna Islands, New Caledonia and the French Antarctic Lands.

¹⁹³ Article R. 532-10 Ceseda.

¹⁹⁴ Articles R. 532-6 and 532-7 Ceseda.

- ❖ It has to be signed by the claimant or their attorney;
- ❖ It has to specify in which language the claimant wishes to be heard; and
- ❖ In case the claim has been processed as an accelerated procedure, the notice of information delivered by the Prefecture stating the reason for this must be attached.

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

The CNDA sends a receipt of registration of the appeal to the applicant which notifies them of their right to consult their file, the right to be assisted by a lawyer, the fact that the information concerning their application is subject to automated processing, of the possibility that their appeal will be processed “by order” (*ordonnance*) namely by a single judge without a hearing. In case the appeal has been lodged after the deadline, and in case of dismissal (*non-lieu*) or withdrawal of the applicant, the president of the CNDA or the president of one of the sections can dismiss the appeal by order. If the appeal does not contain any serious elements enabling a questioning of the OFPRA decision, it can also be dismissed “by order” (*ordonnance*) but after a preliminary assessment of the case.¹⁹⁵

In 2022, the CNDA registered 61,552 appeals and took 67,142 decisions, compared to 68,243 appeals and 68,403 decisions in 2021.¹⁹⁶ The number of decisions taken by the Court in 2021 is the higher number ever known since its creation.

The appeal is processed by a panel of three in the regular procedure, while in the [Admissibility Procedure](#) and [Accelerated Procedure](#) only one single judge – either the President of the CNDA or the President of the relevant section – rules on the appeal. In 2022, the CNDA took 38,320 decisions in collegial function, up to 40,438 collegial decisions in 2021. It further took 28,822 single-judge decisions (i.e. 43% of total decisions) with 10,432 decisions following a hearing and 18,390 by order, compared to 27,965 in 2021 (6,998 following a hearing and 20,967 by order).¹⁹⁷

Processing times

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

The average processing time for the CNDA process a claim decreased to 6 months and 16 days compared to 7 months and 8 days in 2021 and 8 months and 8 days in 2020. During 2022, the average processing time was 7 months and 5 days for the regular procedure; and 5 months and 8 days for the accelerated procedure.¹⁹⁸

The investigation of the case must be ended at least 5 days before the date set for the hearing in the regular procedure. This means that it is only possible to add further information to the appeal case until 5 days before the hearing.¹⁹⁹ After that date, producing new information might require reopening the investigation phase and possibly postponing the hearing. After the hearing, it is nevertheless possible to produce further elements to the Court by submitting a “*note en délibéré*”. In the regular procedure, the Court publishes its decision 21 days after the hearing. During this delay, named “*délibéré*”, the claimant can inform the Court of new elements or claim for further study of the case if an incident took place during the hearing.

¹⁹⁵ The Council of State has ruled that when the CNDA takes an order, the absence of UNHCR does not contravene the 1951 Geneva Convention (in particular Article 35) or the Asylum Procedures Directive: Council of State, Decision 366578, 9 July 2014, available in French at: <http://bit.ly/1CfPye8>.

¹⁹⁶ Ministry of Interior, *Chiffres clés – Les demandes d’asile*, available in French at: <https://bit.ly/2TRCMzB>.

¹⁹⁷ CNDA, *2022 Activity report*, available in French at: <https://bit.ly/3GCMs90>.

¹⁹⁸ Ibid.

¹⁹⁹ Article R. 532-23 Cesda.

In case of an emergency hearing, to which an applicant must be summoned at least 7 days in advance, the investigation phase may be closed at the hearing itself.²⁰⁰

Hearing and decision

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

A summons for a hearing has to be communicated to the applicant at least 30 days before the hearing in the regular procedure,²⁰¹ at the address indicated to the CNDA.²⁰² These hearings are public, unless the President of the section decides that it will be held *in camera*. In most cases, hearings were held *in camera* following a specific request from the applicant. The hearing in *camera* is *ipso jure* (*de plein droit*), meaning that it must be done if the applicant requests it. The CNDA must specify in its decision whether the hearing is public or held *in camera*.²⁰³

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. For those accommodated, it is included in the budget of the accommodation centre.

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

Out of the total of 67,142 decisions taken by the CNDA in 2022, 48,752 of them were issued following a hearing, of which 38,320 hearings were held in collegial function and 10,432 in single-judge format. The remaining 18,390 decisions were taken by order (*ordonnance*), i.e. 27% of all decisions.

The hearing takes place at the CNDA headquarters in Montreuil, near **Paris**, but the use of videoconferencing for CNDA hearings is allowed. Since 1 January 2019, the CNDA may use videoconferencing, to ensure “a proper administration of justice”. The interpreter sits in a room together with the asylum seeker; if this is not possible, they are present from the side of the Court.²⁰⁴ Where videoconferencing is used, the CNDA shall prepare two transcripts, one in the seat of the Court and one in the hearing room where the applicant is present.²⁰⁵

The CNDA held 267 video hearings in 2022, up from 165 in 2021 and 104 in 2020.²⁰⁶ In practice, videoconferencing has only been applied to appeals lodged overseas, where it replaced mobile court hearings. The 2018 asylum law reform paved the way for its implementation regarding applicants in mainland France without their consent.²⁰⁷ The law passed constitutional review²⁰⁸ and thus the President of the CNDA issued a decision providing that videoconferencing would be established from the premises

²⁰⁰ Article R.532-32 Ceseda.

²⁰¹ Article R. 532-32 Ceseda. In case of “emergency” however, the period between the summons and the hearing can be reduced to 7 days.

²⁰² Council of State, Decision No. 414389, 7 June 2018, available in French at: <https://bit.ly/2GABhQx>.

²⁰³ Council of State, Decision No 418631, 7 December 2018, available in French at: <https://bit.ly/2VeC4Kt>.

²⁰⁴ Article L.532-13 Ceseda, as amended by Article 8 Law n. 2018-778 of 10 September 2018. This was also confirmed in CNDA, *M. N.*, Decision No 14024686, 12 September 2018, available in French at: <https://bit.ly/2BVTxjF>.

²⁰⁵ Council of State, Decision No 408353, 7 March 2018, available in French at: <https://bit.ly/2NgixpW>.

²⁰⁶ CNDA, *2021 Activity report*, 2022, available in French at: <https://bit.ly/43HhYfF>, 47.

²⁰⁷ At the time article L. 733-1 CESEDA; since 1 May 2021, article L. 532-13 CESEDA.

²⁰⁸ Constitutional Court, Decision No. 2018-770 DC, 6 September 2018, available in French at: <https://bit.ly/3okLnMI>.

of the Administrative Courts of Appeal of **Lyon** and **Nancy** for appeals lodged after 1 January 2019 by person registered in certain parts of the relevant regions.²⁰⁹

This element of the 2018 reform was severely criticised, with practitioners referring to technical deficiencies in the videoconferencing system in **Lyon**. This negatively affects the quality of hearings and raises important fundamental rights concerns, which are exacerbated in cases involving vulnerable applicants.²¹⁰ The measure was suspended, and a mediator appointed to find a solution that would suit both the Court and the lawyers. As a result, the Court and the lawyer organisations reached an agreement in November 2020, providing for the express consent of the applicant as a prerequisite for videoconferencing and the holding of decentralised mobile hearings in **Lyon** and **Nancy**.²¹¹ It also promoted a balance between videoconferencing and external hearings held directly by the court in Lyon and Nancy. In 2022, there were 35 hearing sessions (halfdays or days) by videoconference in Nancy and 32 in Lyon. The implementation of this agreement is monitored by a mixed steering committee of Court personnel, lawyers, interpreters, doctors' representatives and audio-visual technical experts.²¹² This does not apply to videoconferencing for applicants overseas, only to the attempt to expand videoconferencing further with applicants in mainland France.

Decisions of the CNDA are published (posted on the walls of the court building) after a period of 21 days following the hearing under regular procedure and after one week under accelerated procedure.²¹³ Negative decisions are forwarded to the Ministry of Interior, i.e. OFPRA and Prefectures. Since the COVID-19 crisis and considering the restrictions to access courts, the Court also publishes the anonymised list of its decisions on its website, thus enabling all applicants to be informed of decisions, including those who do not live in Paris.

In cases where it plans to reject the appeal by order due to the absence of serious elements enabling a questioning of the OFPRA decision, the CNDA has the obligation to inform the applicants about their rights to access their file.²¹⁴ In practice, however, the applicant is not informed that their appeal will be rejected by order. Courts consider that the general information provided upon registration of the appeal, which includes explaining that the applicant has the right to access the file, discharges them from their duty to inform.²¹⁵

Furthermore, the Council of State has recently confirmed rejections by order as practiced by the Court, deciding that the CNDA can reject an appeal by order even if the applicant had announced a complementary statement which has not been submitted yet and even if the appeal deadline has not expired yet.²¹⁶

Applicants are heard in the language declared upon registration of the asylum application at the GUDA. If an asylum seeker cannot be heard in the language they has indicated, they is heard in a language they can reasonably be expected to understand.²¹⁷

Asylum seekers face several obstacles in challenging a negative OFPRA decision. Although time limits and appeal modalities are translated on the back of the refusal notification, asylum seekers sometimes

²⁰⁹ CNDA, Decision 2018.12.DK.01 of 17 December 2018, available in French at: <https://bit.ly/3KI09ED>.

²¹⁰ See e.g. Forum réfugiés – Cosi, 'Vidéo-audience à la CNDA : une mise en œuvre qui suscite l'inquiétude', 1 February 2019, available in French at: <https://bit.ly/3AC1FDG>.

²¹¹ Forum réfugiés-Cosi, 'Cour nationale du droit d'asile : un accord sur la vidéo-audience qui préserve la qualité de l'instruction', available in French at: <https://bit.ly/3aQnkuu>.

²¹² CNDA, *Vademecum sur les vidéo-audiences devant la Cour Nationale du Droit d'Asile*, 12 November 2020, available in French at: <https://bit.ly/3a4nU92>.

²¹³ CNDA decisions are however not accessible on the internet. Only a selection is published by the CNDA on its website: <http://bit.ly/2ki5O6G>. The CNDA also publishes a compilation of case law every year, available at: <https://bit.ly/3HcgoZV>.

²¹⁴ Article R. 532-3 (5) Ceseda.

²¹⁵ Article R. 532-9 Ceseda.

²¹⁶ Council of State, Decision No. 447293 of 10 November 2021, available in French at: <https://bit.ly/3C0UTHi>.

²¹⁷ Article R. 532-40 Ceseda.

do not understand them, in particular those who are not accommodated in reception centres where they may have social workers available to them, as well as other asylum seekers going through the same procedure. Applicants are not eligible for support for the preparation of their appeal within the SPADA, where they were in theory eligible for support in first instance. They can only rely on volunteer assistance from NGOs, whose resources are already overstretched. In addition, reception centres do not officially offer legal assistance regarding the appeal. Their mission is circumscribed to a legal orientation to lawyers and to filling out the legal aid request form. In practice, most accommodation centres keep on assisting asylum seekers in writing and challenging their claim to the CNDA.

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.²¹⁸ This appeal must be lodged within 2 months of the notification of the CNDA decision.²¹⁹ The Council of State does not review the facts of the case, but only allegations based on points of law such as compliance with rules of procedure and the correct application of the law by the CNDA. If the Council of State annuls the decision, it refers the case back to the CNDA to decide again on the merits, but it may also decide to rule itself on the granting or refusal of protection.

This appeal before the Council of State must be presented by a lawyer registered with the Council of State. If the asylum seeker's income is too low to initiate this action, they may request legal aid to the Office of legal aid of the Council of State. In practice, it is very difficult to obtain, as contrary to legal aid before the CNDA, the legal aid office of the Council of State does a preliminary review of the appeal and rejects legal aid where the appeal seems to manifestly inadmissible or devoid of any grounds.

The Council of State received the following appeals in 2022:

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

Source: CNDA, *Rapport d'activité 2022*, February 2023, available in French at: <https://bit.ly/3GCMs90>, 7.

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

²¹⁸ Article L.511-1 CJA.

²¹⁹ See CNDA, 'Voies de recours contre les décisions de la CNDA', available in French at: <http://bit.ly/1dBgbhO>.

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

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

1.5.1. Legal assistance at first instance

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

- ❖ If the applicant is accommodated in a reception centre (see [Types of Accommodation](#)), they can be supported in the writing of their application form by staff from the reception centres, in accordance with the mission set out in their framework agreement.²²⁰ As regards Reception Centre for Asylum Seekers (*Centre d'accueil de demandeurs d'asile*, CADA) teams, most of the time, social workers should also assist the applicant in the preparation of the interview at OFPRA. This consists of administrative rather than legal assistance.
- ❖ If the applicant cannot be accommodated in a reception centre, then the “reference framework” for asylum seekers’ “orientation platforms” (SPADA)²²¹ applies,²²² and they can obtain some basic information and assistance on the procedure from their relevant SPADA.

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

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

1.5.2. Legal assistance at the appeal stage

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

The law foresees the granting of legal aid (“*aide juridictionnelle*”) for lawyers to file an appeal before the CNDA in case of a negative decision from OFPRA.²²³ Legal costs can therefore, upon certain conditions, be borne by the State. In practice, the right to legal aid is considered as *ipso jure* (*de plein droit*). Legal

²²⁰ Bylaw of 19 June 2019 on missions of accommodation centers for asylum seekers, available at: <https://bit.ly/35PnWMj>.

²²¹ 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.

²²² Ministry of Interior, *Reference framework for first reception services for asylum seekers*, December 2011, available at: <http://bit.ly/1C5aQLg>, 10.

²²³ Article 3 Law n. 91-647 of 10 July 1991 on legal aid

aid before the CNDA is an automatic entitlement and is granted upon request if: (a) the appeal does not appear to be manifestly inadmissible; and (b) the legal aid application is submitted within 15 days after receiving the notification of the negative decision from OFPRA. The 2018 asylum reform removed the possibility for the asylum seeker to apply for legal aid at any point before the expiry of the one-month deadline to appeal, therefore shortening the time limit to benefit from legal aid.²²⁴

Following the 2018 reform, the law provides that the legal aid application suspends the deadline to appeal before the CNDA. Time continues to run from the point the applicant or their legal representative receives the notification of legal aid from the Legal Aid Office.²²⁵ As a result, the time available to lodge an appeal will vary depending on how early a legal aid application is submitted e.g. if the legal aid application is submitted 2 days after receiving the negative OFPRA decision, the deadline to appeal will be 28 days after the decision of the Legal Aid Office. This is a more restrictive stance from what was provided before the reform, where the time limit to lodge the appeal restarted in its entirety following the legal aid decision.

The recipients of legal aid have the right to choose their lawyer freely or to have one appointed for them by the Legal Aid Office.²²⁶ The refusal to grant legal aid may be challenged before the President of the CNDA within 8 days. This legal aid for asylum seekers is funded through the State budget for the general legal aid system. In practice, legal aid is widely granted:

Applications for legal aid before the CNDA: 2015-2022					
	2018	2019	2020	2021	2022
Total applications	48,620	51,891	39,788	61,015	58,665
Total decisions on applications	46,639	51,888	42,261	62,890	58,256
❖ <i>Granted</i>	44,985	48,789	40,105	59,881	55,250
❖ <i>Refused</i>	1,384	3,099	2,156	3,009	3,006
Acceptance rate	96.4%	94%	94.9%	93.63%	94.84%

Source: CNDA, *Rapport d'activité 2022*, February 2023, available in French at : <https://bit.ly/3GCMs90>, 35.

Since 2013, asylum lawyers receive 16 credits (€ 512 - excluding taxes) for appeals with a hearing and 4 credits (or € 106) for appeals without a hearing before the CNDA. Since 2022, the amount of the unit value is € 36 (excluding taxes).²²⁷

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.²²⁸ In particular, it is not enough to cover the cost of an interpreter during the preparation of the case.²²⁹ Lawyers are often court-appointed by the CNDA,²³⁰ and only have the address of their clients and no phone numbers for the parties to effectively get in touch. Moreover, most of these lawyers are based in **Paris** whereas asylum seekers can be living elsewhere in France. Therefore, they often do not meet their clients until the last moment. Lawyers sometimes refuse to assist asylum seekers in writing their appeal and only represent

²²⁴ Article 9-4 Law n. 91-647 of 10 July 1991 on legal aid, as amended by Article 8 Law n. 2018-778 of 10 September 2018.

²²⁵ *Ibid.*

²²⁶ CNDA, 'L'aide juridictionnelle', available in French at: <http://bit.ly/1FXqvaw>.

²²⁷ Article 44, Budget law for 2022, available in French at: <https://bit.ly/3vqhz2D>.

²²⁸ 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.

²²⁹ Senate, *Information Report No. 130*, prepared by Senators Jean-Yves Leconte and Christophe-André Frassa, 14 November 2012, available in French at: <https://bit.ly/3UEb9Yh>.

²³⁰ 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).

them in court. This makes it difficult for asylum seekers to properly prepare for the hearing. Asylum seekers who are not accommodated in reception centres may therefore be on their own to write their appeal and face a high risk of seeing their appeal rejected by order due to insufficient arguments. They can only rely on legal assistance from NGOs, which is nevertheless very uncertain given the uneven availability of such assistance, as it is dependent on the location of the asylum seeker, the availability of interpreters as well as the capacity and resources of the NGO.

2. Dublin

2.1. General

Dublin statistics: 2022

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	46,488	3,311	Total	10,980	1,453
Italy	10,184	745	Germany	5,361	618
Austria	9,567	286	Belgium	2,140	137
Spain	6,396	841	Netherlands	835	146
Germany	5,769	933	Switzerland	673	210
Bulgaria	3,519	35	Italy	546	19

Source: Eurostat as of 4 May 2023

Detailed statistics on the application of the Dublin Regulation are not made available by the authorities prior to their publication on the Eurostat database. However, some data has been shared at the beginning of 2022. In 2022, French authorities made 36,891 outgoing requests. At the end of 2022, 29,535 of the persons concerned were still in a Dublin procedure and 7,356 were re-channelled from a Dublin procedure to a regular or accelerated procedure.

In 2021, French authorities made 30,223 outgoing Dublin requests, compared to 30,963 in 2020 (it differs from Eurostat data which indicates 30,054 outgoing requests in 2020 and 37,611 in 2021). At the end of 2021, 23,682 of them were still in a Dublin procedure and 6,541 persons were re-channelled from a Dublin procedure to a regular or accelerated procedure (*requalifiés*). As regards the actual implementation of transfers in 2021, no detailed statistics were available at the time of writing of this report.

During COVID-19, no specific measures were taken by the authorities with regard to the Dublin procedure and Dublin transfers were only suspended to countries which did not accept Dublin returnees. Thus, the authorities continued to process applications for international protection under the Dublin III Regulation and to issue requests accordingly during the pandemic. Persons who were under the Dublin procedure prior to the closure of the GUDAs were required to continue to check in regularly if they were not under house arrest, and continued to be detained pending their Dublin transfer.

Application of the Dublin criteria

The Dublin procedure is applied to all asylum seekers without exception, as per the Regulation. The Ministry of Interior regularly highlights the need to apply the Regulation strictly, in response what are considered important secondary movements.²³¹

²³¹ Ministry of Interior, *Instruction NOR: INTV1618837J of 19 July 2016 relating to the application of the Dublin III Regulation – Resort to house arrest and administrative detention in the context of execution of transfer decisions*, available in French at: <http://bit.ly/2jI7dEd>, 2. Unofficial translation by the author; Ministry of Interior,

The official policy of the French Dublin Unit is that it does not transfer unaccompanied children under the Dublin Regulation.²³² Unaccompanied children can however be placed under a Dublin procedure by Prefectures if their claim is not processed before they reach the age of 18 or if they are deemed as adults after age assessment.

In practice, the elements taken into account to determine the Member State responsible can vary from one Prefecture to another but it has been observed that the taking of fingerprints (and therefore the identification of another responsible State) always takes precedence over the application of the other criteria.²³³

The dependent persons and discretionary clauses

It is difficult to know how the discretionary clauses are applied, as recent information and data is missing on the matter. Nevertheless, a 2017 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.²³⁴ In practice, it is possible to ask the Prefecture to be rerouted from a Dublin procedure to a regular or accelerated procedure (“*requelification*”) especially for vulnerable people, and the discretionary clause seems to be often applied for these situations in some districts. However, there is not data available on this issue.

2.2. Procedure

Indicators: Dublin: Procedure

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

While there is no official data available on how long a transfer takes place after the responsible Member State has accepted responsibility, civil society organisations have reported that it can vary from 1 to 153 days.²³⁵

The Dublin procedure is not carried out by OFPRA but by a separate entity – the Prefectures - in accordance with the recast Asylum Procedures Directive.²³⁶ The deadline of 3 months for Prefectures to issue an outgoing Dublin request starts from the moment the applicant makes an application at the orientation platform (SPADA) rather than the date of registration of the application at the “single desk”, as confirmed by the Administrative Court of Appeal of Bordeaux in application of the Court of the Justice of the European Union (CJEU) ruling in *Mengesteab*.²³⁷

Information of 23 March 2018 on the application of Law n. 2018-187 of 20 March 2018 allowing for sound implementation of the European Asylum System, available in French at: <https://bit.ly/3UWILID>.

²³² Position expressed by the Minister of the Interior in 2009, and not reviewed since. Ministry of Interior, ‘Visite d’un centre d’accueil de mineurs étrangers isolés interpellés à Calais : Eric BESSON salue le succès du dispositif mis en place’, 1 October 2009, available in French at: <https://bit.ly/32Nwa88>.

²³³ 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>.

²³⁴ Council of State, Order No. 416192, 5 December 2017, available at: <http://bit.ly/2rpCZNM>.

²³⁵ This is based on information gathered through Court decisions issued in 2019. See also : La Cimade, ‘Guide pratique et théorique du règlement Dublin’, 7 May 2021, available in French at: <https://bit.ly/2uneV0d>.

²³⁶ Article 4(2) recast Asylum Procedures Directive.

²³⁷ Administrative Court of Appeal of Bordeaux, Decision 17BX03212, 22 December 2017, available at: <http://bit.ly/2DttGBh>. See CJEU, C-670/16, *Mengesteab*, Judgment of 26 July 2017, available at: <https://bit.ly/3GOHLZK>.

In practice, according to a sample analysed by La Cimade in 2018, a Dublin request is sent by the Prefectures to other countries within 21 days on average. This can range from requests sent on the day of registration of the claim at the GUDA, to requests sent after 91 days.²³⁸ No data was made available since 2018, however.

When they go to the Prefecture to register as asylum seekers at the GUDA, all applicants are given an information leaflet explaining, among others, the Dublin procedure: Leaflet A, produced by the EU and translated into several languages.²³⁹ They also receive the general guide for asylum seekers, also translated into several languages,²⁴⁰ and a form to notify their intention to introduce an asylum claim (see section on [Registration](#)). In practice, many asylum seekers do not seem to be really informed of the details of the procedure after their interview.

During the application process, the officers in Prefectures are requested to take fingerprints for each and every asylum seeker above 14 years old and to check these fingerprints in the Eurodac database. An exception is made for asylum seekers whose fingerprints are unfit for identification i.e. unreadable. In this case, asylum seekers will be summoned again and their claim will be channelled into the accelerated procedure if their fingerprints are still unfit for identification,²⁴¹ with the exception of certain cases such as asylum seekers who are seriously ill. The asylum claim cannot be fully registered without the fingerprints have been taken and checked in Eurodac. Therefore, the asylum claim certificate is only delivered once all information, including fingerprints, has been registered.²⁴²

Asylum seekers receive an asylum claim certificate specifying the procedure under which they have been placed, for instance the Dublin procedure.²⁴³ This asylum claim certificate allows asylum seekers under a Dublin procedure to remain legally on French territory during the entire procedure.

Once a claim is classified as a Dublin procedure, the applicant receives a second information leaflet on the Dublin procedure (Leaflet B, produced by the EU and translated into several languages)²⁴⁴ and a Dublin notice document (*convocation Dublin*) issued by the Prefecture. The presence of an interpreter at that stage is not guaranteed and practice varies widely depending on the Prefecture. The applicant must go to the Prefecture every month with their Dublin notice document to clock in.

Usually, the applicant is informed that a take back or a take charge procedure has been initiated through the information written at the back of his Dublin notice document. However, there is not necessarily information either about the country which was contacted or on the criteria leading to this referral. Moreover, the asylum seeker is not necessarily informed about the date when the country determined to be responsible for their application is contacted and sometimes does not know the date of the requested Member State's reply either. Asylum seekers under the Dublin procedure are formally informed about these dates through notification of the readmission order letter delivered to them once the decision to "take charge" or "take back" has been made.

²³⁸ La Cimade, 'Dublin: Le Conseil d'Etat révisé sa jurisprudence sur le report du délai de transfert en cas de recours', 26 September 2018, available in French at: <https://bit.ly/2GQNRub>.

²³⁹ 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>.

²⁴⁰ Ministry of Interior, *Guide du demandeur d'asile*, available in 30 languages at: <https://bit.ly/3c1FdHf>.

²⁴¹ Article L.531-27 Ceseda.

²⁴² Circular of 2 November 2015 on the implementation of the Law of 29 July 2015, available in French at: <https://bit.ly/42aHbgV>.

²⁴³ Articles L. 521-7 Ceseda.

²⁴⁴ European Commission and Migrationsverket, *Leaflet B: "I am in the Dublin procedure – What does this mean?"*, 2014, available at: <http://bit.ly/1dBoCd2>.

Regionalisation

In 2018, the Ministry on Interior implemented a regionalisation plan (consolidated in 2019)²⁴⁵ for the Dublin procedure whereby only one Prefecture per region is now responsible for the implementation of the Dublin procedure for the applications registered in its respective region. The regional centres are the following:

Regional focal points for the Dublin procedure: 2021	
Region	Competent Prefecture
Auvergne-Rhône-Alpes	Lyon
Bourgogne-Franche-Comté	Besançon
Bretagne	Rennes
Centre-Val de Loire	Orleans
Corse	-
Grand Est	Strasbourg
Hauts-de-France	Lille
Ile-de-France – Essonne	Evry
Ile-de-France – Hauts-de-Seine	Nanterre
Île-de-France – Paris	Paris
Ile-de-France – Seine et Marne	Melun
Ile-de-France – Seine Saint Denis	Bobigny
Ile-de-France – Val de Marne	Créteil
Ile-de-France – Val d'Oise	Cergy-Pontoise
Ile-de-France – Yvelines	Versailles
Normandie	Rouen
Nouvelle-Aquitaine	Bordeaux
Occitanie	Toulouse
Pays de la Loire	Angers
Provence-Alpes-Côte d'Azur	Marseille

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

As a result, the Ministry of Interior advised that asylum seekers under Dublin procedure should be accommodated close to that Prefecture or, if not yet accommodated, should register with a SPADA near the regional centre Prefecture. In some regions, a regional scheme regarding accommodation has been established. In **Auvergne-Rhône Alpes** for example, this scheme (which is not published) designates certain SPADA and accommodation centres near Lyon, to which all asylum seekers of the region under a Dublin procedure must be oriented.

The regionalisation plan creates difficulties for asylum seekers who have no means of travelling to the competent Prefecture after receiving a Dublin notice document, as missing an appointment leads to the withdrawal of reception conditions and thus exposition to destitution.²⁴⁶ The Council of State clarified, however, that where the applicant is required to travel from their place of residence to appear before the

²⁴⁵ *Arrêté du 10 mai 2019 désignant les préfets compétents pour enregistrer les demandes d'asile et déterminer l'Etat responsable de leur traitement (métropole)*. NOR: INTV1909588A, available in French at: <https://bit.ly/3axKAwv>.

²⁴⁶ ECRE, *Access to asylum and detention at France's borders*, June 2018, available at: <https://bit.ly/3oamVxg>, 20.

pôle régional, the transport costs must be borne by the Prefecture.²⁴⁷ However, problems persisted throughout 2022 as transport vouchers were sometimes delivered too late. As a result, asylum seekers were not always able to attend their appointment.

Detention and house arrest during the procedure

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

In practice, the use of this possibility varies a lot depending on the Prefecture. The possibility to detain asylum seekers from the beginning of the Dublin procedure seems to have been used a few hundred times in 2019. In 2021, NGOs providing legal assistance in detention centre have reported 517 cases.²⁴⁸

Individualised guarantees

In 2022, individualised guarantees were still not requested by Prefectures prior to ordering a Dublin transfer, even though *Tarakhel v. Switzerland* foresees that States have to check what reception conditions and procedural provisions will be guaranteed to asylum seekers when returned to the determined responsible country. That should particularly be applied to vulnerable asylum seekers and families.

In 2020, the Administrative Court of **Lyon** suspended a Dublin transfer to Greece considering that the Prefecture had failed to take into consideration the observations made by the asylum seeker regarding his individual situation in the destination country.²⁴⁹

Transfers

Any transfer decision must be motivated and notified in writing to the applicant.²⁵⁰ It should mention deadlines to appeal and explain the appeal procedure. When the person is not assisted by a lawyer or an NGO, the main elements of the decision have to be communicated in a language they understand or are likely to understand.

The period between the response of the requested country and the notification of a transfer decision varies considerably among Prefectures. According to La Cimade, it took an average of 73 days in 2018 for a decision to be notified, with some Prefectures issuing a decision in one day and others (**Haute Garonne, Meurthe-et-Moselle, Val-d'Oise**) taking 4-5 months.²⁵¹ More recent information on the average times for the year 2022 was not available at the time of writing of this report.

With regard to the time limit for carrying out the transfer, the Council of State clarified in 2018 that the 6-month deadline under Article 29 of the Dublin Regulation is suspended if the asylum seeker appeals the transfer decision, and runs again for a full 6 months following the delivery of the Administrative Court judgment, regardless of its outcome and only once. This means that even if the Administrative Court annuls the transfer and the Prefect lodges an onward appeal, the 6-month deadline will not be renewed again following the appeal decision for instance.²⁵²

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

²⁴⁷ Council of State, Order 422159, 26 July 2018, available in French at: <https://bit.ly/3mJHBf9>.

²⁴⁸ Groupe SOS, Forum réfugiés-Cosi, France terre d'asile, la Cimade, Solidarité Mayotte, 'Centre et locaux de rétention administrative', Activity report 2021, March 2022, available in French at: <https://bit.ly/3IRJLi6>.

²⁴⁹ Administrative Court of Lyon, Decision No. 20065, 8 September 2020.

²⁵⁰ Article L. 572-1 Ceseda.

²⁵¹ La Cimade, 'Dublin: Le Conseil d'Etat révisé sa jurisprudence sur le report du délai de transfert en cas de recours', 26 September 2018, available in French at: <https://bit.ly/2GQNRub>.

²⁵² Council of State, Decision 420708, 24 September 2018, available in French at: <https://bit.ly/3UNTH3K>.

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

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

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

The law enables the Prefect to place under house arrest, systematically, any asylum seeker subject to a transfer decision (see [Alternatives to Detention](#)).²⁵³ Where the asylum seeker does not comply with the house arrest, they may be placed in administrative detention.²⁵⁴ The Prefect can also ask that the Judge of Freedoms and Detention (JLD) require the assistance of the police to ensure of the presence of the asylum seekers at the place they are supposed to remain or to operate their transfer.²⁵⁵ Since an instruction of the Ministry of Interior of 20 November 2017, the use of these provisions increased in every Prefecture.²⁵⁶

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

In 2021, France had implemented 37,611 outgoing requests and 3,145 transfers, making for a 8% transfer rate (compared to 10.3% in 2021).²⁵⁷

In 2021, a total of 16,823 asylum seekers were allowed to lodge applications with OFPRA after their Dublin procedure in France came to an end (requalifiés). Of those, 6,541 had been placed in a Dublin procedure in 2021 and around 10,300 in previous years.²⁵⁸ In these situations, the process of returning to the French asylum system is marked by differences in practices depending on the territory, sometimes long delays in obtaining a new appointment and the lack of reception conditions for this new asylum application.²⁵⁹

²⁵³ Article L. 731-1 Ceseda.

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*

²⁵⁶ Ministry of Interior, Instruction NOR: INT/V/17/30666/J of 20 November 2017 on the objectives and priorities in the fight against irregular immigration, available in French at: <https://bit.ly/3L4zG5v>.

²⁵⁷ Eurostat.

²⁵⁸ Ministry of Interior, *Statistics on asylum*, 20 January 2022.

²⁵⁹ Forum réfugiés, 'Règlement Dublin : quel accès à l'asile pour les procédures « éteintes »', 6 May 2021, available in French at: <https://bit.ly/42UdEta>.

2.3. Personal interview

Indicators: Dublin: Personal Interview

☐ Same as regular procedure

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

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

There is a specific interview in the Dublin procedure in France. Difficulties arise from the fact that this interview is not always conducted in practice.²⁶⁰ The instruction of the Ministry of Interior of 19 July 2016 also recalls that interviews must be systematically conducted, not only in cases of a Eurodac 'hit'.

Whether they are interviewed or not, all asylum seekers fill in a form during an appointment at the Prefecture to apply for the asylum claim certificate.²⁶¹ 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 118/2014.²⁶² During this appointment, which takes place at the GUDA in Prefectures (therefore not in offices guaranteeing confidentiality), questions are asked about civil status, relatives of the applicant, modes of entry into French territory, countries through which the applicant possibly travelled prior to their asylum application, etc. Applicants have the possibility to mention the presence of family members residing in another Member State. Some stakeholders have reported that no questions were asked about family members during the interview.

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 transfer decision. The appeal has to be introduced within 15 days after the asylum

²⁶⁰ e.g. Administrative court of Marseille, Decision No. 2001268, 28 September 2020.

²⁶¹ 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.

²⁶² Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [2014] OJ L 39/1.

seeker has been notified the decision. The appeal has suspensive effect. The designated judge has to rule within 15 days of the appeal being lodged.²⁶³

These time limits are shorter in case of detention or house arrest. In such cases, the appeal has to be introduced within 48 hours of the decision notification.²⁶⁴ The judge has to rule within 72 hours of the appeal being lodged.²⁶⁵

In practice, the shorter time limit for introducing an appeal may prevent asylum seekers who are not accompanied or accompanied at SPADAs from introducing their appeal on time. Several Prefectures (e.g. in Eure) tend to notify the transfer with a house arrest measure on a Friday, to prevent the asylum seeker from finding legal assistance during the weekend, and transfer him or her 48 hours later.²⁶⁶ In these frequent cases, there is *de facto* no effective appeal for those people.

This method was also used by Prefectures to circumvent the prohibition by the Court of Cassation on placing asylum seekers in detention for the purposes of performing a Dublin transfer due to the lack of a definition of the “significant risk of absconding” in national legislation (see [Grounds for Detention](#)), until this was introduced in March 2018.²⁶⁷

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

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☐ Same as regular procedure

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

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

Access to legal aid can be obtained upon conditions of low income. Applicants must request this allowance at the Legal Aid Office of the relevant Administrative Court. This office can ask for further information and a short account of the legal and *de facto* reasons why the asylum seeker thinks the contested decision is unlawful or unfounded and may, for instance, lead to a violation of their fundamental rights. Access to legal aid can be refused if the arguments are deemed unfounded.

²⁶³ Article L. 572-5 Ceseda.

²⁶⁴ *Ibid.*

²⁶⁵ Article L. 614-6 Ceseda.

²⁶⁶ See for example : InfoMigrants, ‘Y-a-t-il des recours possibles à une procédure Dublin?’, 6 December 2019, available in French at: <https://bit.ly/2RivUlw>.

²⁶⁷ Court of Cassation, Decision No 17-15.160, 27 September 2017, available in French at: <https://bit.ly/3MOLJoN>.

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

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

There is no current general policy of suspension of transfers. The official position of the Ministry of Interior consists of systematically applying the Dublin Regulation. In addition, the test applied by Administrative Courts and Administrative Courts of Appeal (erroneously) remains based on the notion of “systemic deficiencies” (notably, since a decision in 2021, the risk of indirect return from another European country is not an argument accepted).²⁶⁸

Hungary: On several occasions in 2016 and 2017, Administrative Courts suspended the transfer of asylum seekers under the Dublin Regulation to Hungary.²⁶⁹ Case law remains inconsistent since 2018, however, with some courts arguing that the asylum procedure and reception conditions present no systemic deficiencies in Hungary.²⁷⁰ As France maintains a policy of applying the Dublin Regulation systematically where there are indications of previous stay or application in Hungary, it continued to be one of the main Member State sending requests in 2021 and 2022 (485 requests in 2022 according to Eurostat), although according to Eurostat no actual transfers were carried out between 2018 and 2022.

Italy: Some Administrative Courts have suspended transfers to Italy on account of systemic deficiencies due to pressure on the reception system and the absence of vulnerability identification.²⁷¹ In 2018, several judgments of Administrative Courts have annulled transfer decisions based inter alia on the government's decisions to forbid search and rescue boats from disembarking in Italian ports, its plans to cut funding for asylum seekers, its hostile discourse on migrants, and the increase in incidents of racist violence.²⁷² Higher courts have expressed similar views in some cases.²⁷³ In 2022, an administrative court annulled a transfer decision to Italy indicating that there are ‘serious reasons to believe that the request (...) will not be treated by the Italian authorities under conditions that comply with all the guarantees required by respect for the right of asylum’.²⁷⁴

Nevertheless, these rulings have had no effect on policy vis-à-vis Italy until now.

Bulgaria: There have been decisions suspending transfers in 2018, taking into account allegations of police violence against asylum seekers in Bulgaria among other factors.²⁷⁵ In one case in July 2018, after the European Court of Human Rights granted interim measures to prevent a transfer to Bulgaria, the Administrative Court of Paris ruled against the transfer,²⁷⁶ but the Council of State found on appeal that

²⁶⁸ CE, 28 May 2021, n° 447956, M. H. A.

²⁶⁹ Administrative Court of Appeal of Nancy, Decision No 15NC00961, 31 March 2016; Administrative Court of Appeal of Lyon, Decision No 15LY03569, 31 May 2016; etc. In contrast, a decision considering that there are no systemic deficiencies in Hungary: Administrative Court of Versailles, Decision No 16VE02239, 28 June 2017.

²⁷⁰ See e.g. Administrative Court of Appeal of Versailles, Decision No 16VE02850, 20 February 2018.

²⁷¹ Administrative Court of Lyon, Decision 19011982, 13 May 2019. Administrative Court of Rennes, Decision 1705747, 5 January 2018, EDAL, available at: <https://bit.ly/2NgRH0w>; Administrative Court of Nantes, Decision No 1601004, 12 February 2016. See also Administrative Court of Pau, Decision of 26 January 2018. Administrative Court of Paris, Decision No 1807362/8, 25 June 2018; No 1810819/8, 3 August 2018; Administrative Court of Bordeaux, Decision No 1803602, 29 August 2018; Administrative Court of Melun, Decisions No 1807266 and No 1807354, 18 September 2018; Administrative Court of Versailles, Decision No 1807048, 11 October 2018; Administrative Court of Pau, Decision No 1802323, 15 October 2018; Administrative Court of Toulouse, Decision No 1805185, 9 November 2018, EDAL, available at: <https://bit.ly/2V9Eg5W>.

²⁷³ Administrative Court of Appeal of Lyon, Decision No 18LY00381, 2 October 2018; Administrative Court of Appeal of Nantes, Decision No 18NT00965, 5 October 2018.

²⁷⁴ Administrative Court of Montpellier, Decision No. 2203347, 4 July 2022.

²⁷⁵ See e.g. Administrative Court of Paris, Order No 1811611/9, 6 July 2018, EDAL, available at: <https://bit.ly/2GCceN5>.

²⁷⁶ Administrative Court of Paris, Order No 1813788/9, 31 July 2018.

the conditions in Bulgaria did not warrant a suspension of the transfer.²⁷⁷ The Administrative Court of Appeal of Marseille has taken a similar line, arguing that there are no indications that Bulgaria would not offer treatment in compliance with asylum standards.²⁷⁸ In one case in December 2021, the Administrative Court of Rouen annulled a transfer in light of the systemic deficiencies in the country, especially for Afghans who face a recognition rate as low as 1%.²⁷⁹

In some individual cases, Administrative Courts have prevented transfers on the basis of risks of chain *refoulement* upon returning asylum seekers to another Dublin State. This has notably been the case for Afghan nationals in particular, where courts have suspended Dublin transfers to different countries (**Austria, Belgium, Germany, Norway, Sweden and Finland**) on the ground that asylum seekers would face a risk of indirect *refoulement* given these countries' tendency to return such persons to their country of origin.²⁸⁰ However, the Council of State put an end to this type of case law in a decision of 28 May 2021 where it ruled that protection is presumed in other EU countries and that it is up to the applicant to prove a possible violation of fundamental rights.²⁸¹

2.7. The situation of Dublin returnees

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

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

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

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

- ❖ On the one hand, some Prefectures do not register the asylum claims of Dublin returnees and redirect them to the SPADA. As it has already been mentioned in the [Registration](#) section, access to these platforms is very complicated and some returnees have to wait several weeks before getting an appointment with the organisations running them.
- ❖ On the other hand, some Prefectures do immediately register the asylum claims of returnees and direct them to OFII in order to find them an accommodation place. The PAUH is the only entity

²⁷⁷ Council of State, Order No 423124, 27 August 2018.

²⁷⁸ Administrative Court of Appeal of Marseille, Decision No 18MA01883, 19 September 2018.

²⁷⁹ Administrative Court of Rouen, 21 December 2021.

²⁸⁰ Administrative Court of Lyon, Decision No 1702564, 3 April 2017 (Norway); Administrative Court of Lyon, Decision No 1705209, 28 July 2017 (Finland); Administrative Court of Toulouse, Decision of 27 November 2017 (Sweden); Administrative Court of Appeal of Lyon, Decision No 17LY02181, 13 March 2018 (Finland), EDAL, available at: <https://bit.ly/2SSwxMS>; Administrative Court of Rouen, Decision No 1801386, 31 May 2018 (Austria); Administrative Court of Appeal of Nantes, Decision No 17NT03167, 8 June 2018 (Belgium); Administrative Court of Bordeaux, Decision No 180412, 15 June 2018 (Germany). Administrative Court of Appeal of Lyon, Decision NO. 20LY01035, 20 April 2020 (Sweden).

²⁸¹ Council of State, Order NO. 447956, 28 May 2021. Available in French at: <https://bit.ly/3rWle67>.

receiving and supporting Dublin returnees upon their arrival in France by Charles de Gaulle airport. Considering the systemic difficulties encountered by the orientation platforms in Paris and its surroundings, several Dublin returnees, after registering their claim, are eager to turn to it in order to complete their asylum claim form or to find an accommodation.

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

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

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

Conditions in reception [facilities](#).

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The law provides OFPRA with the possibility to decide on the admissibility of asylum applications lodged before it.²⁸² Claims are deemed inadmissible in the following cases:

- ❖ The asylum seeker already benefits from an effective international protection status (refugee status or subsidiary protection) in another EU Member State;
- ❖ The asylum seeker has already been granted refugee status and benefits from an effective protection in another third country and they can effectively be readmitted there; or
- ❖ 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.²⁸³

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

OFPRA never takes decisions confirming admissibility; only inadmissibility decisions. Decisions have to be motivated and notified in writing to the asylum seeker within 1 month after the claim has been introduced or, if grounded on elements revealed during the interview, within 1 month after the interview. However, the law sets no consequence in case those time-limits are not complied with by OFPRA. As a matter of fact, they are very unevenly implemented in practice.

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

In 2021, OFPRA issued 'more than 13,000' (8,194 in 2020) inadmissibility decisions.²⁸⁴

²⁸² Article L. 531-32 Ceseda.

²⁸³ Article R. 531-38 Ceseda.

²⁸⁴ OFPRA, *2021 Activity report*, June 2022, available in French at: <https://bit.ly/3KHmAki>, 61.

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

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

Asylum seekers whose claim is deemed inadmissible on ground of the existence of an international protection in an EU Member State or refugee status in a third country, are invited to a personal interview.

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

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

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

The appeal is not suspensive in inadmissibility cases based on the existence of an international protection in an EU Member State or refugee status in a third country.²⁸⁵ However, the appeal is also not automatically suspensive in inadmissibility cases concerning subsequent applications.²⁸⁶ Similarly to the [Accelerated Procedure: Appeal](#), it is examined by a single judge at the CNDA within 5 weeks.

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

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance

☐ Same as regular procedure

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

²⁸⁵ Article L. 542-2 Ceseda.

²⁸⁶ Article L. 542-2 Ceseda.

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

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. Where is the border procedure mostly carried out? ☒ Air border ☐ Land border ☐ Sea border
3. Can an application made at the border be examined in substance during a border procedure? ☐ Yes ☒ No
4. Is there a maximum time limit for a first instance decision laid down in the law? ☒ Yes ☐ No
❖ If yes, what is the maximum time limit?²⁸⁷ 2 working days
5. Is the asylum seeker considered to have entered the national territory during the border procedure? ☐ Yes ☒ No

A specific border procedure to request an admission into the country on asylum grounds is provided by French legislation,²⁸⁸ for persons arriving on French territory through airports, harbours or international train stations. This procedure is separate from the asylum procedure on French territory, insofar as it examines entry into the territory to seek asylum rather than the asylum claim itself.²⁸⁹

In 2022, the arrival of the ship *Ocean Viking* in November 2022 gave rise to a massive placement in a temporary waiting area created in Toulon: 188 adults placed in this waiting area applied for asylum, and admission to the territory as such was granted to 67 of them (35%) (others were released for procedural issues except 2 persons returned to Mali).²⁹⁰ Despite government announcements upon arrival of the ship, no relocation seems to have been implemented to another European state.²⁹¹

Legal framework

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

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

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

'[F]oreign nationals held in waiting zones are informed, as soon as possible, that they may request the assistance of an interpreter and/or a doctor, talk to a counsel or any other person of their

²⁸⁷ Deadline for OFPRA to send an opinion to the Ministry of Interior.

²⁸⁸ Article L. 351-1 Ceseda.

²⁸⁹ OFPRA, 'Demander l'asile à la frontière', 20 April 2016, available in French at: <http://bit.ly/2D1RcpL>.

²⁹⁰ Assemblée nationale, *Mission « flash » sur le bilan de la zone d'attente temporaire installée sur la presqu'île de Giens (Var) en novembre 2022*, 29 March 2023, available in French at: <https://bit.ly/3zovp6g>.

²⁹¹ Forum réfugiés, 'Comment s'organise la relocalisation vers d'autres pays européens des passagers de l'Ocean Viking accueillis en France ?', December 2022, available in French at: <https://bit.ly/3Lwdbp3>.

choice, and leave the waiting zone at any point for any destination outside of France. They are also informed of their rights pertaining to their asylum claim. This information is communicated in a language the person understands.’

Grounds for applying the border procedure

French law foresees a specific procedure for persons held in waiting zones after arriving in train stations, port or airports. Rather than an examination of the asylum claim itself, this procedure concerns the person’s admission to the territory for the purpose of seeking asylum (“*admission au territoire au titre de l’asile*”). Access to the territory is granted if:

- ❖ France is responsible for the claim under the Dublin Regulation;
- ❖ the claim is admissible; and
- ❖ the claim is not manifestly unfounded.²⁹²

The law defines “manifestly unfounded” claims as follows: “A claim is manifestly unfounded when considering the foreign national’s statements and documentation it is manifestly irrelevant (*manifestement dénuée de pertinence*) as far as asylum criterion or manifestly lacking credibility (*manifestement dépourvu de toute crédibilité*) regarding the risk of persecutions or severe violations.”²⁹³

In theory, the asylum grounds and the merit of the application should thus not be examined by OFPRA at this stage, but only once the applicant is granted access to the territory and their claim has been channelled into the regular or accelerated procedure. However, in practice, the assessment usually covers the verification of the credibility of the account; interview reports contain comments on stereotypical, imprecise or incoherent accounts on matters such as the sexual orientation of the applicant, with a lack of written proof. This practice of *de facto* examining the request on the merits is extremely problematic.

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

Dublin III in the border procedure

OFPRA can only issue a negative opinion on admission to the territory for asylum purposes in case the application is inadmissible or manifestly unfounded. OFPRA is not competent to assess and apply the Dublin Regulation, which is the third ground for refusal of admission to the territory on asylum grounds. This competence lies entirely with the Ministry of Interior and such a refusal is issued where there is evidence that the applicant has family ties, documentation from another country or has applied for asylum in another country.²⁹⁴ In case elements are submitted by the applicant during the interview with OFPRA that are relevant to the application of the Dublin Regulation, OFPRA issues its opinion to the Ministry of Interior without basing itself on the Dublin-related aspects.²⁹⁵

The Ministry of Interior reported that the Dublin procedure had been applied in 11 cases in 2019, in two cases in 2019, and in one case in 2020 as of the end of September 2020. However, none of the persons were actually transferred to the responsible Member State. This is due to various reasons such as the suspension of the transfer decision by the administrative court; the person was released from detention by the liberty judge prior to the transfer; the applicable time limits for the transfer were not met; or cases where the person refused to embark.²⁹⁶ More recent information is not available.

Authorities involved in the border procedure

²⁹² Article L. 351-1 Ceseda.

²⁹³ Article L. 352-1 Ceseda.

²⁹⁴ Information provided by OFPRA, 24 April 2018.

²⁹⁵ Information provided by OFPRA, 24 April 2018.

²⁹⁶ Information provided by the Ministry of Interior, 21 October 2020.

The first authority involved in the border procedure is the Border Police (*'Police aux frontières'*), which is responsible for border management and apprehending individuals at the border. Thus, it is usually the first authority with whom applicants are in contact. The Border Police conducts a first interview upon arrival to collect basic identification information, based on which the OFRPA will prepare its interview. The asylum application must be considered and the Border Police has to make a statement detailing the request for admission on the basis of an asylum claim. As mentioned in [Access to the Territory](#), however, cases documented in waiting zones such as **Beauvais** suggest that the Border Police does not always comply with this obligation.

The examination and decision on asylum claims made at the border lie with OFPRA. As mentioned under number of staff and nature of the determining authority). OPFRA is one of the few asylum authorities in Europe which has a Unit dedicated to the border procedure. It is entitled the "asylum at the border" Unit and is thus responsible for claims made in waiting zones.²⁹⁷ In 2018, the Border Unit of OFPRA was comprised of three Protection Officers, one Secretary and one Head of Division.²⁹⁸ More recent statistics are not available but the number of staffing is likely to have remained the same. The Border Unit is responsible for determining whether a person should be granted access to the territory for the purpose of the asylum procedure. To that end, it issues a binding opinion to the Ministry of Interior allowing or refusing entry on two of the three grounds. The latter is the authority officially issuing the decision, and it can only refuse entry to the territory despite a positive opinion from OFPRA in case there is a threat to public order²⁹⁹ or by applying the Dublin Regulation the only ground not under the purview of OPFRA.

The Ministry of Interior is also the authority responsible for the placement of foreign nationals in the waiting zone, under the supervision of the JLD.³⁰⁰

Administrative Courts (*Tribunal administratif*) are responsible for the appeals lodged against decisions rejecting the access to the territory as well as placement into waiting zones decisions.³⁰¹ An onward appeal against the decision of the *Tribunal administratif* can further be lodged in front of Administrative Courts of Appeal (*Cour administrative d'appel*).³⁰²

The competent administrative authority for delimiting waiting zones is the Prefect of the *département* and in **Paris**, the Chief of Police (*Préfet de Police*). The decision to hold a foreign national in the waiting zone, which must be justified in writing, is taken by the Head of the National Police service or the Customs and Border Police, or by a civil servant designated by them.

Location of the border procedure

There are 32 waiting zones in mainland France. Most of the activities take place at the **Roissy Charles de Gaulle** (CDG) airport. Moreover, waiting zones can be extended to within 10km of a border crossing point, when it is found that a group of at least 10 foreigners just crossed the border. The group of 10 can be identified at the same location or various locations within the 10km area. This exceptional extended waiting zone can be maintained for a maximum of 26 days.³⁰³

Waiting zones are located between the arrival and departure points and passport control. The law provides that they may include, within or close to the station, port or airport, or next to an arrival area, one or several places for accommodation, offering hotel-type facilities to the foreign nationals concerned. In

²⁹⁷ ECRE/AIDA, *Asylum authorities: an overview of internal structures and available resources*, November 2019, available at: <https://bit.ly/3peHrYq>, 10.

²⁹⁸ ECRE/AIDA, *Access to asylum and detention at France's borders*, June 2018, available at: <https://bit.ly/3jEbV53>, 20.²⁹⁹ Article L. 352-2 Ceseda.

²⁹⁹ Article L. 352-2 Ceseda.

³⁰⁰ Article L. 342-1 Ceseda.

³⁰¹ Article L. 352-4 Ceseda.

³⁰² Article L. 352-9 Ceseda.

³⁰³ Article L. 342-4 Ceseda.

some areas such as **Roissy** or **Marseille**, the waiting zone is a facility separate from the airport, meaning that the asylum seeker is transported there to follow the procedure (see section on [Place of Detention](#)).

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

Since 2015, around 70% to 80% of all applications made at the border were made at **Roissy airport** and 10 to 12% at **Orly airport**. By way of illustration, in 2021, 86.9% of all border procedures were lodged at Roissy airport, and 5.2% at Orly airport. A slight increase in the number of applications made at the border in Overseas France has been noted in 2018 and 2019, mainly due to arrival of several ships from Sri Lanka and Indonesia to the Réunion Island.³⁰⁴ In 2021, Marseille was the third main waiting zone with 3% of all applications at the border made in this place. More recent statistics on the year 2022 were not available at the time of writing of this report.

Time limits in the border procedure

There is no strict deadline to apply for asylum when applicants are waiting for their admission at the border and are placed in waiting zones. From when the application for international protection has been made, OPFRA has two working days to issue its opinion to the Ministry of the Interior.³⁰⁵

Average processing times of OFPRA (in days)						
	2017	2018	2019	2020	2021	2022
Average processing times	3.39 days	2.74 days	3.5 days	3.1 days	2.5 days	not available

The average processing time for OFPRA to issue its decisions at the border has consistently exceeded the time limit of two days laid down in national law, reaching up to 3.5 days in 2019. Available figures further indicate that a relatively important amount of cases are not being examined by OFPRA within four days, thus largely exceeding the two days time limit laid down in law. In 2019, this represented 28.5% of the cases, a large increase compared to 2018 (17%) and a figure that is comparable to the year 2017 (28% of the cases).³⁰⁶ More recent statistics were not available at the time of writing of this report.

Nevertheless, national law does not foresee any time limit for the Ministry of Interior to issue its decision based on the binding opinion of OFPRA. This means that applicant can theoretically be held in waiting zones for several days, up until a formal decision of the Ministry of Interior has been issued. Practice suggests, however, that the Ministry of Interior issues its decision within the same day. Moreover, there have been no cases in which the decision took longer than the 4 weeks' timeframe foreseen by Article 43(2) of the recast Asylum Procedures Directive.³⁰⁷

The person may apply for asylum at any time whilst they are held in the waiting zone, meaning during an initial period of 4 days which can be extended up to a maximum of 20 days. Exceptionally, if a person held in a waiting zone makes an asylum application after the 14th day, the law foresees the possibility of a further extension of detention for 6 more days following the submission of the asylum application, with a view to allowing the authorities to conduct the asylum procedure.³⁰⁸ Therefore detention in the waiting zone can reach 26 days if the person applies for asylum on the 20th day of detention.

³⁰⁴ OFPRA, *Rapports d'activité*, available in French at: <http://bit.ly/3my3uOr>.

³⁰⁵ Article R. 351-4 Ceseda.

³⁰⁶ OFPRA, *Rapports d'activité*, available in French at: <http://bit.ly/3my3uOr>.

³⁰⁷ OFPRA, Information provided on 21 September 2020.

³⁰⁸ Article L. 342-4 Ceseda.

Number of border procedures

The number of applications made at the border has doubled from around 900 applications in 2015 to more than 2,000 applications in 2019. This is still far below the record number of 5,100 applications registered at the border in 2008,³⁰⁹ after which numbers dropped significantly. When comparing these figures with the total number of applications, they represent a very small fraction of the caseload before OFPRA. In 2019, the number of applications lodged at the border represented only 1.4% of the total caseload. Very few applications were made at the border in 2020 (891) due to health crisis. Statistics on the year 2022 were not available at the time of writing of this report.

The main nationalities applying at the border from 2017 to 2021 were as follows:

Asylum applicants at the border by nationality									
1 Jan – 31 Dec 2017		1 Jan – 31 Dec 2018		1 Jan – 31 Dec 2019		1 Jan – 31 Dec 2020		1-31 Dec 2021	
Sri Lanka	120	Morocco	140	Sri-Lanka	289	Türkiye	14%	India	14%
Algeria	103	Türkiye	131	Türkiye	246	DRC	12%	Türkiye	12%
Türkiye	99	DRC	120	Morocco	180	Morocco	9%	DRC	9%
DRC	70	Sri Lanka	107	DRC	123	Syria	6%	Algeria	6%
Albania	63	Cuba	90	Iran	76	Sri Lanka	4%	Sri Lanka	4%
Others	725	Others	856	Others	1,136	Others	54%	Others	55%
Total	1,180	Total	1,444	Total	2,050	Total	891	Total	1,613

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

More recent statistics on the year 2022 were not available at the time of writing of this report.

Decisions issued in border procedures

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

- ❖ If the Border Unit of OFPRA considers that the application for international protection is *not* manifestly unfounded nor inadmissible, and if France is deemed responsible for the asylum claim under the Dublin III Regulation, the Ministry of Interior is bound to grant entry to French territory. The only exception is where there is a threat to national security.³¹⁰ While the Ministry of Interior regularly assesses this risk, no cases of refusal of entry on this ground have been reported so far. The asylum applicant will be given an 8-day temporary visa. Within this time frame, upon request from the asylum seeker, the competent Prefecture provides an asylum application certificate which allows for the lodging of the application. OFPRA then processes the asylum claim as any other application for international protection lodged on the territory.
- ❖ If OFPRA considers that the application for international protection *is* manifestly unfounded or inadmissible, or if another country is deemed responsible under the Dublin III Regulation, the Ministry of Interior refuses to grant entry to the foreigner based on a motivated decision. The person can lodge an appeal against this decision before the Administrative Court within a 48-hour deadline. If this appeal fails, the foreigner can be returned to their country of origin. However, individuals refused entry

³⁰⁹ OFPRA, *Annual Report 2008, 2009*, available in French at: <https://bit.ly/40dvLHR>, 26.

³¹⁰ Article L. 352-2 Ceseda.

benefit from a so-called “full day” (*jour franc*), which protects them from removal for one day. In the case of adults, this right must be requested, whereas under the law unaccompanied children cannot be removed before the expiry of the *jour franc* unless they specifically waive it.³¹¹ The *jour franc* is no longer guaranteed in Mayotte and at land borders since September 2018, however.³¹²

In France, only a minority of applicants are effectively granted access to the territory. This concerned 20.4% of applicants in 2016, 26.6% of applicants in 2017, 39.5% of applicants in 2018, 40.5% of applicants in 2019, 48.8% in 2020 and 39.2% in 2021):³¹³

This means that, since 2015, most applicants were refused access to French territory. These figures seem to point to the significant difficulties faced by persons applying for protection at the border. So far, OFPRA has not issued opinions opposing admission to the territory on grounds of inadmissibility. The number of refusals of admission based on the Dublin Regulation are very limited. More recent information or statistics was not available at the time of writing of this report.

4.2. Personal interview

Indicators: Border Procedure: Personal Interview

☐ Same as regular procedure

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

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

 - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
 - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

Individuals apprehended at airports are first interviewed by the Border Police, which drafts a report (*procès-verbal*) collecting basic information relating to the identity of the applicant. In practice, there have been cases where the Border Police has asked questions going beyond collecting basic information, relating to the merits of the application for international protection or cases where it indicated to the applicant that his/her asylum claim had low chances of success.³¹⁴ This is not documented in the reports of the Border Police, however, as it would be ruled against by Administrative Courts as a ground for annulment of the decision refusing admission to the territory on the ground of asylum.³¹⁵

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

The law provides the same provisions on interviews in the border procedure as in the regular procedure:³¹⁶

- ❖ If the interview of the asylum seeker requires the assistance of an interpreter, it is paid for by the State;
- ❖ An asylum seeker introducing a claim at the border can be accompanied by a third person during their interview with OFPRA;

³¹¹ Article L. 333-2 Ceseda.

³¹² Article L. 361-4 Ceseda.

³¹³ OFPRA, *Rapports d'activité*, available in French at: <http://bit.ly/3my3uOr>.

³¹⁴ Information provided by Anafé, 17 September 2019.

³¹⁵ Information provided by Anafé, 17 September 2020.

³¹⁶ Article R. 351-3 Ceseda.

- ❖ At the end of the interview, the asylum seeker and the third person, if applicable, are informed of their right to have access to a copy of the interview;
- ❖ An audio recording of the interview is also conducted; and
- ❖ The interview can be conducted by video conferencing.

Remote interviews

Videoconferencing and phones are often used in interviews during the border procedure as opposed to the regular procedure. **Roissy CDG airport**, where the majority of border procedures take place, is the only waiting zone where the OFPRA Border Unit interviews the asylum seeker in person.³¹⁷ The interviews in **Orly**, **Marseille** and **Lyon** are conducted by videoconference and interviews for all other border procedures are done by phone.³¹⁸ The consent of the applicant is not needed. When videoconferencing is used, it almost always runs into technical problems, as a result of which the interview is then carried out by phone.³¹⁹ This has led the Administrative Court of Marseille to invoke procedural irregularities and annul decisions refusing admission to the territory for the purpose of seeking asylum where the interview with OFPRA has been conducted by phone rather than videoconference.³²⁰

The use of phones is also reported as very problematic in practice because of multiple issues: technical problems and difficulties to follow the interview; important quality gaps resulting from simultaneous telephone interpretation; and, where a third party is present, the phone has to be shared between the applicant and the NGO and/or legal representative.³²¹

Another important concern raised in practice relates to issues of confidentiality. Remote interviews are sometimes carried out in inadequate rooms where other persons may be present or where there is a disturbing background noise.³²² In **Orly** for example, the interview is held in a common room where other people are held and where other police staff maybe present. Moreover, the interview room is not soundproof and is placed next to an office of the border police, as a result of which background noise from police officers may disrupt the interview.³²³

Remote interviews further create difficulties to share and submit documentary evidence. There have been cases where asylum applicants were not able to share evidence they had in their possession, or only partially on video when videoconference is used. There are no other tools such as fax or scanners available to submit these documents.³²⁴

Interpretation

Issues with regard to interpretation have been reported during the initial interview, carried out with the Border Police at the very start of the procedure. Interviews with OFPRA must be carried out in the presence of an interpreter, unless the interview can be carried out in French. In practice, interpretation in interviews with OFPRA is available in 40 languages and is readily available through the Inter Service Migrants (ISM) by phone or videoconference. In the last years, interpretation was used in the majority of cases, reaching up to 83% of all cases in 2020, compared to 89% in 2019, 82.3% in 2018.³²⁵

Nevertheless, when carried out remotely, the quality of the interpretation services seems to raise concerns. According to organisations assisting asylum seekers, remote interview and interpretation prove

³¹⁷ Information provided by Anafé, 17 September 2020.

³¹⁸ Information provided by OFPRA, 21 September 2020.

³¹⁹ Information provided by OFPRA, 24 April 2018 ; Information provided by Anafé, 17 September 2020.

³²⁰ See e.g. Administrative Court of Marseille, Decision No 1704059, 7 June 2017; No 1704319, 16 June 2017. Contrast with Decision No 1706792, 3 October 2017, where the Court found no procedural irregularities.

³²¹ Information provided by Anafé, 17 September 2020.

³²² Information provided by Anafé, 17 September 2020.

³²³ Information provided by Anafé, 17 September 2020.

³²⁴ Information provided by Anafé, 17 September 2020.

³²⁵ OFPRA, *Rapports d'activité*, available in French at: <http://bit.ly/3my3uOr>.

particularly challenging for the individual as they are often interrupted by the Protection Officer, who is typing notes at the same time.³²⁶ In **Nice**, the interview report is read out to the applicant without being translated and does not mention whether the applicant was interrupted in the course of the interview.³²⁷

Another issue relates to confidentiality. There have been cases where the background noise indicated that the interpreter was in a train station while the interview was ongoing; or in a parc surrounded by children.³²⁸

Accompaniment by a third party

Since 2015, the law foresees the possibility for asylum applicants to be assisted during the interview by a third-party, namely a member of an accredited civil society organisation or a legal representative.³²⁹ The list of NGOs accredited to send representatives to access the waiting zones, established by order of the Ministry of the Interior, was last revised in June 2021. It includes 10 organisations.³³⁰ As regards specifically the waiting zone at Roissy CDG, the Red Cross has permanent presence and Anafé is present certain hours every week. In other waiting zones, Anafé and certain other NGOs may be reached at certain hours via phone.³³¹

This possibility is rarely used in practice, however. Only 7.5% of all applicants were accompanied by a third party in 2019, compared to 6.9% in 2018 and 4.1% in 2017.³³² In 2019, only 7 interviews were attended by an NGO representative.³³³ This means that over 90% of interviews were carried out without a third party being present from 2017 to 2019. More recent statistics on the years 2020 and 2021 were not available at the time of writing of this report.

The limited use of this guarantee could be due to a lack of awareness on the part of asylum seekers, despite the fact that information sheets to that effect are available in the waiting zones, as well as the shortage in capacity of NGOs such as Anafé which have no permanent presence in the zones.³³⁴ The interview may also take place only a couple of hours after the application has been made, thus rendering the availability of NGOs within that short time frame extremely difficult. Available figures indicate that, when a third-party is present, it is usually a legal representative rather than an NGO.³³⁵

4.3. Appeal

Indicators: Border Procedure: Appeal

☐ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☒ Yes

☐ No

☐ Administrative

☐ Some grounds ☐ No

³²⁶ Information provided by La Cimade, 26 April 2018.

³²⁷ ECRE, *Access to asylum and detention at France's borders*, June 2018, available at: <https://bit.ly/3oamVxg>, 21.

³²⁸ Information provided by Anafé, 17 September 2020

³²⁹ Article L. 352-2 du Ceseda.

³³⁰ Ministry of Interior, *Arrêté du 1er juin 2021 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente*, 2021, available in French at: <https://bit.ly/34TYwCR>.

³³¹ Information provided by OFPRA, 21 September 2020.

³³² OFPRA, *Rapports d'activité*, available in French at: <http://bit.ly/3my3uOr>.

³³³ Information provided by OFPRA, 21 September 2020.

³³⁴ *Ibid*, 22.

³³⁵ In 2018 for example, out of the 93 interviews conducted in the presence of a third-party, 90 interviews were carried out with a legal representative and only 3 of them in the presence of an NGO. OFPRA, *Annual Report 2018, 2019*, available at: <https://bit.ly/3ohjNji>, 25.

When the request for entry for reasons of asylum made at the border is rejected, the person is refused admission into French territory. They can introduce an appeal to challenge this decision before the Administrative Court. The appeal must be introduced within 48 hours and has suspensive effect. The Administrative Court must decide within 72 hours.³³⁶ This decision of the Administrative Court can be challenged within 15 days before the President of the competent Administrative Court of Appeal, but this second appeal does not have suspensive effect.

Anafé has denounced the illusory nature of the effectiveness of this suspensive appeal.³³⁷ In practice several obstacles occur in this regard: the asylum seeker has very few resources to write such an appeal on his own; the request must be lodged with the competent court within 48 hours of notification of the decision of the Minister of the Interior, without extension on weekends; the appeal must be written in French and sufficiently motivated in fact and in law (otherwise, the appeal can be rejected without a hearing). These difficulties persisted in 2022.

In France, the success rate of appeals in border procedures was 33% in 2019.³³⁸ This is a slight increase on previous years (18% in 2018; 24% in 2017; 15% in 2016; and 11% in 2015), but the majority of appeals are rejected. No data on this issue has been available since 2020.

4.4. Legal assistance

Indicators: Border Procedure: Legal Assistance

☐ Same as regular procedure

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

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
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 - ❖ Does free legal assistance cover:

<input checked="" type="checkbox"/> Representation in interview
<input checked="" type="checkbox"/> Legal advice

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

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
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 - ❖ Does free legal assistance cover:

<input checked="" type="checkbox"/> Representation in interview
<input checked="" type="checkbox"/> Legal advice

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

A third person (lawyer or representative of an accredited NGO) can be present during the OFPRA interview;³³⁹ and legal representatives shall be present for unaccompanied children. As stated in [Border Procedure: Personal Interview](#), however, this possibility is rarely used in the border procedure.

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

Asylum seekers can also request to be assisted by a court appointed lawyer during their hearing before the JLD who is competent to rule on the extension of their stay in the waiting zone (see [Judicial Review](#)

³³⁶ Article L. 352-4 Ceseda.

³³⁷ ANAFE, *Privation de liberté en zone d'attente, les détenus face à la justice*, 2017, available in French at: <https://bit.ly/30RbYkt>.

³³⁸ Information provided by the French Ministry of Interior, 21 October 2020.

³³⁹ Article L. 352-2 Ceseda.

of the Detention Order). In theory, the asylum seeker should have hired one previously at their own expense, or prepared a sufficiently well-argued request in French by themselves, in terms of facts and points of law. This is another illusory measure that does not guarantee the asylum seeker access to an effective remedy, even though they have access to court-appointed lawyers if necessary.³⁴⁰

Anafé denounces the fact that these cases are handled in haste by the court-appointed lawyers. Indeed, due to the urgency of the appeal and to the functioning of the administrative courts, the court-appointed lawyers in reality only have access to all the elements of the case once they meet the asylum seeker at the court, meaning in the best-case scenario one hour before the start of the hearing. Under these conditions, it is difficult for the lawyer to know the story of the person held in the waiting zone and to provide a good appeal.³⁴¹

5. Accelerated procedure

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

The reasons for channelling an asylum seeker into an accelerated procedure are outlined in articles L. 531-24, L. 531-26 and L. 531-27 Ceseda, which lists 10 grounds.

The accelerated procedure is automatically applied where:

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

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

- ❖ The asylum seeker refuses to be fingerprinted;
- ❖ When registering their claim, the asylum seeker has presented falsified identity or travel documents, or provided with wrong information on their nationality or on their conditions of entry on the French territory or has introduced several asylum claims under different identities;
- ❖ The claim has not been registered within 90 days after the foreign national has entered the French territory;³⁴²
- ❖ The claim has only been made to prevent a notified or imminent removal order; or
- ❖ The presence of the foreign national in France constitutes a serious threat to public order, public safety or national security.

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

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

1. The asylum seeker has provided falsified identity or travel documents, or wrong information on their nationality or on their conditions of entry on the French territory or has introduced several asylum claims under different identities;

³⁴⁰ See also Observatoire de l'enfermement des étrangers, *Une procédure en trompe l'œil : Les entraves à l'accès au recours effectif pour les étrangers privés de liberté en France*, May 2014, available in French at : <https://bit.ly/3L5mNrS>.

³⁴¹ Anafé, *Voyage au centre des zones d'attente*, November 2016, available in French at : <https://bit.ly/415NRwR>, 53.

³⁴² Prior to the 2018 reform, this time limit was 120 days.

2. The asylum seeker has supported their claim only with irrelevant questions regarding their claim; or
3. 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 all 10 cases, OFPRA can decide to reclassify the application and not process a claim under accelerated procedure when this is deemed necessary, in particular when an asylum seeker originating from a country listed on the safe country of origin list calls upon serious grounds to believe that their country of origin might not be safe considering their particular situation.³⁴³ In addition, OFPRA may decide not to process under the accelerated procedure claims of vulnerable applicants. In 2019, OFPRA rechannelled 206 cases into the regular procedure out of a total of 40,677 cases processed in the accelerated procedure, compared to 24 cases out of 37,759 in 2018 and 63 cases in 2017. On the other hand, OFPRA rechannelled 1,384 cases from the regular to the accelerated procedure in 2019,³⁴⁴ compared to 1,110 in 2018.³⁴⁵ Statistics on the years 2020 through 2022 were not available at the time of writing.

Similar to the regular procedure, OFPRA is the determining authority competent for accelerated procedures. Its decisions should in theory be made within 15 calendar days.³⁴⁶ This period is reduced to 96 hours if the asylum seeker is held in administrative detention.³⁴⁷ There is no specific consequence if the Office does not comply with these time limits. In practice, some stakeholders assisting asylum seekers have reported that some under the accelerated procedure have waited more than 15 days before receiving the decision from OFPRA.³⁴⁸

The average time for the examination of first asylum requests under the accelerated procedure was 98 days in 2016, 84 in 2018 and 72 in 2019 (no data for 2017).³⁴⁹ No data has been available since 2019.

According to Ministry of Interior statistics, 50,750 asylum applications were filed in accelerated procedures at the end of 20, representing 33% of all caseloads.³⁵⁰ Statistics in this regard have not been available since 2019.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

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

Interviews of asylum seekers under accelerated procedure take place under the same conditions as interviews in a regular procedure (see [Regular Procedure: Personal Interview](#)). All personal interviews are conducted by OFPRA.

³⁴³ Article L. 531-28 Ceseda.

³⁴⁴ OFPRA, *Activity Report 2019*, available in French at: 22.

³⁴⁵ OFPRA, *Activity Report 2018, 2019*, available in French at: <https://bit.ly/3ohjNji>, 21.

³⁴⁶ Article R. 531-7 Ceseda. Delays are even shorter (96 hours) for persons held in administrative detention centres and in waiting zone.

³⁴⁷ Article R. 531-23 Ceseda.

³⁴⁸ This information has been collected by Forum réfugiés social workers in **Lyon, Clermont-Ferrand** and **Marseille** but also by other NGOs in **Paris** and its surroundings, **Bretagne, Charentes-Maritimes, Somme** or **Lorraine**.

³⁴⁹ OFPRA, *Activity reports 2016, 2018, 2019*, available at: <http://bit.ly/3my3uOr>.

³⁵⁰ Ministry of Interior, *Chiffres clés – les demandes d’asile*, 21 January 2020.

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

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☐ No

☒ Judicial

☐ Administrative

☐ Yes

☒ Some grounds

☐ No

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

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

Appeals in the accelerated procedure have automatic suspensive effect, except for those where the accelerated procedure is based on: (a) safe country of origin; (b) subsequent application; and (c) threat to public order.³⁵¹ These exceptions were added by the 2018 asylum reform and entail a loss of the right to remain on the territory upon notification of the negative decision. Asylum seekers can, however, in another separate procedure appeal before the Administrative Court within 15 days – or 48 hours in case of detention – to request that the CNDA appeal be given suspensive effect. The request to the Administrative Court has suspensive effect.³⁵²

The Administrative court examines the risk of persecutions: on this point, they never in practice question the assessment of OFPRA, considering themselves less competent than this administration to assess these fears. It can also grant suspensive effect in case of difficulties linked to the individual examination of the situation, the absence of an interview or interpreting failures noted at OFPRA.³⁵³

The decision of OFPRA or of the Prefectures to channel an application under the accelerated procedure cannot be challenged separately from the final negative decision on the asylum claim but it is possible for the applicant to challenge their placement under accelerated procedure in the appeal against the negative decision on their claim.³⁵⁴

In any case of placement under the accelerated procedure, including safe country of origin cases or subsequent applications, it is always possible for the CNDA to reclassify the claim as regular procedure.³⁵⁵ In 2017, 207 cases under single-judge procedure were thus rechannelled into collegial hearing by the CNDA.³⁵⁶ Figures were not made available since then.

³⁵¹ Article L. 542-2 Ceseda.

³⁵² Article L. 752-5 Ceseda.

³⁵³ CE, 16 October 2019, No. 432147, available in French at: <https://bit.ly/3G4GfIC>.

³⁵⁴ Article L. 531-31 Ceseda.

³⁵⁵ Article L. 532-7 Ceseda.

³⁵⁶ CNDA, 2017 Activity report, available in French at: <https://bit.ly/3GNkIE1>, 20.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

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

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

However, asylum seekers whose claims are refused on the basis of safe country of origin, subsequent application or threat to public order grounds, lose their right to residence and thus may lose their right to reception conditions, including the possibility of assistance in accommodation, if suspensive effect is not granted for their appeal before the CNDA and their right to residence temporarily restored.³⁵⁷

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 correctly 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. 522-1 Ceseda refers to the identification of vulnerability, in particular (article L. 522-3 Ceseda) of children, unaccompanied children, disabled persons, the elderly, pregnant women, single parents with minor children, victims of trafficking, persons with serious illness, persons with mental disorders, and victims of torture, rape and other forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

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

³⁵⁷ Article L. 752-12 Ceseda.

1.1. Screening of vulnerability

OFII is responsible for identifying vulnerabilities and special needs of asylum seekers.³⁵⁸ 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.³⁵⁹ 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. 522-3 Ceseda.

The assessment is carried out by OFII officers specifically trained on vulnerability assessments and in the identification of special needs. However, the publication of the questionnaire designed for the vulnerability assessment reveals that only objective vulnerability will be assessed during the interview with OFII upon registration of the application at the GUDA,³⁶⁰ and only those limitedly listed. No vulnerability linked to the asylum claim shall be discussed, it is only for the purposes of the reception conditions. Therefore, this vulnerability assessment has a limited impact on the early identification of less visible vulnerabilities; e.g. in the case of victims of torture and of physical, mental or sexual violence as well as victims of human trafficking.

As it was clear vulnerabilities were not fully taken into account,³⁶¹ a “national plan for the reception of asylum seekers and the integration of refugees for 2021-2023” published on 18 December 2020 aimed to remedy this. It includes measures aimed at identifying vulnerabilities at an early stage and strengthening their management.³⁶² This national plan mentions the publication of an “action plan for the care of the most vulnerable asylum seekers and beneficiaries of protection” in January 2021 in order to “guide the actions carried out jointly by State services and operators for the coming years”. This action plan was published in May 2021.³⁶³ It foresees two main objectives: better identify and better protect vulnerable people. The plan breaks down these two axes into ten actions:

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

³⁵⁸ Article L. 522-1 Ceseda.

³⁵⁹ A copy of the questionnaire may be found at: <https://bit.ly/3A5keQh>.

³⁶⁰ 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>.

³⁶¹ See also Forum Réfugiés, ‘Accueil des demandeurs d’asile : les vulnérabilités encore insuffisamment prises en compte’, 10 February 2020, available in French at: <https://bit.ly/3d2pNVr>.

³⁶² Ministry of Interior, *Schéma national d’accueil des demandeurs d’asile et d’intégration des réfugiés 2021-2023*, 18 December 2020, available in French at: <https://bit.ly/376rJsl>. See also Forum Réfugiés, *Schéma national d’accueil : quelles conséquences pour les demandeurs d’asile ?*, 12 January 2021, available in French at: <https://bit.ly/2Z4TEV9>.

³⁶³ Ministère de l’Intérieur, ‘10 actions pour renforcer la prise en charge des demandeurs d’asile et des réfugiés vulnérables’, 28 May 2021, available in French at: <https://bit.ly/3ULcZ9Y>.

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

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

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 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.³⁶⁴ The assessment of their vulnerability is, in most cases, based on the vulnerability assessment form used by OFII officers. This situation has been widely reported by stakeholders regardless of the region. Many 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 to be present at the interview with the asylum seekers.

This lack of interview or of a proper interview is a persisting issue. This interview is meant to offer reception conditions suitable given the asylum seekers’ vulnerability. It may lead some asylum seekers being accommodated into centres that do not correspond to their specific needs. For example, it has been reported that some female asylum seekers, victims of human trafficking or sexual violence, have been housed in centres mainly occupied by single men.

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

For asylum applications made at the border or in detention, OFPRA has developed a system for the signalling of vulnerabilities in places of detention (see [Prioritisation and exemption from special procedures](#)).

1.2. Age assessment of unaccompanied children

In France, age assessment is not conducted within the framework of the asylum procedure but in separate procedure, as a prerequisite to benefitting from the Childcare Protection system. This procedure is handled locally by each “*département*”. The age assessment procedure and criteria are detailed in a legal framework of 2016,³⁶⁵ which establishes the elements to be considered to determine the applicant’s minority based on ‘social evaluation’. The ground rules are as follows:

- ❖ The minor has to be informed of the objectives of the evaluation and its potential effects;
- ❖ This assessment has to be conducted in a multidisciplinary approach;
- ❖ The assessor must have strong knowledge of migratory routes, the situation in the country of origin, childhood psychology and children rights;
- ❖ Particular attention must be paid to potential cases of human trafficking;

³⁶⁴ 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.

³⁶⁵ 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>.

- ❖ The interview must be conducted in a language spoken by the interviewee; and
- ❖ The outcome of the interview must be held in a written decision notified to the interviewee, and mention the legal remedies against it.

Methods for assessing age

In practice, bone examinations continue to be implemented even when unaccompanied children possess civil status documents. According to some stakeholders, some young people, in particular those above 16, are subjected to several medical examinations until it can be established that they are 18. However, these practices have decreased since the legal consolidation of the social assessment that started in 2016 and the development of protective case law.

On 21 December 2018, the Court of Cassation referred a preliminary question to the Constitutional Court on the constitutionality of bone examinations for age assessment. On 21 March 2019, the French Constitutional Court ruled that bone tests determining the age of young migrants are not unconstitutional. The case concerned a young Guinean, Adama. S, who declared to be 15 years old upon his arrival in France in 2016. A bone test concluded that his age was between 20 and 30 years. With the support of several civil society organisations, he brought the case before the Constitutional Court. The applicant claimed that the radiological examination of bones violated the principle of the ‘best interests of the child’. Due to its margin of error it led to unaccompanied minors being excluded from the beneficial provisions designed to protect them. Although the Court confirmed the constitutional character of the principle of the ‘best interest of the child’, it stated that the existence of a margin of error does not make the use of the test unconstitutional.³⁶⁶

In 2019, a guide for the services in charge of age assessments was published by the authorities, in order to harmonise current practices of social evaluation.³⁶⁷ In practice, age assessment is still carried out in a variety of ways depending on the territory, with severe shortcomings in some places.³⁶⁸ In a report published in February 2022, the Ombudsman again regretted that bone age examinations were not prohibited by law.³⁶⁹ In 2023, the UN Committee of the rights of the Child denounced some shortcomings of the current ‘social evaluation’ procedure applied in France.³⁷⁰

Moreover, Human Rights Watch published a report in 2019 relating to the treatment of unaccompanied children in the French **Hautes-Alpes** which demonstrated that France continues its practices of flawed age assessment procedures and summary returns of unaccompanied children at the border with Italy.³⁷¹ According to the report, the authorities do not comply with international standards and use various justifications to deny children protection. Research by HRW indicates that the flawed age assessment practice is common across the country. The research also testifies to previous reports of summary returns of unaccompanied migrant children by the French border police at the border between Italy and France. In the nine cases examined by HRW French authorities did not comply with the “entry refusal” procedure specific for children. The threat of summary returns pushes children to take ever more dangerous routes

³⁶⁶ Constitutional Court, Decision No 2018-768, 21 March 2019, available in French at: <https://bit.ly/2ISaFiL>.

³⁶⁷ *Guide de bonnes pratiques en matière d'évaluation de la minorité et de l'isolement*, December 2019, available in French at: <https://bit.ly/37WQYeM>.

³⁶⁸ See for example : Défenseur des droits, ‘Décision No. 2021-070’, 17 March 2021, available in French at: <https://bit.ly/3uLbETI>.

³⁶⁹ Défenseur des droits, ‘Les mineurs non accompagnés au regard du droit’, February 2022, available in French at: <https://bit.ly/36qcvRj>. For a complete overview of the situation see also: Infomie, ‘Audition mission inter-inspection’, January 2021, available in French at: <https://bit.ly/3s7CrcL>.

³⁷⁰ CRC, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 130/2020*, 6 March 2023, <https://bit.ly/40Sm2XS>.

³⁷¹ Human Rights Watch, *Subject to Whim - The Treatment of Unaccompanied Migrant Children in the French Hautes-Alpes*, 5 September 2019, available at: <https://bit.ly/395IBTk>.

across the Alps, increasing the number of injuries and other health risks (see [Access to the territory and push backs](#)).³⁷² Similar situations have been reported at the French-Spanish border in 2021.³⁷³

Benefit of the doubt

Young people are entitled to the benefit of the doubt in the event that an evaluation cannot establish their exact age, as recalled by Article 25(5) of the recast Asylum Procedures Directive. Once again, practice is not uniform across the country in this regard. In some *Départements*, assessment services assess very few young individuals as minors while in other *Départements*, evaluations lead to more positive decisions.³⁷⁴

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

Young people who are not assessed as minors by *Départements* have the possibility to appeal to the juvenile judge in order to be protected as minors, but during this procedure they will not have access to specialised reception centres that provide adequate care to children. Moreover, while they have the possibility to reach out to emergency and homeless shelters for adults, they cannot be accommodated if they claim to be minors. In the summer of 2020, 72 children who were considered as adults were evicted from an informal camp in the centre of **Paris** and referred to services for adults, multiple NGOs and support groups reported.³⁷⁵ The same civil society organisations challenged these young people’s age assessment before a court, arguing that they were children and deprived of child-protection services pending appeal.

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

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

³⁷² ECRE, ‘France: Report documents continued denial of rights to migrant children’, 5 September 2019, available at: <https://bit.ly/2S3hldx>.

³⁷³ See for example : ANAFE, ‘L’Etat français renvoie illégalement un enfant à la frontière franco-espagnole’, 10 February 2021, available in French at: <https://bit.ly/34S0yDO>.

³⁷⁴ A 2018 report indicates that the rate varies from 9 to 100%, but data used for the purpose of this study are uncertain. IGAS, IGA, IGJ, ADF, *Rapport de la mission bipartite de réflexion sur les mineurs non accompagnés*, February 2018, available in French at: <https://bit.ly/31cvCHN>.

³⁷⁵ Médecins du Monde and others, ‘Campement de mineurs non accompagnés à Paris : nous dénonçons l’incompréhensible inaction des responsables politiques’, 29 July 2020 available in French at: <https://bit.ly/41RbU2L>.

No statistics are available on the use of age assessment nationwide. A total of 14,782 young persons reported as unaccompanied minors were integrated in the national mechanism for childcare protection in 2022, a 31% increase compared to 11,315 in 2021.³⁷⁶

The 2018 asylum and immigration reform provided for the creation of an automated data processing system for unaccompanied children, aiming at “better guaranteeing child protection and at the prevention of illegal entry and stay of foreigners in France”.³⁷⁷ A Decree of 30 January 2019 further detailed this database and the evaluation process for unaccompanied children.³⁷⁸ As a result, all young persons applying for support as unaccompanied children are from now on required to register at Prefectures their personal data, including fingerprints, photograph and documents, while Childcare Protection may ask the Prefecture for help in the evaluation process as regards the identity of a young person. This new system is applied very differently depending on the competent department. In certain circumstances it deteriorated the evaluation system by placing increased attention to control rather than protection needs, thus resulting in confusion for the young migrants and an unfavourable context for an assessment in confidence,³⁷⁹ despite the guarantees set by the Constitutional court in July 2019: namely that tests must be decided by the judicial authority, and ordered only in the absence of valid identity documents. If there are doubts on the age, the person concerned, informed in a language they understand, must consent to the test (the refusal itself cannot be enough to prove the majority), taking into account the margin of error surrounding the conclusions of the radiological examination.³⁸⁰

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

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

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

Throughout the asylum procedure, OFPRA is competent for adopting specific procedural safeguards pertaining to an asylum seeker’s specific needs or vulnerability.³⁸¹

2.1. Adequate support during the interview

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

- ❖ The presence of a third person during the interview with the OFPRA protection officer.³⁸² Even though this provision does not specifically concern vulnerable applicants, it can be particularly relevant and useful for these categories of asylum seekers;
- ❖ The possibility for an asylum seeker to ask that the interview be conducted by a protection officer and with an interpreter of a specific gender. This request has to be motivated and manifestly founded by the difficulty to express the grounds for their claim in presence of people from a certain gender (especially in situations of sexual violence);³⁸³

³⁷⁶ Ministry of Justice, *Mission mineurs non accompagnés*. Online data, available in French at: <https://bit.ly/2YLoFgw>.

³⁷⁷ Article L. 142-5 Ceseda.

³⁷⁸ Decree n. 2019-57 of 30 January 2019 on methods of evaluation of persons reporting as unaccompanied minors and authorising the creation of a personal information data-file concerning those persons.

³⁷⁹ Updated information on how this system is implemented are provided, department by department, by the NGO InfoMIE. The website is accessible in French at: <https://bit.ly/37WGXOI>.

³⁸⁰ Constitutional Court, Decision No. 2019-797, 26 July 2019, available in French at: <https://bit.ly/2S9xRYe>.

³⁸¹ Article L.531-10 Ceseda.

³⁸² Article L. 531-15 Ceseda.

³⁸³ Article L. 531-17 Ceseda.

- ❖ The presence of a mental health professional for asylum seekers suffering from severe mental disease or disorder.³⁸⁴

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.³⁸⁵

OFPPA has set up 5 thematic groups (*groupes de référents thématiques*), around the following topics: sexual orientation and gender identity; unaccompanied children; torture; trafficking in human beings; and violence against women.³⁸⁶ The thematic groups follow internal guidelines developed by the *référents* and revised every year. OFPPA has also established a position of Head of Mission – Vulnerability as of 2016.

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

- ❖ Officers dealing with claims from unaccompanied children must be specifically trained and certified. They are trained on the particularities of asylum claims lodged by young individuals 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. In such cases, officers are trained based on internal training packs which refer to external sources e.g. TRACKS project or GRETA report for victims of trafficking.
- ❖ From 2013 to 2018, Forum réfugiés – Cosi and the Belgian NGO Ulysse conducted several 2-day trainings for OFPPA 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.

In 2019, Forum réfugiés-Cosi further organised trainings for 37 employees of the CNDA, focusing on interviews in which painful stories and experiences are being shared. No further trainings have been organised since.

In addition, OFPPA staff is trained on issues related to testimonies recounting painful events during the interview process. It is particularly important as the lack of sensitive approaches to vulnerable applicants has further negative consequences. For instance, it 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 showed no emotion when recalling the rape they had been subjected to or that the claimant seemed distant from the recollection of the abuses they were describing. Asylum seekers can be extremely distressed when they see such comments.

According to a recent report by the High Council on Equality, OFPPA has made notable improvements in terms of sensitivity and professionalism vis-à-vis asylum claims lodged by women.³⁸⁷ In addition, by the end of 2019, more than 9,000 persons were under OFPPA protection on grounds of risk of female genital mutilation (FGM).³⁸⁸

2.2. Prioritisation and exemption from special procedures

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

³⁸⁴ Article L. 531-18 *Ceseda*.

³⁸⁵ Article L. 532-11 *Ceseda*.

³⁸⁶ OFPPA, 'Organisation – Les divisions d'appui', available in French at: <https://bit.ly/3GJLhUW>.

³⁸⁷ Haut-Conseil à l'Égalité, *Situation des femmes demandeuses d'asile en France après l'adoption de la loi portant réforme du droit d'asile*, 18 December 2017, available in French at: <http://bit.ly/2mWvoBM>, 25.

³⁸⁸ OFPPA, 'Les premières données de l'asile 2019 à l'OFPPA', 21 January 2020, available in French at: <https://bit.ly/3biDYm4>.

Similarly, OFPRA can decide not to process the claim under the [Accelerated Procedure](#) on the basis of vulnerability or specific needs of the applicant. Yet, no more than 24 claims (0.06%) were exempted from the accelerated procedure out of a total of 37,759 claims under accelerated procedure in 2018.³⁸⁹ An improvement was noted in 2019, when OFPRA rechannelled 206 cases into the regular procedure out of a total of 40,677 cases processed in the accelerated procedure.³⁹⁰ More recent statistics were not available at the time of writing of this report.

In addition, three grounds for placing an asylum seeker under the accelerated procedure may not applied to unaccompanied children: (a) use of false identity or travel documents or false information; (b) reasons unrelated to international protection; and (c) manifestly contradictory or incoherent information, or statements that are clearly contradicted by country of origin information.³⁹¹

Exemption from the border procedure

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.³⁹² 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,³⁹³ 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:³⁹⁴

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

In practice, since the majority of unaccompanied children arriving at the border hold false documents, the criterion of falsified identity or travel documents is widely applied as a ground to conduct a border procedure for this category of asylum seekers. 60% of unaccompanied minors were granted entry in 2021 and 62.5% in 2020. In 2018, nearly half of all unaccompanied minors making an asylum claim at the border were refused access to the territory; a situation that applied to 3 in 4 unaccompanied minors in 2016 and to the large majority of them in 2015. This raises important concerns, taking into consideration that the border procedure should in principle only be applied exceptionally to unaccompanied minors but in practice UAM are often present in these places.³⁹⁵

OFPRA further developed a system to report vulnerabilities in waiting zones. Any person authorised to be present in waiting zones, including the NGOs accredited to that effect,³⁹⁶ can alert OFPRA of the existence of vulnerabilities through a functional email address.³⁹⁷ When a person is identified as vulnerable during the border procedure, OFPRA may request their release from the waiting zone.³⁹⁸ This is marginally used in practice, as only a few referrals were made in recent years and because of the

³⁸⁹ OFPRA, *2018 Activity report*, 2019, available in French at: <https://bit.ly/3ohjNji>, 21.

³⁹⁰ OFPRA, *2019 Activity report*, 2020, available in French at: <https://bit.ly/3A1awhO>, 22.

³⁹¹ Article L. 531-30 Ceseda.

³⁹² Article L. 351-3 Ceseda.

³⁹³ For detailed additional information on the risks for children at borders, see Anafé, *Brève 2016 - Mineurs isolés en zone d'attente : droits en péril aux frontières françaises*, 2 May 2017, available in French at: <http://bit.ly/2CZGtLP>; UNICEF, 'Enfants non accompagnés : la protection de l'enfance doit s'exercer aussi à la frontière franco-italienne', 13 December 2017, available in French at: <http://bit.ly/2pXsgoG>.

³⁹⁴ Article L. 351-2 Ceseda.

³⁹⁵ See for example : ANAFE, Publication on Twitter, 25 February 2022; Publication on 23 June 2021.

³⁹⁶ Article L. 343-6 Ceseda.

³⁹⁷ ECRE/AIDA, *Access to asylum and detention at France's borders*, June 2018, available at: <https://bit.ly/3jEbV53>, 22.

³⁹⁸ Article L. 351-3 Ceseda.

limited NGO presence (see legal assistance). In 2016, only 5 persons were released from the waiting zones due to their vulnerability;³⁹⁹ and none in 2017.⁴⁰⁰ More recent data are not available.

Overall, given the tight deadlines of the border procedure, which require OFPRA to issue an opinion to the Ministry of Interior within two working days, it is unlikely that vulnerable asylum seekers are able to benefit from “sufficient time” to put forward their claim. Moreover, practice suggests that applicants are not released from waiting zones, even in cases where their vulnerability is reported by NGOs. The vulnerability of an 8-months pregnant woman was reported by Anafé to OFPRA, but she continued to be held in the transit zone. She further had to stand for an hour during the interview, as the latter was conducted through a wall mounted telephone.⁴⁰¹

3. Use of medical reports

Indicators: Use of Medical Reports

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

The Ceseda mentions that medical reports may be taken into account by OFPRA along with other elements of the asylum claim.⁴⁰² In practice, such reports are considered in the light of the applicant's statements. Applicants often present medical certificates from specialised centres. According to some doctors, all too often, their certificates are not taken into account, as OFPRA often dismisses them as evidence, without seeking a second opinion. The medical report is paid for by asylum seekers via the state supported medical insurance: the “*protection universelle maladie*” (PUMA) or “*aide médicale d'Etat*” (AME).

A medical certificate to confirm the absence of female genital mutilation (FGM) is requested during the examination of an asylum request presented by a young woman or girl based on that risk in her country of origin.⁴⁰³ During the OFPRA interview, the woman applying for asylum in her own name will be asked to demonstrate the reasons why she fears to be subjected to FGM in case of return to her country of origin. If the asylum claim is made on behalf of a child, both parents will have to bring such evidence. Once a protection has been granted, the requirement of a medical certificate remains, as long as the risk exists and as long as the person concerned is under 18. OFPRA requires thus that a medical certificate be sent every three year, proving that the person has still not undergone FGM.⁴⁰⁴ OFPRA may require a medical certificate within that period of time if it has serious reasons to believe that sexual mutilation has been or could be practised. A Decree of 23 August 2017 specifies the terms of this obligation, the list of authorised doctors, and consequences of refusal for parents.⁴⁰⁵

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 2013.⁴⁰⁶ On 10 April 2015, the Council of State applied the position of the ECtHR for the first time. It cancelled the CNDA decision, considering it should have duly taken into account the medical report presented by the asylum seeker as it was supporting his story and explaining his fears in case of return. As from this judgment, the CNDA has to take into consideration documents, such as medical

³⁹⁹ OFPRA, Annual report 2016, 2017, available in French at: <https://bit.ly/41DlyWB>, 42.

⁴⁰⁰ ECRE/AIDA, *Access to asylum and detention at France's borders*, June 2018, available at: <https://bit.ly/3jEbV53>, 20.

⁴⁰¹ Information provided by Anafé, 17 September 2020.

⁴⁰² Article L. 531-11 Ceseda.

⁴⁰³ Articles L. 531-11 and L. 561-8 Ceseda.

⁴⁰⁴ Article L. 561-8 Ceseda

⁴⁰⁵ Decree NOR: INTV1721843A of 23 August 2017, available in French at: <http://bit.ly/2CTyzAm>.

⁴⁰⁶ ECtHR, *RJ v France*, Application No 10466/11, Judgment of 19 September 2013, available at: <http://bit.ly/1HBYxIE>.

reports, presenting elements relating to alleged risks and fears. The Court also has to justify why it does not consider the elements as serious.⁴⁰⁷ This significantly strengthens the consideration for psychological and physical wounds of asylum seekers and balances out the power of the CNDA compared to the asylum seeker.⁴⁰⁸ Through a decision of 17 October 2016, the Council of State reiterated and reinforced this position.⁴⁰⁹

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:⁴¹⁰

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

This organisation still considered in 2021 that "the logic of torture is not compatible with that of proof, currently dominant in the current approach to the right of asylum in France".⁴¹¹

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 2021, 867 asylum claims from unaccompanied children were registered by OFPRA. This represents an increase of 33% compared to the 653 asylum claims lodged in 2020.⁴¹² Statistics on the year 2022 were not available at the time of writing. After having steadily decreased since 2011, the number of claims introduced by unaccompanied children has been increasing in line with the overall number of asylum seekers in Europe. Yet, it remains very low compared to the overall number of unaccompanied children reported to Childcare Protection.

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

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

In 2021 the unaccompanied children seeking asylum in France mainly came from **Afghanistan** (520, i.e. 60.3% of all UAM asylum claims), followed at a distance by **Guinea** (53, i.e. 6.1%) and DRC (43, i.e. 5%). The socio-demographic characteristics of these asylum seekers show that 86% were between 16 and 17 years old and 82.6% were boys. In 2021, the recognition rate was 73.4% at OFPRA (85.2% when including protections granted in appeal), as opposed to a 25.9% first instance recognition rate overall.⁴¹³

⁴⁰⁷ Council of State, Decision No 372864, 10 April 2015, available in French at: <http://bit.ly/1hjmyZ2>.

⁴⁰⁸ Nicolas Klausser, 'Vers un renforcement du « droit » à une procédure équitable des demandeurs d'asile et une meilleure prise en compte de leurs traumatismes ?', La revue des droits de l'homme, May 2015.

⁴⁰⁹ Council of State, Decision No 393852, 17 October 2016, available in French at: <https://bit.ly/43GGP3e>.

⁴¹⁰ Association Primo Lévi, *Persécutés au pays, déboutés en France : Rapport sur les failles de notre procédure d'asile*, November 2016, available in French at: <https://bit.ly/3odqTFn>.

⁴¹¹ Motin, Pierre, 'Certificat médical et demande d'asile. Le corps pris à témoin', *Mémoires*, vol. 80, no. 1, 2021, available in French at: <https://bit.ly/3GNg17y>, 8-9.

⁴¹² OFPRA, *2021 Activity report*, June 2022, available in French at: <https://bit.ly/3KHmAki>.

⁴¹³ *Ibid.*

OFPPRA 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 OFPPRA, 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 with specially trained protection officers;
- ❖ Interviewing unaccompanied minors three months after registering their claim at OFPPRA 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.⁴¹⁴

As unaccompanied children do not have any legal capacity as minors, they must be represented for any act under all asylum procedures. When they are deprived of legal representation (i.e. if no guardian has been appointed by the guardianship judge before placement in care), the Public Prosecutor, notified by the Prefecture, should appoint an *ad hoc* administrator (legal representative) who will represent them throughout the asylum procedure.⁴¹⁵ This legal representative is appointed to represent the child only in administrative and judicial procedures related to the asylum claim. This person is not tasked to ensure the child's welfare in the way a guardian would be. Every 4 years, within the jurisdiction of each Appeal Court, a list of *ad hoc* administrators is drawn up. They represent children held in waiting zones at the border or children who have applied for asylum. These *ad hoc* administrators receive a flat allowance to cover their expenditure. No specific training or at minimum awareness of asylum procedures is required for their selection.⁴¹⁶

As soon as possible after the unaccompanied child has introduced their asylum claim, the Prefecture shall engage in investigating to find the minor's family members, while protecting their best interests.⁴¹⁷

At the border, an *ad hoc* administrator should be appointed "without delay" for any unaccompanied child held in a waiting zone.⁴¹⁸

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

At OFPPRA level, the *ad hoc* administrator is the only person authorised to sign the asylum application form. The CNDA has annulled an OFPPRA decision rejecting an asylum claim of an unaccompanied child, after an interview conducted without the presence of the *ad hoc* administrator. In this decision, the Court held that the conduct of an interview in such circumstances as a violation of the fundamental guarantees applicable to asylum seekers.⁴¹⁹

⁴¹⁴ OFPPRA, *2016 Activity report*, 2017, available in French at: <https://bit.ly/41DlyWB>, 31.

⁴¹⁵ As provided by Article 17 Law of 4 March 2002 on parental authority and by Article L.741-3 Ceseda.

⁴¹⁶ 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.

⁴¹⁷ Article L. 521-12 Ceseda.

⁴¹⁸ Article L. 343-2 Ceseda.

⁴¹⁹ CNDA, *Mme Y*, Decision No 14012645, 5 October 2016.

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
2. Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance ☒ Yes ☐ No
 - ❖ At the appeal stage ☐ Yes ☒ No⁴²⁰
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:⁴²¹

- The rejection of an asylum application by the CNDA or by OFPRA without appeal;
- The asylum seeker had previously withdrawn their asylum claim and did not ask for a reopening within 9 months;
- OFPRA has taken a decision to discontinue the processing of the claim and a 9-month period has elapsed;⁴²²
- The asylum seeker has left the French territory, including to go back to their country of origin.

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

In order for the asylum seeker to introduce a subsequent application they must, as all asylum seekers, present themselves to the Prefecture to register their claim and obtain an asylum claim certificate.⁴²³ Since March 2017, the person has to go back to the orientation platform (SPADA) to obtain an appointment at the GUDA like all asylum seekers.

The Prefecture can refuse to grant the asylum seeker the certificate when a first subsequent application has already been rejected by OFPRA or when a first subsequent application is submitted in order to prevent a compulsory removal order.⁴²⁴ In case of a subsequent application, the time period to send the completed asylum claim is shorter than in case of a first application: instead of 21 days, the asylum seeker has 8 days to introduce their subsequent claim before OFPRA.⁴²⁵ In case the claim is incomplete, the asylum seeker has 4 days, instead of 8 in case of a first application, to send missing elements.

If a removal order has been issued following the rejection of the first asylum application, it will be suspended during the examination of the first subsequent application by OFPRA.⁴²⁶

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

Assessment of new facts or circumstances

When OFPRA receives the subsequent application, it conducts a preliminary examination within 8 days in order to determine whether the subsequent application is admissible or not.⁴²⁷ The assessment of

⁴²⁰ No systematic suspensive effect.

⁴²¹ Article L. 531-41 Ceseda.

⁴²² Article L. 531-40 Ceseda. Note that this decision is appealed not before the CNDA but before the territorially competent Administrative Court: Council of State, Decision No 412292, 17 January 2018.

⁴²³ Article R. 531-35 Ceseda.

⁴²⁴ Article L. 542-2 Ceseda.

⁴²⁵ Article R. 531-4 Ceseda.

⁴²⁶ Article L. 541-3 Ceseda.

⁴²⁷ Article R. 531-38 Ceseda.

admissibility has been further interpreted by case law. The Council of State has upheld the CNDA position stating that the preliminary assessment of the admissibility of a claim must fulfil two cumulative conditions: (a) the alleged facts or circumstances must be “new”; and (b) their probative value must be such as to warrant a modification of the assessment of the well-founded nature of the claim.⁴²⁸

With regard to the first limb, the Council of State ruled later in 2018 that a final judgment by the ECtHR finding that a removal measure to the country of origin would constitute a violation of Article 3 ECHR constitutes new evidence, warranting admissibility of the subsequent application.⁴²⁹

To support their subsequent application, the asylum seeker must provide in writing “new evidence” or facts subsequent to the date of the CNDA decision, or evidence occurring prior to this date if they were informed of it only subsequently.⁴³⁰ In practice, a previous fact could also be considered as “new”, if the asylum seeker had not referred to it during the first application due to their being “under coercion”. This mainly concerns women who have been victims of human trafficking (i.e. prostitution) and who must then prove they have definitely escaped the influence of the trafficking network.

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

Preliminary admissibility procedure

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

If, after the preliminary examination OFPRA considers that this “new evidence” or facts do not significantly increase the risk of serious threats or personal fears of persecution in case of return, it can declare the subsequent application inadmissible. The decision must be notified to the asylum seeker as well as information relevant to the procedure and deadlines for lodging an appeal.⁴³¹ On the contrary, if the subsequent application is admissible, OFPRA has to channel it under the accelerated procedure and summon the asylum seeker to an interview. So far, the practice has demonstrated that asylum seekers who lodge a subsequent application often do not get an interview.

An appeal can be lodged before the CNDA within a time period of 1 month. However, following the 2018 reform, this appeal no longer has suspensive effect.⁴³² The CNDA will then have 5 weeks to issue a decision on the appeal.⁴³³ Negative decisions “by order” (*ordonnance*) continue to be common practice.

Out of the total approx. 131,000 applications registered by OFPRA in 2022, 16,150 were subsequent applications, thus representing 12.3% of the total number of applications registered,⁴³⁴ compared to 13,808 in 2021 (13.5% of total applications),⁴³⁵ 8,764 subsequent applications in 2020, representing 9.1% of the total number of applications registered,⁴³⁶ and 8,904 subsequent applications in 2019. Countries of nationality most represented in subsequent applications in 2021 were Albania (1,056), Afghanistan (984), Sri Lanka (916), Guinea (767), Nigeria (763), Pakistan (757).

⁴²⁸ Council of State, Decision No 3979611, 26 January 2018; CNDA, Decision Nos 15025487 and 1502488, 7 January 2016.

⁴²⁹ Council of State, Decision No 406222, 3 October 2018.

⁴³⁰ Article L. 531-42 Ceseda.

⁴³¹ Article L. 531-32 Ceseda.

⁴³² Article L. 542-2 Ceseda.

⁴³³ Article L. 532-6 Ceseda.

⁴³⁴ OFPRA, ‘Les premières données de l’asile 2022 à l’OFPRA sont disponibles [chiffres provisoires]’, 17 January 2023, available in French at: <https://bit.ly/3QTlgXc>.

⁴³⁵ OFPRA, *2021 Activity report*, June 2022, available in French at: <https://bit.ly/3KHmAki>, 8.

⁴³⁶ Ministry of Interior, *Chiffres clés – Les demandes d’asile*, 21 January 2020.

Starting from the notification of a negative decision by OFPRA on a first subsequent application, regardless of its admissibility or not, the Prefecture can refuse to deliver or renew the asylum claim certificate and can issue an order to leave French territory (OQTF).⁴³⁷

F. The safe country concepts

Indicators: Safe Country Concepts

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

1. Safe country of origin

1.1 Definition and procedural consequences

The notion of safe countries of origin was introduced in French legislation by the Law of 10 December 2003.⁴³⁸ The definition is completed by a reference to the definition provided in Annex 1 of the recast Asylum Procedures Directive that provides that:

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

By law, a country is considered safe “if it ensures respect for the principles of freedom, democracy and the rule of law, as well as human rights and fundamental freedoms”. The definition has been complemented with the 2018 reform, and now states that the absence of persecution has to be considered for men and women, regardless of their sexual orientation.⁴³⁹

Applications from safe countries of origin are to be systematically processed by OFPRA within an [Accelerated Procedure](#),⁴⁴⁰ except under special circumstances relating to vulnerability and specific needs of the asylum seeker or if the asylum seeker calls upon serious reasons to believe that their country is not be safe given their personal situation and the grounds of their claim.⁴⁴¹

1.2 List of safe countries of origin

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

⁴³⁷ Article L. 542-2 Ceseda.

⁴³⁸ Law n. 2003-1176 of 10 December 2003 on the right to asylum.

⁴³⁹ Article L. 121-13 Ceseda, as amended by Article 6 Law n. 2018-778 of 10 September 2018.

⁴⁴⁰ Article L. 531-24 Ceseda.

⁴⁴¹ Article L. 531-28 Ceseda.

The board is made up of 16 members:⁴⁴²

- ❖ 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.⁴⁴³

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.'⁴⁴⁴

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

The list of countries considered to be safe countries of origin is public. At the end of 2022 it included the following 13 countries:⁴⁴⁵

- | | |
|-----------------------|--------------------|
| ❖ Albania; | ❖ North Macedonia; |
| ❖ Armenia; | ❖ Mauritius; |
| ❖ Bosnia-Herzegovina; | ❖ Moldova; |
| ❖ Cape Verde; | ❖ Mongolia; |
| ❖ Georgia; | ❖ Montenegro; |
| ❖ India; | ❖ Serbia |
| ❖ Kosovo; | |

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

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

⁴⁴² Article L. 531-25 Ceseda.

⁴⁴³ Article L. 531-25 Ceseda.

⁴⁴⁴ Article L. 531-25 Ceseda.

⁴⁴⁵ OFPRA, *List of Safe Countries of Origin*, 9 October 2015, available at: <https://bit.ly/41wDKkz>.

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

Country	Removal by Council of State
Albania	February 2008; March 2012 (currently on the list)
Armenia	July 2010
Bangladesh	March 2013
Kosovo	March 2012; October 2014 (currently on the list)
Madagascar	July 2010
Mali	July 2010 (for women only)
Türkiye	July 2010
Benin, Senegal, Ghana	July 2021

In October 2019,⁴⁴⁶ the Management Board of OFPRA decided to maintain the current list of safe countries of origin, but added that the situation in Benin would be reviewed within six months.⁴⁴⁷ In September 2020, the Management Board of OFPRA decided to suspend the placement of **Benin** as safe country of origin during 12 months.⁴⁴⁸

In a decision of 2 July 2021, the Council of State removed Benin, Senegal and Ghana from the list of safe countries of origin but maintained all other countries.⁴⁴⁹ Regarding Benin, the Council considers that the temporary suspension decided by OFPRA was insufficient in view of the political deterioration in the country. For Ghana and Senegal, the withdrawal is motivated by the persecution against homosexuals. Some of the requests made by the NGOs were analysed in another decision, following a referral to another court formation. The Council of State considered in November 2021 that the other countries (Armenia, Georgia) could not be withdrawn but laid down a new principle on the assessment of the legality of these measures: the examination may be based on new circumstances subsequent to the establishment of the list.⁴⁵⁰

In 2021, 12,787 first-time applications (excluding minors) were lodged by persons originating from the 13 “safe countries of origin” (19% of all first asylum applications). In 2022, applicants from **Albania** and **Georgia** are in the top ten countries of origin of asylum seekers in France.⁴⁵¹

2. Safe third country

The safe country concepts were heavily debated in the context of the 2018 asylum reform. While the government had announced preliminary plans to codify the concept of “safe third country” in French law, this was later abandoned in the bill.⁴⁵²

3. First country of asylum

The “first country of asylum” concept, requiring that a person has obtained international protection in a third country, is a ground for inadmissibility.⁴⁵³ The possibility of enjoying “sufficient protection” is not

⁴⁴⁶ For further details about previous withdrawals and challenges, see previous updates of this country report, available at: <https://bit.ly/3KLYFJo>.

⁴⁴⁷ OFPRA, *Press release*, 5 October 2019, available in French at: <https://bit.ly/37MsAwD>.

⁴⁴⁸ OFPRA, *Decision of September 29, 2020 suspending the Republic of Benin from the list of safe countries of origin*, available in French at: <https://bit.ly/3ALPCUA>.

⁴⁴⁹ Council of State, *Decisions No. 437141, 437142, 437365*, 2 July 2021, available in French at: <https://bit.ly/3ohxtLk>.

⁴⁵⁰ Council of State, *Decision No. 437141*, 19 November 2021, available in French at: <https://bit.ly/3A5OsTo>.

⁴⁵¹ Ministry of Interior, *Chiffres clés – Les demandes d’asile*, 26 January 2023 available in French at: <https://bit.ly/4039Kel>.

⁴⁵² *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>.

⁴⁵³ Article L. 531-32 *Ceseda*.

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.⁴⁵⁴

Regarding the effective protection granted in a non-EU Member State, the Council of State only refers to effective protection without detailing what it is made of.⁴⁵⁵

In 2020, OFPRA took 368 inadmissibility decisions on this ground.⁴⁵⁶ A detailed breakdown by nationality is not available, nor recent statistics on the year 2022.

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

1. Provision of information on the procedure

Indicators: Information on the Procedure

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

- ❖ Is tailored information provided to unaccompanied children? ☒ Yes⁴⁵⁷ ☐ No

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

“The asylum seeker receives an information document about the asylum procedure, their rights and obligations they must respect over the course of this procedure, the potential consequences of failure to meet these obligations or any refusal to cooperate with the authorities and the measures available to them to help them present their request before OFPRA. This information should be provided in a language they can reasonably be expected to understand.”

Information is provided in a language that the asylum seeker understands or is likely to understand.⁴⁵⁸ This information has been compiled under a general “Guide for asylum seekers in France” (*guide du demandeur d’asile en France*). The guide is supposed to be provided by the Prefecture, but there is no information as to whether this is effectively done in practice. The guide was updated in September 2020 and is available in French and 30 other languages.⁴⁵⁹ 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.

OFPRA however has published a guide on procedures which has shown to be very useful both for asylum seekers and for practitioners. This includes information on the regular procedure, inadmissibility and accelerated procedures, appeals, the interview, the content of protection etc. The last version was updated in December 2022.⁴⁶⁰

⁴⁵⁴ Council of State, *Cimade et M.O.*, Decisions Nos 349735 and 349736, 13 November 2013, available in French at: <https://bit.ly/3GQEZmy>.

⁴⁵⁵ Council of State, *OFPRA v. M.S.*, Decision No 369021, 17 June 2015, available in French at: <https://bit.ly/3MP5blj>.

⁴⁵⁶ OFPRA, *2020 Activity report*, available in French at: <https://bit.ly/3GPni7b>, 60.

⁴⁵⁷ This largely depends on the knowledge and expertise of the social worker in charge of the unaccompanied child.

⁴⁵⁸ Article R. 521-16 Ceseda.

⁴⁵⁹ Ministry of Interior, *Guide du demandeur d’asile*, September 2020, available at: <https://bit.ly/3uTut6A>.

⁴⁶⁰ OFPRA, *Guide des procédures à l’OFPRA*, December 2022, available in French at: <https://bit.ly/40TaofZ>.

Moreover, in 2014 OFPRA published a guide on the right of asylum for unaccompanied minors in France which was subsequently updated in 2020.⁴⁶¹ The guide is quite comprehensive, describing the steps of the asylum procedure, the appeals and the procedure at the border. However, it is more used by professionals than by the minors themselves because it remains hard to understand. OFPRA has stated its intention to share this guide as widely as possible in Prefectures, in waiting zones at the border and with stakeholders working in children's care. In practice, this guide is not available in all prefectures, however. In many regions, the prefecture agents encourage asylum seekers to download it on OFPRA's website.

During COVID, the provision of information on the health situation and the consequent suspension of asylum activities was handed over to NGOs. However, OFPRA's website was updated regularly with information for asylum seekers on a dedicated page (only available in French, however).

1.1. Information on Dublin

Information provided about the Dublin procedure varies greatly from one Prefecture to another. When going to the prefecture to apply for asylum, all applicants are handed, at the desks, an information leaflet on the Dublin procedure (Leaflet A)⁴⁶² 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).⁴⁶³ The Prefecture asks the applicant to sign a letter written in French which lists the information that has been provided to them as well the language in which this information was provided, as requested under Article 4 of the Dublin III Regulation.

The asylum seeker knows when a take charge or a take back procedure has been initiated, due to information provided on the back of their Dublin notice, which is translated into the language of the asylum seeker. There is, however, no information about the country to which a request has been sent, nor on the criteria that have led to this decision.

1.2. Information at the border

In the waiting zones at the border, Forum réfugiés notes a serious lack of information as to the possibility of requesting admission to French territory on asylum grounds (see section on [Border Procedure](#)). When a person is arrested at the border, they are notified of an entry refusal, in theory with the presence of an interpreter if necessary.⁴⁶⁴ However, many stakeholders doubt that the information provided and the rights listed therein are effectively understood. For example, it is very surprising to note that those intercepted nearly always agree to renounce their right to a "full day" notice period (*jour franc*) i.e. 24 hours during which the person cannot be returned, and tick the box confirming their request to leave as soon as possible.

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

⁴⁶¹ OFPRA, *Guide de l'asile pour les mineurs isolés étrangers en France*, January 2020, available in French at: <https://bit.ly/3oekxpj>.

⁴⁶² 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>.

⁴⁶³ European Commission and Migrationsverket, *Leaflet B: "I am in the Dublin procedure – What does this mean?"*, 2014, available at: <http://bit.ly/1dBoCd2>.

⁴⁶⁴ Article L. 343-1 Céseda.

2. Access to NGOs and UNHCR

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

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No
❖ If yes, specify which:
2. Are applications from specific nationalities considered manifestly unfounded?⁴⁶⁵ ☒ Yes ☐ No
❖ If yes, specify which: Albania, Armenia, Benin, Bosnia-Herzegovina, Cape Verde, Georgia, Ghana, India, North Macedonia, Kosovo, Mauritius, Moldova, Mongolia, Montenegro, Senegal, Serbia

There is no explicit policy of considering specific nationalities as manifestly well-founded. At most, some nationalities obtain higher rates of protection than the average rate e.g. **Syria, Iraq or Afghanistan**. In 2018, rates for Afghanistan dropped to 67.4%, for Syria to 85.6% and for Iraq to 73.1% according to Eurostat. Similarly in 2019, rates for Afghanistan dropped to 62.5%, for Syria to 71.5% and 66.8% for Iraq according to Eurostat. In 2020, the first instance recognition rate was for 75.9% for Syrians, 39.4% for Iraqis and 63.2% for Afghans. In 2021, this recognition rate was 80.9% for Syrians, 41.4% for Iraqis and 74.9% for Afghans.

Ukraine

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

Afghanistan

Starting from a CNDA judgment of March 2018, Afghan nationals widely benefitted from protection. The CNDA held that the situation of indiscriminate violence in Kabul was of such degree for Article 15(c) to be triggered by a person's mere presence.⁴⁶⁶ However, in a Grand chamber decision of 19 November 2020, the CNDA changed its position, now considering that the level of violence in Kabul was not high enough to justify a protection for all people arriving at airports.⁴⁶⁷ This meant that individual circumstances needed to be assessed again and put Afghan nationals at risk of return. Yet, in its country of origin report on the Security situation in Afghanistan of 28 September 2020, the European Asylum Support Office (EASO) – now European Union Asylum Agency (EUAA) – confirmed that the conflict in the country continued to be described as one of the deadliest in the world for civilians and adds that “several sources reported a spike in violence during the first six months of 2020, with an increase in the number of civilian casualties, particularly in the northern and north-eastern regions”.⁴⁶⁸

The situation in Afghanistan changed in 2021 following the Taliban take over in mid-August. Following these events, France evacuated more than 2,600 Afghans who entered the asylum system and obtained protection. At the end of 2021, 2,228 asylum applications from these people have been registered by OFPRA and 1,642 decisions taken according protection at 99,9%.⁴⁶⁹ No data is yet available for 2022.

⁴⁶⁵ Whether under the “safe country of origin” concept or otherwise.

⁴⁶⁶ CNDA, *M. H.*, Decision No 17045561, 9 March 2018, available in French at: <https://bit.ly/43ET4xb>.

⁴⁶⁷ CNDA, Decision No. 19009476 R, 19 November 2020 available in French at: <https://bit.ly/2KCsYXX>; CNDA, Decision No. 18054661 R, 19 November 2020, available in French at: <https://bit.ly/3d5uJsB>.

⁴⁶⁸ EASO, *Afghanistan Security situation – COI Report*, September 2020, available at: <https://bit.ly/3aixrJL>.

⁴⁶⁹ OFPRA, *2021 Activity report*, June 2022, available in French at: <https://bit.ly/3KHmAKi>, 45.

However, this development of the situation also changed the case-law of the CNDA. In September 2021, CNDA decided that subsidiary protection based on the existence of a generalised conflict was no longer applicable as the Taliban takeover had put an end to this conflict.⁴⁷⁰ Protection under the Geneva Convention was of course still possible (early 2023 it was granted for example for members of the Tadjike community from Panjshir province and from Andarab district in Baghlan province),⁴⁷¹ but more difficult to obtain.⁴⁷² Subsequently, the CNDA took another more nuanced decision: it granted subsidiary protection, for the risk of inhuman and degrading treatment, for a vulnerable young Afghan for whom the risks in the event of return are significant.⁴⁷³ At the end of the year, CNDA specified that the mere stay in Europe was not sufficient to justify fears in the event of return and to obtain protection.⁴⁷⁴ In 2023, the Court reversed its 2021 case law, finding that the situation in several provinces did fall under subsidiary protection (indiscriminate violence).⁴⁷⁵

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

Relocations

Furthermore, differential treatment of specific nationalities seems to be applied in the framework of *ad hoc* relocation schemes implemented since June 2018. Following “boat-by-boat” agreements following disembarkations in Italy, Malta and Spain, over 280 persons were relocated to France in 2018.⁴⁷⁶ In October 2019, a member of the government stated that more than 600 people had been admitted in France through relocation within a year. At the end of 2019, 366 asylum seekers and 491 unaccompanied minors have been transferred from Greece to France as part of the ‘voluntary relocation scheme from Greece to other European countries’ that started in March 2020.⁴⁷⁷ (see also [Access to the territory](#)).

All relocated persons have previously undergone interviews with OFPRA, which assesses their need for protection and potential threats to public order. No official data are available about this mechanism or the nationality of the selected persons. However, it appears through communication upon arrival in France from OFII and the Ministry of Interior that relocated persons are mainly from **Sudan**, **Eritrea** and **Somalia**. Following their arrival, these persons are quickly received by OFII and granted refugee status by OFPRA.

Safe country concepts

Asylum seekers that are nationals of countries listed as safe are dealt with most of the time under an accelerated procedure (see [Safe Country of Origin](#)). Their access to asylum from detention is also more circumscribed compared to other nationalities (see [Registration](#)). The average protection rate for such nationalities was 9.5% in 2021, at first and second instance combined, but there are important variations from one country to another. For example, in 2021, **Kosovo** had a general protection rate of 16.7%, **Albania** had a rate of 16.5%, while **Bosnia** only 2.4%.

⁴⁷⁰ CNDA, 21 September 2021 M. A. No. 18037855 C+, available in French at: <https://bit.ly/35msMGA>.

⁴⁷¹ CNDA, 20 January 2023, M.A., n°21034662.

⁴⁷² See for example : CNDA, 5 November 2021 M. S. No. 20025121 C, available in French at: <https://bit.ly/3sVOhpl>; CNDA, 8 December 2021 Mme M. No. 21022972 C, available in French at: <https://bit.ly/3se858s>.

⁴⁷³ CNDA, 21 September 2021, No. 18037855, available in French at: <https://bit.ly/3LRJaiV>.

⁴⁷⁴ CNDA 29 November 2021 M. A. No. 21025924 C+, available in French at: <https://bit.ly/3ljihCn>.

⁴⁷⁵ CNDA, *Press release*, 10 March 2023, available in French at: <https://bit.ly/3VpjoyW>.

⁴⁷⁶ Senate, Reply to written question n. 05842, 24 January 2019, available in French at: <https://bit.ly/2GRdMII>.

⁴⁷⁷ IOM, ‘Voluntary relocation scheme from Greece to other European countries’, Factsheet, 10 January 2022, available at: <https://bit.ly/3t3CeGO>.

Reception Conditions

Short overview of the reception system

OFII (*Office français de l'immigration et de l'intégration*) is the administration responsible for the reception of asylum seekers. All asylum seekers are referred to OFII after being registered as asylum seekers by *Prefectures*.

OFII interviews asylum seekers to assess whether they are eligible to reception conditions. If so, they will be directed to accommodation. In practice, the orientation of asylum seekers to accommodation takes place in the days or weeks following the OFII interview, but only half are accommodated in reception centres for asylum seekers. OFII is also in charge of setting and granting financial allowances. Payment starts after the registration of the asylum claims at OFPRA. The asylum claim must be sent to OFPRA in a maximum time of 21 days after registration by the *Prefecture*.

Asylum seekers are only accommodated when there is enough capacity. Yet, places are currently insufficient as a result of which OFII must prioritise cases based on individual circumstances and vulnerability. Persons entitled to reception following a decision from OFII can stay in the centre for 6 months after they are granted international protection or for 1 month after their claim is rejected.

Accommodation centres for asylum seekers provide rooms to sleep and cook (usually common kitchens) as well as assistance from social workers on legal and social issues. Each centre is different, ranging from large buildings with offices and bedrooms to apartments at different locations.

There are different types of accommodation centres:

- ❖ CAES (*centres d'accueil et d'évaluation des situations*): these are transit centres which aim at providing a quick access to reception while evaluating ones' personal situation so that they can be re-directed accordingly;
- ❖ CADA (*centres d'accueil pour demandeurs d'asile*): these are accommodation centres for all asylum seekers, with the exception of those subject to a Dublin procedure;
- ❖ HUDA (*lieux d'hébergement d'urgence pour demandeurs d'asile*): these are centres for all applicants, including Dublin applicants.

On 18 December 2020, the Ministry of Interior published its 2021-2023 national reception plan for asylum seekers and the integration of refugees.⁴⁷⁸ This plan makes it possible to adapt the reception policy to the migration context and to the specific characteristics of the regions, *inter alia* through a better distribution of asylum seekers across all French territory. It is based on two pillars: better accommodation and support. Since 2021, this plan (governed by an order of 7 April 2021)⁴⁷⁹ enabled better orientation from the Paris region: 36,106 asylum seekers were directed to accommodation in another region,⁴⁸⁰ including 19,378 in 2022. However, this plan had a negative impact on accommodation in these regions, as the local situation has not improved and it is now becoming almost easier to be accommodated from Paris than from other places. Moreover it can lead to deprivation of all reception conditions for people who do not accept to go to another region (27% between January 2021 and July 2022).⁴⁸¹

⁴⁷⁸ Ministry of Interior, *Schema national d'accueil des demandeurs d'asile et d'intégration des réfugiés*, 18 Décembre 2020, available in French at: <https://bit.ly/3piiY10>.

⁴⁷⁹ Arrêté du 7 avril 2021 pris en application de l'article L. 744-2 du code de l'entrée et du séjour des étrangers et du droit d'asile, NOR : INTV2107330A, available in French at: <https://bit.ly/3LQ6r53>.

⁴⁸⁰ Strategic committee on national reception plan, meeting at ministry of Interior, 20 March 2023.

⁴⁸¹ Assemblée nationale, *Rapport fait au nom de la Commission des lois sur le projet de loi de finances 2023*, 6 October 2022, available in French at: <https://bit.ly/3Zr39e5>.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

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

The law establishes a national reception scheme, managed by OFII.⁴⁸² This scheme ensures the distribution of accommodation places for asylum seekers throughout the national territory, and their allocation thereto. In parallel and in compliance with the national reception scheme, regional schemes are defined and implemented by Prefects in each region.

All asylum seekers are offered material reception conditions under Article L. 551-9 Ceseda. This provision applies to all asylum seekers even if their claim is channelled under the accelerated or Dublin procedure. The only exception is that asylum seekers under the Dublin procedure do not have access to reception centres for asylum seekers (CADA).

Reception conditions can be denied in the following cases:⁴⁸³

- ❖ When they refuse to go to their attributed region;
- ❖ When they refuse their accommodation option, either at the GUDA or by not showing up within 5 days;
- ❖ Subsequent applications;
- ❖ Claim registered 90 days after entering France without a valid reason.

In practice, OFII deny asylum seekers the benefit of reception conditions whenever it has the possibility to do so.

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

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

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

During COVID-19, access to reception conditions was hindered as a result of the suspension of registration activities. Thus, from mid-March to the beginning of May 2020, access to reception centres was limited to asylum seekers registered prior to the first lockdown, albeit with the difficulties described above – such as a limited reception capacity – which were further exacerbated by other factors – such as fewer exits from the centres because the authorities asked managers of centres to hold rejected asylum

⁴⁸² Article L. 551-1 Ceseda.

⁴⁸³ Article L. 551-15 Ceseda.

seekers and refugees in the reception centres. This situation was criticised by NGOs.⁴⁸⁴ As regards people without accommodation (i.e. asylum seekers, refugees and homeless persons including nationals), many places in emergency housing were opened during this period to reduce homelessness.

Asylum seekers' financial contribution

Accommodation fees for asylum seekers are covered by the State. However, accommodated asylum seekers whose monthly resources are above the monthly rate of the Active Solidarity Income (*Revenu de Solidarité Active*, RSA), € 607,75 for a single adult, pay a financial contribution for their accommodation.

In addition, organisations managing reception facilities are entitled to require a deposit for the accommodation provided under certain conditions. The deposit is refunded, totally or partially, to the asylum seeker when they leave the reception facility. A Decree of 15 November 2016 states the deposit will not be paid back if the asylum seekers stay longer than allowed in accommodation centres, that is 1 month if their claim is rejected and 6 months if protection is granted.⁴⁸⁵

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2022:

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

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

The law excludes asylum seekers from the granting of all family-related welfare benefits as the asylum claim certificate provided to asylum seekers is not listed in the residence permits that makes one eligible to these benefits.⁴⁸⁶ Asylum seekers are also not eligible to receive the social welfare allowance, the so-called Active Solidarity Income (RSA), granted to individuals over 25 years old who do not have resources or have very low incomes.

The allowance for asylum seekers (*allocation pour demandeur d'asile*, ADA)⁴⁸⁷ is granted to asylum seekers above 18 years old,⁴⁸⁸ who accept material conditions proposed by OFII and remain eligible for reception conditions. Only one allowance per household is allowed.⁴⁸⁹ The payment of the allocation ends at the end of the month of the decision ending the right to remain on the territory.⁴⁹⁰

The amount of the ADA is calculated on the basis of resources, type of accommodation provided and age criteria. Family composition, in particular the number of children, is considered in the calculation of the ADA.⁴⁹¹ The total amount is re-evaluated once a year, if needed, to take into account the inflation rate.

The daily amount of the ADA is defined upon application of the following scale:⁴⁹²

⁴⁸⁴ See e.g. Forum réfugiés-Cosi, 'L'impact de la crise sanitaire sur le droit d'asile en France. Constats et recommandations.', *Policy note*, 4 May 2020, available in French at: <https://bit.ly/3rky7M>.

⁴⁸⁵ Decree NOR: INTV1630817A of 15 November 2016 on the application of Article L.744-5 Ceseda, available in French at: <https://bit.ly/41v8LoY>.

⁴⁸⁶ Article 512-2 Social Security Code.

⁴⁸⁷ Article L. 553-1 Ceseda.

⁴⁸⁸ Article D. 553-3 Ceseda.

⁴⁸⁹ Article D. 744-25 Ceseda.

⁴⁹⁰ Article L. 553-7 Ceseda, as amended by Article 13 Law n. 2018-778 of 10 September 2018.

⁴⁹¹ *Ibid.*

⁴⁹² Annex 7-1 Ceseda.

ADA rate by household composition	
Persons	Daily rate
1	6.80 €
2	10.20 €
3	13.60 €
4	17 €
5	20.40 €
6	23.80 €
7	27.20 €
8	30.60 €
9	34 €
10	37.40 €

An additional daily rate is paid to adult asylum seekers who have accepted to be accommodated but who cannot be accommodated through the national reception scheme. Following successive rulings of the Council of State annulling the previous provisions due to the inadequacy of the set amount (4.20 € and 5.40 € respectively),⁴⁹³ the current amount granted is 7.40 € per day.⁴⁹⁴ This amount remains very low and renders access to accommodation on the private market almost impossible.

The ADA is paid to asylum seekers on a monthly basis directly by OFII on a card, similar to a debit card that can be used by asylum seekers. It is not necessary for asylum seekers to open a bank account to benefit from the ADA (except in some cases where asylum seekers are overseas) and use the card.⁴⁹⁵ Many problems have been raised by local stakeholders regarding the ADA, problems which persist in 2022. On many occasions, the allowance has been paid late. In addition, some asylum seekers are not used to using a bank card or a cash machine. In some accommodation centres, asylum seekers do not receive the same amount even if they are in similar situations (e.g. same date of arrival and registration, same family composition or same duration of accommodation in the centre). These issues can create tensions between asylum seekers and may expose social workers to a lot of pressure and complicate their work. Moreover, it is very difficult to interact with OFII, according to local NGOs, to resolve such problems. Despite the presence of local representations of OFII in regions, they usually do not intervene at the level of the allowance distribution (although it should be noted that there are some exceptions, where OFII's offices are accessible to asylum seekers in certain cities such as **Lyon, Clermont-Ferrand** or **Toulouse**).

The starting point of the calculation of the allowance is the date of signature of the document attesting that the asylum seeker accepts the material conditions offered by OFII, which occurs normally when applicants go to the GUDA for registration. The effective payment usually starts when the asylum seeker produces proof of their asylum claim being lodged with OFPRA. The payment is supposed to retroactively take into account the time spent between the registration at Prefecture and the sending of the asylum claim to OFPRA. In practice, many issues have been reported in this regard as well. The amounts do not correspond to the aforementioned period or the first payments are provided at a very late stage. In addition, OFII sometimes requests late repayment of undue payments, and consequently puts asylum seekers in important financial difficulties.

Moreover, the credit card on which the financial allowance is provided can no longer be used for cash withdrawals since November 2019. The card can only be used for payments, both online and in shops.

⁴⁹³ Council of State, Decision No 394819, 23 December 2016, available in French at: <https://bit.ly/41xRZWb>; Decision No 410280, 17 January 2018, available in French at: <https://bit.ly/41vRGLB>.

⁴⁹⁴ Decree n. 2018-426 of 31 May 2018 bringing various provisions relating to the asylum seeker allowance.

⁴⁹⁵ Article D. 553-18 Ceseda.

This development restricts how asylum seekers can use their money and has been strongly criticized by NGOs. As a result, asylum seekers cannot buy food in local markets or small shops nor clothing in second hands shops, or pay for public transportation when there are no electronic means available, or pay a deposit in cash for a rent. Moreover, in the summer of 2020, all asylum seekers had to change their card due to a technical issue.

In case of a subsequent application or if the asylum claim has not been introduced within 90 days, the ADA can be refused.⁴⁹⁶

As of the end of December 2021, a total of 111,901 asylum seekers benefitted from the ADA (compared to 145,253 at the end of 2020 and 151,386 at the end of 2019).⁴⁹⁷

The situation in the oversea territory of Mayotte is very specific, where there are derogations to the legal framework applicable on the mainland. In March 2021, the Council of State ruled that the authorities had seriously breached the right to asylum by failing to provide a Burundian mother – deprived of any resources and living with her 11-year-old son in Mayotte – with adapted material reception conditions while her asylum application was pending.⁴⁹⁸ The Council of State reiterated the State's obligation to provide adequate material reception conditions and assistance throughout the asylum procedure. At the time of the ruling, there were only 55 accommodation places in Mayotte, for about 3 000 asylum applicants.⁴⁹⁹ The budget law for 2022 provides significant financial support to asylum seekers in Mayotte (3.1 million €) indicates that 355 new places should be opened at the end of 2023.⁵⁰⁰

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

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

The law describes the procedure to be followed by reception centres management and by the Prefect once a decision on the asylum claim which ends the right to remain has been adopted.⁵⁰¹ OFII informs the reception centre management where the asylum seeker is accommodated that the right to reception conditions has ended and that the provision of accommodation will be terminated upon a specific date. Rejected asylum seekers can formulate a request to remain 1 month in order to have time to plan their exit of the centre.

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

According to Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) Ceseda, as amended in 2018, material reception conditions can be refused or withdrawn where the applicant:

1. Without legitimate reason, has not presented themselves to relevant authorities when required, has not responded to an information request or has not attended interviews related to the asylum application;⁵⁰²

⁴⁹⁶ Article D. 551-20 Ceseda.

⁴⁹⁷ OFII, *Indicators December 2020*, published on OFII's official Twitter account.

⁴⁹⁸ Council of State, 12 March 2021, available in French at: <https://bit.ly/3p9SiFY>.

⁴⁹⁹ Forum réfugiés, 'Mayotte : vers une amélioration des conditions matérielles d'accueil ?', 9 April 2021, available in French at: <https://bit.ly/3vcs8X6>.

⁵⁰⁰ Strategic committee on national reception plan, meeting at ministry of Interior, 20 March 2023.

⁵⁰¹ Article R. 552-11 Ceseda.

⁵⁰² Articles L.551-15 (refusal) and L. 551-16 (withdrawal) Ceseda.

2. Has provided false statements concerning his identity or personal situation, in particular their financial situation;⁵⁰³
3. Has made a subsequent application or, without legitimate reason, has not made an application within 90 days of entry into the French territory;⁵⁰⁴
4. Exhibits violent behaviour or serious disrespect of the house rules of the centre.⁵⁰⁵

OFII is competent to decide on the suspension, withdrawal or refusal of material reception conditions. By law, only the decision of refusal of reception conditions must be written and motivated but the Council of State ruled in 2019 that this guarantee also applies to withdrawal decisions in accordance with European law.⁵⁰⁶ In case of suspension, a letter stating the intention to suspend material reception conditions is sent to the asylum seeker, who then has 15 days to challenge this decision through an informal appeal (i.e. written observations). All decisions relating to the refusal or withdrawal of reception conditions can be appealed before the Administrative Court under the common rules of administrative law.

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

The management of reception centres has to inform OFII and the Prefect of the *Département* in case of a prolonged and non-motivated absence of an asylum seeker from the reception centre, as well as any violent behaviour or serious disrespect of the community life rules.⁵⁰⁷

In 2021, OFII took 31,458 decisions of withdrawal of reception conditions and 16,877 such decisions have been taken in the first 7 months of 2022.⁵⁰⁸ The reasons are not known, but the refusal of orientation in the framework of national reception scheme seems to be the main explanation of these high figures: between January 2021 and July 2022, 27% of asylum seekers in Ile-de-France region refused the orientation to another region.⁵⁰⁹

The lack of reception conditions for asylum seekers is an increasingly important and worrying issue. If we compare the number of asylum applications pending at the end of 2022 according to Eurostat (142,940) and the number of asylum seekers benefitting from reception conditions at this date (100,598 persons in total at the end of December 2022 according to OFII),⁵¹⁰ this means more than 40,000 asylum seekers don't have reception conditions in France.

The assessment to deny or withdraw reception conditions does not take into account the risk of destitution. Asylum seekers should pay a part of accommodation cost when they have sufficient resources (very rare in practice).

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

⁵⁰³ Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) *Ceseda*.

⁵⁰⁴ Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) *Ceseda*.

⁵⁰⁵ Articles L. 551-15 (refusal) and L. 551-16 (withdrawal) *Ceseda*.

⁵⁰⁶ Council of State, Decision 428530, 31 July 2019, available in French at: <https://bit.ly/2GFaSiB>.

⁵⁰⁷ Article R. 552-6 *Ceseda*.

⁵⁰⁸ Assemblée nationale, *Rapport fait au nom de la Commission des lois sur le projet de loi de finances 2023*, 6 October 2022, available in French at: <https://bit.ly/3Zr39e5>.

⁵⁰⁹ Assemblée nationale, *Rapport fait au nom de la Commission des lois sur le projet de loi de finances 2023*, 6 October 2022, available in French at: <https://bit.ly/3Zr39e5>.

⁵¹⁰ OFII, Publication on twitter, 12 January 2023.

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](#)).

However, reception conditions are offered by OFII in a specific region where the asylum seeker is required to reside. Following the 2018 reform, allocation to a specific region can be conducted even if the applicant is not offered an accommodation place.⁵¹¹ Non-compliance with the requirement to reside in the assigned region entails a termination of reception conditions. Freedom of movement is therefore restricted to a region defined by OFII. In practice, these new measures are only applicable since January 2021 following the publication of a new national reception scheme.⁵¹² However, the Ministry of Interior has ensured that this regional assignment would only be applied as long as accommodation is secured; and this commitment was respected in practice in 2021 and 2022.

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

In practice, most asylum seekers are concentrated in the regions with the largest numbers of reception centres, namely in **Grand-Est**, **Auvergne-Rhône Alpes**, and **Ile de France**. The aim of the new scheme put forward in December 2020 is to better distribute asylum seekers across the territory, i.e. starting with the distribution from **Ile de France** to other regions. However, this plan had a negative impact on accommodation in these regions, as places were being mobilised for Parisian orientations but local situations have not improved and it is now becoming almost easier to be accommodated from Paris than from other places.

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

Restrictions of freedom of movement during the health crisis were not different from those applicable to nationals.

⁵¹¹ Article L. 551-4 Ceseda.

⁵¹² Ministry of Interior, '*Schéma national d'accueil des demandeurs d'asile et d'intégration des réfugiés 2021-2023*', 17 December 2020, available in French at : <https://bit.ly/3tOyhFK>.

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:
 - ❖ CADA : 46,632
 - ❖ HUDA 52,160
 - ❖ CAES 5,122
3. Total number of places in private accommodation: Not applicable
4. Type of accommodation most frequently used in a regular procedure:
☒ Reception centre ☐ Hotel or hostel ☒ Emergency shelter ☐ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:
☒ Reception centre ☒ Hotel or hostel ☒ Emergency shelter ☐ Private housing ☐ Other

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

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

- ❖ Accommodation centres for asylum seekers (CADA);
- ❖ Emergency accommodation for asylum seekers (HUDA, AT-SA, PRAHDA, Reception and orientation centres (CAO, *Centre d'accueil et d'orientation*));
- ❖ Reception and administrative situation examination centres (CAES).

Asylum seekers accommodated in these facilities receive a address certificate (*attestation de domiciliation*).⁵¹³ This certificate is valid for one year and can be renewed if necessary. It allows the asylum seeker to open a bank account and to receive mail.

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

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

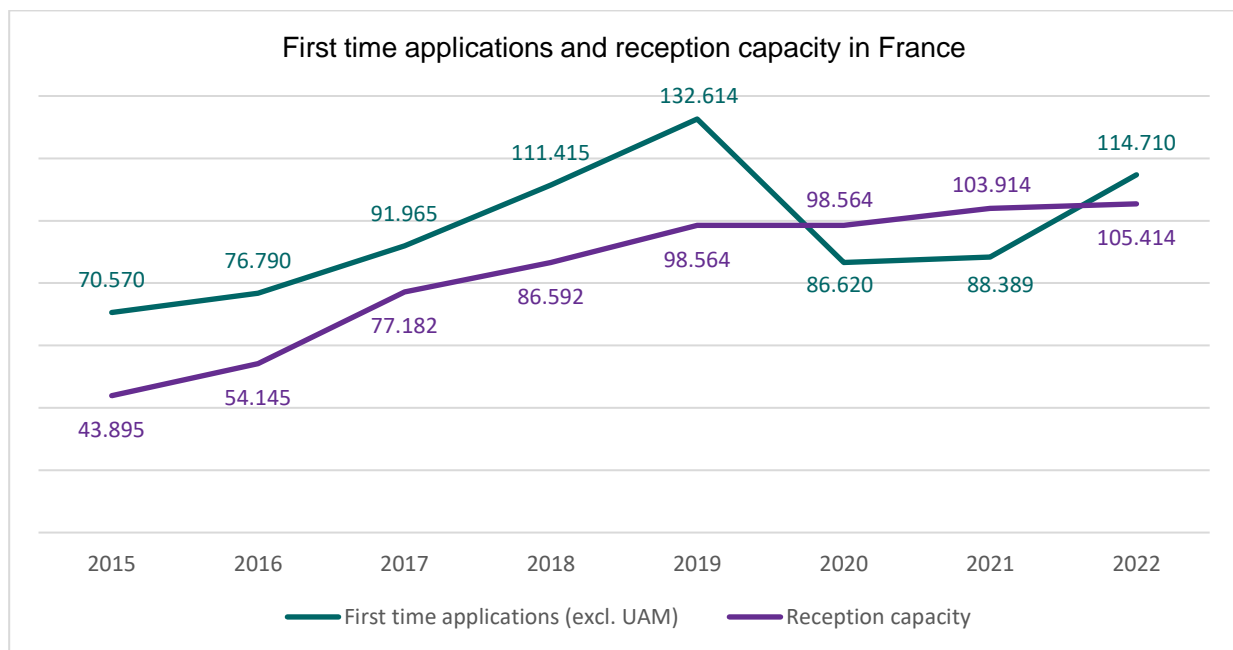
Type of accommodation	2020	2021	2022	2023
CADA	43,602	46,632	46,632	49,242
HUDA	51,826	52,160	52,160	52,950
CAES	3,136	5,122	6,622	6,622
Total	98,564	103,914	105,414	108,814

Source: Ministry of Interior, 'Debate on immigration: Press kit', 6 December 2022, available in French at: <https://bit.ly/3ZBgeBs>.

⁵¹³ Article R. 551-7 to R. 552-3 Ceseda.

In 2022 the number of asylum seekers accommodated remained far below the number of persons registering an application. At the end of the year, the Ministry of Interior stated that 62% of asylum seekers eligible to material reception conditions – i.e. 100,598 persons in total at the end of December 2022 according to OFII⁵¹⁴ – were effectively accommodated compared to 58% at the end of 2021.⁵¹⁵ If we add asylum seekers who do not benefit from reception conditions, we can consider that at least 80,000 asylum seekers were not accommodated in France as of the end of 2022 (according to Eurostat, 142,940 asylum application were pending in France at the end of 2022 and about 62,000 asylum seekers were accommodated at this date).

ECRE's report on the reception conditions of refugees and asylum seekers in Europe demonstrates that France has consistently fallen short of its obligations to provide accommodation to all asylum seekers on its territory, despite a considerable expansion of its reception infrastructure and a proliferation of types of accommodation.⁵¹⁶ Following figure provides an overview of the evolution of first-time asylum applicants registered with OFPRA and capacity in France:



It shows that a substantial number of applicants were left out of accommodation every year. These persisting issues raise questions of compliance with the Reception Conditions Directive as reception conditions should ensure an adequate standard of living for applicants. The decrease of first-time applicants in 2020 is largely due to the impact of COVID-19 and further does not reflect the fact that reception capacity was still very much lacking, given that many other asylum seekers were already present on the territory.

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

⁵¹⁴ OFII, Publication on twitter, 12 January 2023.

⁵¹⁵ French Government, Budget law 2023, Annex. October 2022, available in French at: <https://bit.ly/3JYVSMD>.

⁵¹⁶ ECRE, *Housing out of reach? The reception of refugees and asylum seekers in Europe*, April 2019, available at: <https://bit.ly/2RK0ivp>, 13.

At the end of 2022, 13% of the places in accommodation centres were occupied by individuals who were no longer authorised to occupy these places such as rejected asylum applicants or beneficiaries of international protection after the period of authorized presence⁵¹⁷, 5% of the places were not available (e.g. due to works) and 2% of the places were vacant.⁵¹⁸

4,900 new places (3,400 in CADA and 1,500 in CAES) could be opened for asylum seekers in 2023.⁵¹⁹

1.1. Reception centres for asylum seekers (CADA)

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

At the end of 2021, out of a total 45,473 places in CADA, 6.8% of occupants were rejected asylum seekers (in authorised stay or not).⁵²⁰ More recent statistics are not available.

1.2. Emergency reception centres

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

- ❖ A decentralised emergency reception scheme: emergency accommodation for asylum seekers (*hébergement d'urgence dédié aux demandeurs d'asile*, HUDA), counting 46,809 emergency accommodation places at the end of 2022. Capacities provided by this scheme evolve quickly depending on the number of asylum claims and capacities of regular reception centres. Some of these places are in hotel rooms.
- ❖ The reception and accommodation programme for asylum seekers (*programme régional d'accueil et d'hébergement des demandeurs d'asile*, PRAHDA), managed at the national level. It consists of housing, in most cases in former hotels, for 5,351 persons who have applied for asylum or who wish to do so and who have not been registered.

Asylum seekers who fall under the Dublin procedure in France can in theory benefit from emergency accommodation up until 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 (applicants or returnees) live on the streets or in squats because of the overall lack of places.

1.3. Reception and administrative situation examination centres (CAES)

A new form of accommodation emerged in 2017 called Reception and Administrative Situation Examination Centres (*centres d'accueil et d'examen de situation administrative*, CAES). They combine accommodation with an examination of the person's administrative situation, in order to direct the individual to other accommodation depending on whether they fall between an asylum procedure, a Dublin procedure or a return procedure. Almost 3,000 places in such shelters were created in 2018 and many other places in the following years. There were a total of 5,122 places at the end of 2022. In some regions, CAES are designed for people coming from camps in and around Paris, while in others they benefit

⁵¹⁷ French Government, *Budget law 2023, Annex*, October 2022, available in French at: <https://bit.ly/3JYVSMD>.

⁵¹⁸ Strategic committee on national reception plan, meeting at ministry of Interior, 20 March 2023.

⁵¹⁹ French Government, *Budget law 2023, Annex*, October 2022, available in French at: <https://bit.ly/3JYVSMD>.

⁵²⁰ OFII, *2019 Activity report*, available in French at: <https://bit.ly/3aUFHP1>, 28.

vulnerable asylum seekers whose application has been registered, pending referral to CADA or emergency reception..

1.4. Asylum seekers left without accommodation

Despite the increase in reception capacity and creation of new forms of centres, a number of regions continue to face severe difficulties in terms of providing housing to asylum seekers. As stated above, only about 62% of asylum seekers eligible for material reception conditions were accommodated at the end of 2022. The shortcomings of the French reception system were condemned in December 2022 by the UN Committee on elimination of racial discrimination.⁵²¹

In **Paris**, from 2019 to end of 2021, 27,508 migrants were evacuated from camps and accommodated through 109 operations carried out by the authorities,⁵²² including a violent evacuation in November 2020 widely condemned by NGOs, media and politicians.⁵²³ From January to the end of November 2022, 5,605 persons were evacuated from the Parisians camps.⁵²⁴ A coordination unit to deal with these situations was set up in January 2021, bringing together the authorities and associations.⁵²⁵ The implementation of a national reception scheme, allowing better orientation from the Paris region to accommodation in other regions, enabled the orientation of more than 36,000 migrants since 2021. However, some NGOs report numerous cases of people who could not be accommodated following these operations or who were placed in detention.⁵²⁶

In **Calais**, regular dismantlement operations have been carried out since 2015, as described in the previous updates of this report. Yet, hundreds of migrants were still living in makeshift camps in Calais area throughout 2022. Early 2023, NGOs stated that about 800 migrants were in Calais and its surroundings.⁵²⁷ Following a visit to the informal camp in Calais in September 2020, carried out upon the request from 13 NGOs, the Ombudsman noted sub-standard living conditions.⁵²⁸ A report published by Human Rights Watch in 2021 stated that people living in camps in Calais and surroundings have still an insufficient access to basic needs, such as access to water point, food supply, health care, and sanitary facilities.⁵²⁹

Furthermore, in reaction to the sinking of a small boat during the Channel crossing on 24 November 2021, in which 27 persons died, the Ombudsman reiterated its previous recommendations made in 2015 and 2018. It asked for the halt of systematic dismantlement in Calais, which appears to be done in complete violation of migrant's fundamental rights. It also underlined that every dismantlement should strictly respect procedures, human dignity and research for durable accommodations.⁵³⁰

⁵²¹ CERD/C/FRA/CO/22-23, 14 December 2022, available in French at : <https://bit.ly/3NqoyBG>, para. 19.

⁵²² Assemblée nationale, *Rapport fait au nom de la Commission des lois sur le projet de loi de finances 2023*, 6 October 2022, available in French at: <https://bit.ly/3Zr39e5>.

⁵²³ Le Monde, 'Le point sur l'évacuation du camp de migrants à Paris : coups de matraque et « chasse à l'homme », indignation politique et enquêtes de l'IGPN', 24 November 2020, available in French at: <https://bit.ly/3rVwdKr>.

⁵²⁴ Préfecture de la région Ile-de-France, *Press release*, 17 November 2022, available in French at <https://bit.ly/3Lt5j7Q>.

⁵²⁵ Préfecture de la région Ile-de-France, *Communiqué de presse : Installation de la cellule de coordination pour l'accueil et l'accompagnement des migrants*, 18 January 2021, available in French at: <https://bit.ly/34aJ2Kz>.

⁵²⁶ See e.g. Utopia 56, 'Paris : réponse sécuritaire à une urgence humanitaire', Press release, 29 October 2021, available in French at: <https://bit.ly/3IEVa5j>.

⁵²⁷ Le Monde, 'A Calais, la frontière bunker avec l'Angleterre repousse les migrants vers la mer', 3 February 2023, available in French at: <https://bit.ly/3zx6C0c>.

⁵²⁸ Défenseur des droits, Decision No. 2020-179, 18 September 2020, available in French at: <https://bit.ly/3rTYmkP>.

⁵²⁹ Human Rights Watch, *Infliger la détresse : Le traitement dégradant des enfants et des adultes migrants dans le nord de la France*, October 2021, available in French at: <https://bit.ly/3t2NAfw>.

⁵³⁰ Défenseur des droits, *Communiqué de presse. Calais : la Défenseure des droits rappelle l'urgence d'une politique d'accueil respectant les droits fondamentaux des personnes exilées*, 25 November 2021, available in French at: <https://bit.ly/3MDbC8R>.

In its annual report published in June 2022, Human Rights Observer (HRO), an organisation which monitors police evictions in northern France, stated that 1,226 dismantlement operations took place in **Calais** and 61 in **Grande-Synthe** throughout 2021.⁵³¹ During all these operations, HRO stated that 10,121 tents were seized, 205 people were arrested, and 127 migrants were victims of police brutality.⁵³² During a dismantlement at the end of December 2021, confrontations were reported between police officers and migrants. During the operation, 15 police officers and 3 migrants were injured. At the beginning of January 2022, a substantial police operation was organised in the same place, to complete the dismantlement. About 100 police officers were deployed in order to evacuate a camp of 50 migrants.⁵³³ An investigation published by a journalist at the beginning of 2023 confirms the persistence of violence and police harassment in the Calais region in order to avoid the establishment of camps.⁵³⁴

On 16 November 2021, one of the largest dismantlement operations happened in **Grande-Synthe**. Approximately 1,200 persons were evacuated, during a substantial operation involving more than 300 police officers. NGOs stated that this large operation has led to placements in accommodations centres for all the persons involved, but under duress, and without any interpreter to inform them of the implication of this procedure.⁵³⁵

In recent years, Courts have also condemned the situation in **Calais**. In July 2017, the Council of State ruled that State deficiencies in Calais exposed migrants to degrading treatment and ordered the State to set up several arrangements for access to drinking water and sanitary facilities.⁵³⁶ In a report published in December 2018, the Ombudsman denounced a "degradation" of the health and social situation of migrants living in camps in the north of France, with "unprecedented violations of fundamental rights".⁵³⁷ On 21 June 2019, the Council of State ordered the northern prefecture of France to adopt important sanitary measures to support around 700 migrants living near a sport hall in the commune of **Grande-Synthe**. The application for interim measures had been filed by 9 civil-society organisations and the commune of **Grande-Synthe**. It demonstrated that both the inhumane living conditions of the migrants and the failure to act of the Government were a violation of the migrant's fundamental rights.⁵³⁸ Following the decision of the Council of State, the French prefect had 8 days to adopt numerous sanitary measures such as installing water points, showers and toilets, but also to provide information to migrants on their rights in a language they understand.

In 2022 and early 2023, actions by the authorities to limit the distribution of water or food have been observed, such as the blocking vehicle access to water and food distribution sites with equipment (rocks, etc.)⁵³⁹ and the limiting authorised distributions only to organisations funded by the State.⁵⁴⁰ However, these late limitations has been considered as illegal by the Administrative court in October 2022.⁵⁴¹

On 10 February 2021, the National Consultative Commission on Human Rights (CNCDH) issued an opinion where it stated that, five years after its previous visit on site, the dignity of the people exiled in **Calais** and **Grande-Synthe** was still being violated. It confirmed that in 2020 more than 1,000 evictions

⁵³¹ Human Rights Observer, *Activity report 2021*, June 2022, available at: <https://bit.ly/3UGtBPQ>.

⁵³² Human Rights Observer, Data for 2021, available in French at: <https://humanrightsobservers.org/fr/>.

⁵³³ France 3 Région, 2 janvier 2022, « Calais : après les affrontements de jeudi, les policiers reviennent en force pour déloger les migrants du même camp », available in French at: <https://bit.ly/3KBmzpr>.

⁵³⁴ L. Witter, 'La battue', February 2023, Le Seuil.

⁵³⁵ Utopia 56, 'Open letter to those responsible for the last expulsions in Grande-Synthe', 24 November 2021, available in French at: <https://bit.ly/3KBBn7o>.

⁵³⁶ Council of State, Order No 412125, 31 July 2017, available in French at: <https://bit.ly/3ULoNci>.

⁵³⁷ Ombudsman, *Exilés et droits fondamentaux, trois ans après le rapport Calais*, 19 December 2018, available at: <https://bit.ly/2Glf7uS>.

⁵³⁸ France TV Info, 'Nord : la préfecture condamnée à prendre des mesures sanitaires et à organiser des maraudes pour les migrants à Grande-Synthe', 21 June 2019, available in French at: <https://bit.ly/2w0zPTL>.

⁵³⁹ France 3, 'À Calais, des rochers déposés par les autorités restreignent l'accès des exilés à un point de distribution d'eau', 1st March 2023, available in French at: <https://bit.ly/3MgU8RH>.

⁵⁴⁰ Infomigrants, 'Calais : l'arrêté interdisant la distribution de nourriture aux migrants reconduit', 18 August 2022, available in French at: <https://bit.ly/3K8HSQA>.

⁵⁴¹ La Croix, 'Migrants à Calais: la justice réautorise les associations à distribuer de la nourriture', 18 October 2022, available in French at: <https://bit.ly/3mcm1Qb>.

were carried out in **Calais**, and 33 evictions in **Grande Synthe**. Access to drinking water, food, showers, toilets as well as basic health services is not guaranteed. It called for the re-establishment of dialogue and cooperation between all the stakeholders involved in order to ensure the protection and dignity of the concerned individuals. It also recalled the best interest of the child and the necessity to introduce guarantees for unaccompanied minors as well as vulnerable groups such as women or victims of human trafficking.⁵⁴²

In reaction to the living conditions of migrants in Calais, 3 human rights activists started a hunger strike on 11 October 2021 for a period of 38 days. They asked for the suspension of dismantlement operations, at least during the winter period, and to stop seizing tents and migrant's personal effects.⁵⁴³ A mediator was sent in Calais by the government to hold discussions with the activists. He offered systematic accommodation for migrants after the dismantlement operations, as well as the end of unannounced dismantlement operations. Migrants would thus be informed in advance of dismantlement operations to allow them to collect their personal effects.⁵⁴⁴

As a result, an accommodation centre with a capacity of 300 places opened in Calais in November 2021, but NGOs stated that this proposal was not tailored to the reality of migrant's situation. This accommodation closed its doors quickly after its opening as the government announced the creation of a similar structure elsewhere in the region.⁵⁴⁵

In some other cities (**Nantes, Grande Synthe, Lyon, Bordeaux, Metz**) migrants often live in the street. Some of them are asylum seekers eligible for accommodation centers but not housed due to the lack of places. The issue of homelessness in France has also been scrutinised by the European Court of Human Rights (ECtHR). On 2 July 2020, the ECtHR published its judgment in *N.H. and others v France* concerning the living conditions of homeless asylum applicants as a result of the failures of the French authorities. The case concerns 5 single men of Afghan, Iranian, Georgian and Russian nationality who arrived in France on separate occasions. After submitting their asylum applications, they were unable to receive material and financial support and were therefore forced into homelessness. The applicants slept in tents or in other precarious circumstances and lived without material or financial support, in the form of Temporary Allowance, for a substantial period of time. All of the applicants complained, *inter alia*, that their living conditions were incompatible with Article 3 ECHR.⁵⁴⁶ However, in the case of *B.G. and others v. France*, the ECtHR unanimously ruled on 10 September 2020 that, *inter alia*, the living conditions in a French tent camp on a carpark did not violate Article 3 ECHR.⁵⁴⁷

1.5. Evolution of the capacity of the different types of accommodation

Although the capacity of CADA – the main form of reception for asylum seekers - has been steadily developed throughout the years, France has exponentially increased the capacity of emergency accommodation through the creation of PRAHDA and the expansion of local HUDA from 11,829 places in mid-2016 to 51,796 places at the end of 2021.⁵⁴⁸

This means that the emergency accommodation network (PRAHDA, HUDA) is more important than the CADA and formally forms part of the national reception system. It appears therefore that “emergency

⁵⁴² CNCDH, *Calais et Grande-Synthe Les atteintes à la dignité et aux droits fondamentaux des personnes exilées doivent cesser*, 11 February 2021, available in French at: <https://bit.ly/3A35TDZ>.

⁵⁴³ France 3 Région, « Calais : après la grève de la faim, une nouvelle action de longue durée pour rendre visible le sort des réfugiés », 15 janvier 2022, available in French at: <https://bit.ly/3t2uxC5>.

⁵⁴⁴ Le Monde, « Didier Leschi : l'action des grévistes de la faim a fait apparaître une incohérence dans la politique mise en œuvre », 1er novembre 2021, available in French at: <https://bit.ly/43Cxppz>.

⁵⁴⁵ La voix du nord, 17 novembre 2021, « Migrants à Calais : le couple de militants arrête sa grève de la faim », available in French at: <https://bit.ly/3HWQSoQ>.

⁵⁴⁶ European Court of Human Rights published, *N.H. and others v France* (Application No. 28820/13), 2 July 2020, see EDAL summary at: <https://bit.ly/3ppxQhw>.

⁵⁴⁷ ECtHR, *B.G. and others v. France* (Application no. 63141/13), 10 September 2020, see EDAL summary at: <https://bit.ly/37eckGi>.

⁵⁴⁸ *Ibid.*

accommodation” in France no longer serves the purpose of temporarily covering shortages in the normal reception system. In fact, as already explained, it is the default form of accommodation for certain categories of asylum seekers such as those under a Dublin procedure, since they are excluded altogether from CADA.⁵⁴⁹

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☒ Yes ☐ No
2. What is the average length of stay of asylum seekers in the reception centres? 473 days (2021)
3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No

The activities and tasks entrusted to all reception centres are defined in a decree of December 2018 and include:⁵⁵⁰

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

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

2.1. Conditions in CADA

Although the use of other types of accommodation has consistently increased throughout recent years (see

Evolution of the capacity of the different types of accommodation), CADA are the main form of accommodation provided to asylum seekers. They include both collective and private accommodations that are located either within the same building or in scattered apartments. At the end of 2022, there were 46,632 places in CADA spread across the French territory, therefore the following description is a general assessment that cannot cover the specific situation in all CADA.

Living conditions in regular reception centres for asylum seekers are deemed adequate, and there are no reports of overcrowding in reception centres. The available surface area per applicant can vary but has to respect a minimum of 7.5 m² per person.⁵⁵¹ A bedroom is usually shared by a couple. More than 2 children can be accommodated in the same room. Centres are usually clean and have sufficient sanitary facilities. Asylum seekers in these centres are usually able to cook for themselves in shared kitchens.

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

Since the 2018 reform, the staff also has the obligation to organise a medical check-up upon arrival in the reception centre.⁵⁵²

⁵⁴⁹ *Ibid.*

⁵⁵⁰ Article R. 552-10 Ceseda.

⁵⁵¹ Arrêté du 15 Juin 2019 sur le cahier des charges CADA, available in French at: <https://bit.ly/2RIU2FW>.

⁵⁵² *Ibid.*

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

The average length of stay in CADA in 2021 was 591 days.⁵⁵³ The average length of stay in CADA in 2022 was not available by the time of writing of this report.

Average length of stay in CADA (in days)				
2017	2018	2019	2020	2021
424	451	524	533	591

2.2. Conditions in emergency centres

In emergency centres, unlike the housing of asylum seekers in hotels, facilities offer at least some sort of administrative and social support. In theory, only accommodation is provided in the context of these emergency reception centres. Food or clothing services may be provided by charities. However, reception conditions within the emergency facilities are similar to those in regular reception centres.⁵⁵⁴

Where centres are overcrowded, applicants can also be accommodated in hotel rooms. To illustrate, 13% of places in HUDA were in hotel rooms at the end of 2020,⁵⁵⁵ but no data is available for 2021 and 2022.

A 2019 inter-ministerial instruction obliges emergency accommodation centres for homeless persons (which differs from emergency centres for asylum seekers) to communicate the list of people accommodated there to the OFII.⁵⁵⁶ This measure risks calling into question the principle of unconditional reception of migrants, as undocumented migrants may no longer dare approach emergency shelters if they know that they will be flagged to the authorities. The CNCDH requested the withdrawal of this instruction on the same legal grounds, further contending that it violates the country’s international obligations relating to human rights of migrants.⁵⁵⁷ According to the Ministry of Interior, information transmission “*remains insufficient and heterogeneous, especially in Ile-de-France region*” as only 2,204 asylum seekers had been identified in emergency accommodation centres from October 2019 to December 2020.⁵⁵⁸

⁵⁵³ OFPRA, *2021 Activity report*, June 2022, available in French at: <https://bit.ly/3KHmAKi>, 26.

⁵⁵⁴ Arrêté du 15 février 2019 sur le cahier des charges HUDA, available in French at: <https://bit.ly/2F52kAi>.

⁵⁵⁵ Ministry of Interior, ‘*Information relating to the management of the accommodation facilities for asylum seekers and refugees*’, 15 January 2021, available in French at: <https://bit.ly/2ZjKsfP>.

⁵⁵⁶ Inter-ministerial instruction of 4 July 2019 on the cooperation between Integrated reception and orientation services (SIAO) and the OFFI as regards the reception of asylum seekers and beneficiaries of international protection, available in French at: <https://bit.ly/2TFR8T6>.

⁵⁵⁷ CNCDH, ‘Cooperation between emergency centres and the OFII’, available in French at: <https://bit.ly/41W8o7p>.

⁵⁵⁸ Ministry of Interior, ‘*Schéma national d’accueil des demandeurs d’asile et d’intégration des réfugiés 2021-2023*’, 17 December 2020, available in French at: <https://bit.ly/3tOyhFK>, 14.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

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

Since March 2019, access to the labour market is allowed only if OFPRA has not ruled on the asylum application within 6 months after the lodging of the application and only if this delay cannot be attributed to the applicant.⁵⁵⁹ This means that persons who do not lodge an asylum application, such as asylum seekers under a Dublin procedure, are excluded from access to the labour market. When they do have access, asylum seekers are subject to the law applicable to third-country national workers for the issuance of a temporary work permit.⁵⁶⁰

The Council of State limited the scope of these provisions by indicating in 2020 that the right to work could only be requested between the date beyond which OFPRA exceeded the 6-month period and the decision of the OFPRA, and not during the appeals stage even if the conditions are fulfilled.⁵⁶¹ On the other hand, the Council of State specified in 2022 that asylum seekers under a Dublin procedure were also covered by the deadline imposed by European law and, in the absence of provisions in French law on this issue, should be able to access the labour market beyond 9 months after the first introduction of their application in France.⁵⁶² In practice, no change has been observed.

In practice, asylum seekers have very limited access to the labour market, due to a number of constraints. Prior to being able to work, the applicant must have sought and obtained a temporary work permit. To obtain this work permit, the asylum seeker has to provide proof of a job offer or an employment contract. The duration of the work permit cannot exceed the duration of the residence permit linked to the asylum application. It may possibly be renewed. The competent unit for these matters is the Regional Direction for companies, competition, consumption, work and employment at the Ministry of Labour.

In any case, the employment situation also constrains this right. In accordance with Article R.5221-20 of the Labour Code (Ctrav), the Prefect may take into account for instance “the current and future employment situation in the profession required by the foreign worker and the geographical area where they intend to exercise this profession” to grant or deny a work permit. 30 fields of work are experiencing recruitment difficulties which justifies allowing third-country nationals to work in these without imposing restrictions. These professions are listed by region – only 6 professions are common to the whole country.⁵⁶³ In practice, Prefectures use these lists of sectors facing recruitment difficulties.

⁵⁵⁹ Article L. 554-1 Ceseda.

⁵⁶⁰ Article R. 571-1 Ceseda.

⁵⁶¹ CE, 15 July 2020, 428881.

⁵⁶² CE, 24 February 2022, 450285.

⁵⁶³ Ministerial Order NOR IMID0800328A of 18 January 2008 on the issuance of work permits to third-country national workers, available in French at: <https://bit.ly/3A21d1l>.

Recent data on asylum seekers being able to work were not available until recently even to members of Parliament⁵⁶⁴ but the impact study relating to a bill proposed early 2023 has provided some recent figures: between April 2021 and April 2022, out of 4,745 work permit applications submitted by asylum seekers, 1,814 were approved, i.e. 38.2% of those who applied (i.e. only 1.7% of the first asylum applications recorded in *prefectures* in 2021).⁵⁶⁵

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,⁵⁶⁶ this permit is delivered to unaccompanied children, and the employment situation cannot constrain them if they meet certain criteria, except when they are in asylum procedure due to limitations applied to all asylum seekers.⁵⁶⁷ Thus, it is more difficult for a child asylum seeker to obtain a permit. That is why some children do not want to ask for asylum. However, a child who has a work permit can request asylum without any effect on the permit.⁵⁶⁸

2. Access to education

Indicators: Access to Education

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

While no provision of the Education Code covers the particular case of children of asylum seekers, the law provides that all children are subject to compulsory education as long as they are between 6 and 16 years old.⁵⁶⁹ Primary school enrolment can be done at the local town hall. Enrolment into secondary school is made directly at the institution closest to the place of residence of the child. Education for asylum seeking children is provided in regular schools.

If the children seem to have a sufficient command of the French language, the evaluation process will be supervised by a Counselling and Information Centre (*Centres d'information et d'orientation*, CIO). This State structure is dedicated to the educational guidance of all students.

When the children are not French-speaking or do not have a sufficient command of writing the language, their evaluations fall under the competency of the Academic Centre for Education of Newcomers and Travellers Children (CASNAV).⁵⁷⁰ The test results will enable teachers to integrate the child within the dedicated schemes e.g. training in French tailored to non-native speakers (*français langue étrangère*, FLE) or initiation classes.

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

⁵⁶⁴ Assemblée nationale, *Rapport d'information relatif à l'intégration professionnelles des demandeurs d'asile et des réfugiés*, J.N Barrot & S. Dupont, September 2020, available in French at: <https://bit.ly/3KsjmIJ>, 37.

⁵⁶⁵ Projet de loi pour contrôler l'immigration, améliorer l'intégration, Impact study, 1st February 2023, available in French at: <https://bit.ly/3KC743C>.

⁵⁶⁶ Article L. 5221-5 Ctrav.

⁵⁶⁷ They do not have the right to work except if the length of the procedure is more than 6 months.

⁵⁶⁸ Article L. 554-2 Ceseda, as amended by Article 49 Law n. 2018-778 of 10 September 2018.

⁵⁶⁹ Article L. 131-1 Education Code.

⁵⁷⁰ See Circular NOR: 2012-143 of 2 October 2012.

of volunteers. Young adults and adults are often forced to put aside their career or training, pending the decision on their asylum application. For young people, this represents a considerable loss of time.

Finally, asylum seeking children with special needs are faced with the same difficulties as children with special needs in France in general. Access to trained and specialised staff (*auxiliaires de vie scolaire*) tasked with supporting these children during their education in regular schools is very limited.

Regarding universities, asylum seekers have the possibility in theory to enrol in a course but several practical obstacles remain such as the need to have a diploma at the end of the school course and/or another university diploma recognised by France. In practice, very few asylum seekers are enrolled in University.

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
☐ Yes ☒ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
☒ Yes ☐ Limited ☐ No

Asylum seekers under the regular procedure, like any other third-country nationals below a certain income level, have access to healthcare thanks to the Universal Health Protection Scheme (PUMA).⁵⁷¹ Since January 2020, the 3-month residence requirement applies to all adult asylum seekers without exception.⁵⁷² During the first three months, they only have access to emergency health coverage (*Dispositif Soins Urgents et Vitaux*). Children have access to health care coverage upon arrival. After this 3-month period, asylum seekers benefit from the PUMA. The request to benefit from the PUMA is made to the social security services (CPAM) of the place of residence or domiciliation. The asylum seeker must submit documentary evidence of the 3-month residence requirement, the legality of their stay in France, their marital status and the level of their resources. As a result, asylum seekers cannot see a doctor for free, except in hospitals in case of emergency, which means a postponement of treatment. Similarly, because of the 3-month residence requirement, the compulsory examination upon entry into the accommodation centres cannot be set up, psychological care is not accessible and vulnerability assessments are rendered more complicated. This 3 month without proper coverage impacts asylum seekers that also need to request a permit for medical reasons, as they are supposed to apply for that permit within exactly three months (if they apply later without new circumstances, the application can be denied purely based on tardiness): during this period they must provide information on their medical situation and therefore consult a health professional for this, which is very complicated without health insurance.

In the context of COVID-19, this may have prevented asylum seekers from seeing a doctor for a diagnosis. However, testing and vaccine campaigns do not provide for any distinction according to nationality and legal status and are therefore available for asylum seekers if they meet priority criteria.⁵⁷³ In practice, asylum seekers have access to vaccination similarly to French nationals.

Persons who have no right to remain on the territory, including rejected asylum seekers, benefit from the PUMA for six months after the end of validity of the asylum claim certificate. Before 2020, the time period

⁵⁷¹ Article L. 380-1 Social Security Code.

⁵⁷² Decree No. 2019-1531 of 30 December 2019 relating to the residence requirement applicable to asylum seekers for covering their health expenses, available in French at: <https://bit.ly/2tcEvoe>.

⁵⁷³ Ministry of solidarity and health, 'La stratégie vaccinale et la liste des publics prioritaires', no longer available online.

was one year. After this period, State Medical Aid (AME) enables them to receive free treatments in hospitals as well as in any doctors' offices.⁵⁷⁴

Individuals with low income and still awaiting health insurance and needing healthcare quickly can turn to the Open and free centres for Access to Health Care (PASS) at their nearest public hospital. This is therefore also a possibility for asylum seekers under the accelerated and Dublin procedures. There, they will receive care and, if necessary, the medical letter needed to speed up the processing of their application for public health insurance. According to the law, all public hospitals are required to offer PASS services

As a general rule, difficulties and delays for effective access to health care vary from one city to another in France.

The period of validity of PUMA is one year. At the end of this period it only be renewed if the person has a valid asylum claim certificate.

Finally, some of the problems with regard to medical care are not specific to asylum seekers. Some doctors are reluctant to receive and treat patients who benefit from the AME or PUMA and tend to refuse booking appointments with them⁵⁷⁵ even though these refusals of care can in theory be punished.⁵⁷⁶

Mental health

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

Victims of torture or traumatised asylum seekers can be counselled in a few NGO structures that specifically take care of these traumas. This adapted counselling is provided, for instance, at the **Primo LeviCentre** and **Comede** in **Paris** as well as the **Comede** and **Osiris** centres in **Marseille**, **Mana** in **Bordeaux**, Forum réfugiés – Cosi **Essor Centre** in **Lyon** and **Clermont Ferrand**, **Parole Sans Frontière** à **Strasbourg**, **Comede** in the **Loire département** and lastly in **Guyane**, in overseas France. These specialised centres are however too few in France, unevenly distributed across the country and cannot meet the growing demand for treatment. The difficulties are aggravated by the geographical locations of some reception centres where accessing mental health specialists would entail several hours of travel. The general health system cannot currently cope with this adapted care for victims of torture and political violence. Regular structures lack time for consultations, funds for interpreters and training for professionals.

Health care access systems are available in detention centre and transit zones, for all people in these places (including asylum seekers). It is thus possible to ask for a medical examination and to see a doctor. Access is effective in practice.

⁵⁷⁴ Ministry of Interior, *Social Rights of Asylum Seekers*, available at: <http://bit.ly/1EvEcCF>.

⁵⁷⁵ Slate, 'Pour obtenir un rendez-vous médical, mieux vaut ne pas être bénéficiaire d'une aide à la santé', 2 November 2022, available in French at: <https://bit.ly/4QJ4v5i>.

⁵⁷⁶ Circular DSS n. 2001-81, 12 February 2001 on the care refusal for beneficiaries of the CMU.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

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

The law foresees a specific procedure for the identification and orientation of asylum seekers with special reception needs. This procedure consists in an interview conducted by OFII officers. These officers are to be specifically trained on identification of vulnerability (see [Identification](#)).⁵⁷⁷

However, the Ceseda does not refer to vulnerability on account of sexual orientation or gender identity, therefore this is not taken into account by OFII either. In practice, LGBTI persons face important difficulties when OFII does not provide them with housing, as most of the time they cannot find support in their national communities. So far, places in CADA are mostly allocated to vulnerable asylum seekers but whose vulnerability is “obvious” and visible (e.g. families with young children, pregnant women and elderly asylum seekers). The questionnaire that is used by OFII officers as part of the vulnerability assessment only focuses on “objective” elements of vulnerability, thereby hindering the identification of less visible needs.

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

The main difficulty for the accommodation staff is however the identification of solutions to respond to certain needs (see section on [Health Care](#) on the limited access to mental health care for instance). Therefore, the obligation for OFPRA and OFII to take into account the specific situation of vulnerable persons throughout the asylum procedure, including when these vulnerabilities only appear after the vulnerability assessment, should lead to new practice. The vulnerability assessment’s conclusions as well as all information related to asylum seekers are to be computerised.⁵⁷⁸ Consequently, it should be easier to approach vulnerability in a more comprehensive way and to facilitate exchange of information. However, this is far from being effective in practice and many legal and practical measures such as trainings and provisions of tools to social workers are still lacking to allow this system to be implemented.

For the year 2019, the Ministry of Interior had requested that Prefectures develop places for asylum seekers with disabilities, but there is no further information about whether this was implemented in practice. It had further announced the opening of places dedicated to women victims of violence or trafficking:⁵⁷⁹ in practice, about 300 dedicated places were created in 2019, and were operating as of 2020. They are located in **Auvergne Rhône Alpes**, **Ile-de-France**, **Provence-Alpes-Côte d’Azur**, **Nouvelle Aquitaine** and **Occitanie**. Moreover, 200 places dedicated to LGBTI asylum seekers places were opened in 2022, but no additional budget has been planned for these additional missions.

As mentioned above, a governmental plan on vulnerability, including specific actions for asylum seekers, will be published in early 2021 to increase the identification of vulnerable groups and better address their

⁵⁷⁷ Article L. 552-2 Ceseda.

⁵⁷⁸ Article L. 522-4 Ceseda.

⁵⁷⁹ Ministry of Interior, Circular NOR: INTV1900071J, 31 December 2018, available in French at: <https://bit.ly/3L4ZcHP>, 7.

needs. At the beginning of 2022, the Ministry of the Interior launched a training on vulnerability addressed to many asylum actors (authorities, NGOs, etc.). At the end of 2021, a ‘health appointment’ has been established in some GUDA by OFII : at the first step of the asylum process, OFII suggest a visit with a doctor to identify health problems and refer to appropriate services.⁵⁸⁰ It is free and not mandatory. In 2022, 3,371 appointments took place in 13 GUDA.⁵⁸¹

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

The term unaccompanied child has no explicit definition in French law.⁵⁸² The protection of young persons is therefore based on the notion of children at risk, as outlined in French legal provisions on child protection, which is applicable regardless of nationality or the status of an asylum seeker. Local authorities (*Départements / Conseils généraux*) are in charge of children at risk so they have to protect unaccompanied children in France. Following the age assessment procedure (see [Age assessment of unaccompanied children](#)), unaccompanied minors are accommodated and accompanied by social services of these local authorities (during the social evaluation, they benefit from 5 days of accommodation in emergency services). It is therefore difficult to obtain an overview of the situation for unaccompanied children at the national level. The Ministry of Justice has been in charge of the coordination of this issue at national level since 2010, but its role is limited in practice to the distribution of children between local authorities.

The distribution mechanism is set out in law.⁵⁸³ The geographical distribution is done according to criteria defined by way of decree:⁵⁸⁴

- ❖ The population of the department, compared to the national population;
- ❖ The number of unaccompanied minors sheltered and supported at the end of the year;
- ❖ The transmission to the Ministry of Justice of the number of unaccompanied minors taken in charge by Childhood Welfare as of 31 December.

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

In a report sent to the United Nations Committee on the Rights of the Child in July 2020, the Ombudsman pointed out several shortcomings in the childcare system concerning migrant children with families and unaccompanied children.⁵⁸⁵ This included using former hotels to accommodate children, in substandard living conditions and with limited prospects of integration. It further highlighted that the lack of adequate services and the long distance between hotels and these services was likely to lead to children dropping out of school. In practice, however, little has changed and similar issues continue to be reported, albeit less frequently. In two reports published in October 2021 and February 2022 respectively, the Ombudsman reported persistent shortcomings in social services for unaccompanied children, including burdensome procedures at prefectures and obstacles to accessing education.⁵⁸⁶

⁵⁸⁰ OFII, ‘Le rendez-vous santé à l’OFII, pourquoi, pour qui, où ?’, August 2022, available in French at: <https://bit.ly/3zA8ftU>.

⁵⁸¹ Strategic committee on national reception plan, meeting at ministry of Interior, 20 March 2023.

⁵⁸² Foreign unaccompanied children do not constitute any specific category in the Céseda, 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.

⁵⁸³ Law n. 2016-297 relating to childhood protection, 14 March 2016, available in French at: <http://bit.ly/2jPyjYW>.

⁵⁸⁴ Code de l’action sociale et des familles, article R.221-13.

⁵⁸⁵ Défenseur des droits, ‘Rapport au Comité des droits de l’enfant’, 10 July 2020, available in French at: <https://bit.ly/2OkAMPG>.

⁵⁸⁶ Défenseur des droits, ‘Avis 21-15 du 15 octobre 2021 relatif au projet de loi sur la protection des enfants’, available in French at: <https://bit.ly/3pQo5w0>; Défenseur des droits, ‘Les mineurs non accompagnés au regard du droit’, 3 February 2022, available in French at: <https://bit.ly/3hPHSHB>.

A new law on child protection was adopted on 25 January 2022. It prohibits, inter alia, the accommodation of children in hotels as of 2024.⁵⁸⁷ Until 2024, children can only be placed in hotels for a maximum of two months and under reinforced security measures.

Regarding asylum procedures, when unaccompanied children go to the Prefecture in order to lodge an asylum application, the authorities only verify whether a legal guardian is present or not. If not, a legal representative to support and represent the child in asylum procedures (*ad hoc* administrator) should be appointed (see [Legal Representation of Unaccompanied Children](#)). In practice, several workers regularly report that some Prefectures still do not accept to register the asylum claims of unaccompanied children.⁵⁸⁸ Asylum-seeking children are sometimes channelled to the common law procedure for unaccompanied minors and they are prevented from registering their asylum claim.

Specific centres for unaccompanied children

As a general rule, after identification, unaccompanied children (including those between 16 and 18) are placed in specific children's shelters that fall under the responsibility of the departmental authorities.⁵⁸⁹ These are managed by the *conseils départementaux*. They may also be accommodated in foster families. Due to the lack of places, children are often accommodated in hotels in practice.

However, none of these centres are designed for asylum-seeking children specifically. In some *départements*, children are hosted in centres with all children in need of social protection, but another service helps them in their specific procedures. As an example, since 2005, Forum réfugiés has carried out missions to provide information, legal support and assist in the referral of hundreds of asylum-seeking unaccompanied minors arriving in **Lyon**. The OFPRA leaflet targeted to unaccompanied asylum-seeking children lists a number of specialised NGOs providing support.⁵⁹⁰ When children are not accommodated in specialised centres, legal support depends on available services provided by NGOs in the geographical area.

Moreover, on 28 February 2019, the ECtHR ruled in case *Khan v. France* that the failure of the French authorities to provide care for an unaccompanied minor in the Calais refugee camp was in breach of Article 3 of the Convention.⁵⁹¹ In September 2020, the French Ombudsman sent a communication to the Committee of Ministers concerning this case, highlighting several difficulties in accessing protection for unaccompanied minors in France.⁵⁹² On 2-4 December 2020, the Council of Europe Committee of Ministers invited the French authorities to adopt specific measures to protect unaccompanied minors in transit in light of the Khan judgement.⁵⁹³

⁵⁸⁷ Loi No. 2022-140 du 7 février 2022 relative à la protection des enfants, available at: <https://bit.ly/3qnGiRo>.

⁵⁸⁸ Practice-informed observation and based on exchanges with other asylum professionals, Forum Réfugiés, January 2023; see also Défenseur des droits, *Les mineurs non accompagnés au regard du droit*, 2022, available in French at: <https://bit.ly/3KETLhz>, 22.

⁵⁸⁹ Information on the various schemes for unaccompanied children is available at: <http://bit.ly/1JP5kiG>.

⁵⁹⁰ OFPRA, *Guide de l'asile pour les mineurs isolés étrangers en France*, December 2019. This list includes: Centre enfants du monde (CEM – Croix Rouge française); Coallia; France terre d'asile; InfoMIE; pôle d'évaluation des mineurs isolés étrangers (PEMIE – Croix Rouge française).

⁵⁹¹ ECtHR, *Khan v. France*, Application no. 12267/16, 28 February 2019.

⁵⁹² Committee of Ministers, 'Communication from an NHRI (Défenseur des droits de la République Française) (27/07/2020) concerning the case of Khan v. France (Application No. 12267/16)', available in French at: <https://bit.ly/2OsmAV0>.

⁵⁹³ Committee of Ministers, '1390th meeting, 1-3 December 2020 (DH) - H46-9 Khan v. France (Application No. 12267/16) - Supervision of the execution of the European Court's judgments', available at: <https://bit.ly/2Z7SDM8>.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

The law provides that reception centre operators are responsible for providing information to asylum seekers on: (a) their rights and obligations in the centre; (b) the asylum procedure; (c) health; and (d) social rights.⁵⁹⁴

The provision of information for asylum seekers accommodated in CADA about the modalities of their reception is governed by the Circular of 2019 on the missions of CADA centres⁵⁹⁵ and HUDA centres.⁵⁹⁶ Upon admission in the centres, the manager has to provide the asylum seeker with any useful information regarding the conditions of their stay in the centre, in a language that they understand and in the form of a welcome booklet. These modalities can vary in practice from one centre to the other. In any case, core information about procedural rights during the asylum procedure is shared with accommodated asylum seekers on a regular basis and upon request if necessary. Each centre also has its own information procedures. Generally, in centres managed by Forum réfugiés – Cosi for instance, the asylum seeker is informed about these legal reception provisions through the residence contract and operating rules they sign upon entry in the reception centre. On this occasion, an information booklet on the right to health is handed over to the asylum seeker. As some asylum seekers do not have easy access to written information, collective information sessions through activities are also organised in some reception centres (e.g. those managed by Forum réfugiés – Cosi).

In the context of COVID-19, some information documents on sanitary and health measures were translated for migrants at the initiative of the authorities, NGOs or UNHCR through the information site “Refugies.info”. Most of the information was thus available to asylum seekers and refugees during the pandemic.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?

☒ Yes

☐ With limitations

☐ No

In France, reception centres for asylum seekers are not closed centres. They are accessible to visitors of the persons accommodated in the centres and to other stakeholders within the limits set by the house rules, usually subject to prior notification of the centre manager.

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

G. Differential treatment of specific nationalities in reception

There is no differential treatment of specific nationalities in reception.

⁵⁹⁴ Article R. 552-10 Céseda.

⁵⁹⁵ Arrêté du 19 juin 2019 sur le cahier des charges CADA, available in French at: <https://bit.ly/3aWbLRH>.

⁵⁹⁶ Arrêté du 19 juin 2019 sur le cahier des charges HUDA, available in French at: <https://bit.ly/2uNOQHM>.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Asylum seekers lodging a claim in detention in 2022:	657
2. Number of asylum seekers in detention at the end of 2021:	Not available
3. Number of detention centres (excl. waiting zones):	
❖ Administrative detention centres (CRA):	25
❖ Administrative detention places (LRA):	22
4. Total capacity of CRA (excl. overseas territory) in December 2021:	1,762 ⁵⁹⁷

French law does not allow detention of asylum seekers for the purpose of the asylum procedure. The asylum seekers covered in this section are mainly the ones who have lodged a request for asylum while in an administrative detention centre (*centre de rétention administrative*, CRA) awaiting removal, as well as those detained pending a transfer under the Dublin Regulation.

In 2022, 657 third-country nationals lodged a first asylum application while in administrative detention,⁵⁹⁸ i.e. less than 2% of persons administratively detained. Moreover, some rejected asylum seekers asked for a subsequent examination of their asylum claim while being detained (no statistics available on subsequent applications in detention since 2020).

At the same time, newly arrived asylum seekers can be arrested and placed in administrative detention. This can happen when they have started the registration process of their asylum claim and have then been arrested pending the official confirmation of this registration. Indeed, in the **Ile de France** region, these procedures can take several weeks while waiting for a registered address through an association or for the appointment at the Prefecture, before a temporary residence permit is issued (see section on [Registration](#)). These asylum seekers do not always have the necessary documents proving their pending registration with them when they get arrested. As a result, a removal decision can be taken, the person is placed in administrative detention and their claim may be processed from there. In practice, certain Administrative Courts order the release of such asylum seekers upon presentation of proof of steps taken to have their claim registered,⁵⁹⁹ but this is far from automatic.

There are 25 CRA and 22 administrative detention places (LRA)⁶⁰⁰ on French territory (including in overseas departments).⁶⁰¹ As of 2021, the capacity of CRA amounts to a total of 1,762 places in 2021, up from 1,707 in 2020, but the number of places in CRA available in overseas territories was not known at the time of writing. The capacity of LRA is 128 places. Moreover, the French government announced in 2020 the creation of 4 new CRA, which would bring the capacity of CRA to a total of 2,200 places. These new CRA were not opened at the end of 2022. Article R. 744-5 Ceseda foresees that each centre's capacity should not exceed 140 places.⁶⁰² 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.

⁵⁹⁷ Forum Réfugiés et al, *Rapport annuel sur la rétention administrative*, 2022, available in French at: <https://bit.ly/3NHFsM3>.

⁵⁹⁸ Ministry of Interior, 'Demandes d'asile', 26 January 2023, available in French at: <https://bit.ly/3KokHDR>

⁵⁹⁹ See e.g. Administrative Court of Paris, 6 July 2021 decision NO. 20PA01400; Administrative Court of Lille, Decision No 1804330, 7 June 2018; Administrative Court of Marseille, Decision No 1703152, 18 May 2017.

⁶⁰⁰ The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefect.

⁶⁰¹ Assemblée nationale, '*Rapport sur le projet de loi de finances 2021*', 8 October 2020, available in French at: <https://bit.ly/3u6oZoy>, 33.

⁶⁰² Article R. 552-1 Ceseda.

Also, in the context of the border procedure, asylum seekers are held in “waiting zones” while awaiting a decision on their application for an authorisation to enter the territory on asylum grounds. These are distinguished from CRA but also classified as places of deprivation of liberty, as asylum seekers cannot leave these areas (except to voluntarily return to their country or be admitted into a third country) until an authorisation to let them enter French territory or a decision to return them is taken.

However, in the context of border controls in the area of **Alpes-Maritimes** throughout recent years and including in 2022 the Border Police has detained newly arrived asylum seekers without formal order in a “temporary detention zone” (*zone de rétention provisoire*) made up of prefabricated containers in the premises of the Menton Border Police, and established following an informal decision of the Prefect of Alpes-Maritimes.⁶⁰³ 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”.⁶⁰⁴ The Council of State also upheld this form of detention as lawful during the period necessary for the examination of the situation of persons crossing the border, subject to judicial control.⁶⁰⁵ Following a decision of the Prefect to forbid access of NGOs (i.e. access to medical care and legal assistance) to the place of detention in **Menton** in September 2020, the Administrative Court of **Nice** ruled in November 2020 this decision was illegal.⁶⁰⁶ Local authorities attempted to issue a new decision on 29 December 2020 upholding the ban on NGOs but with some adjustments for the decision to be considered legal.⁶⁰⁷ However, the Administrative Court of Nice ruled again in March 2021 that this decision was illegal under European law and French Constitution.⁶⁰⁸

The law provides that a foreign national who applies for asylum from detention in a CRA can only be maintained in detention if the Prefecture states in a written and motivated decision that the asylum claim has only been introduced to prevent a notified or imminent order of removal.⁶⁰⁹ The decision to maintain an asylum seeker in administrative detention after an asylum claim can be challenged before administrative courts within 48 hours, and has suspensive effect. Foreign nationals who introduced a claim from administrative detention and who are released are given an asylum claim certificate and their claim will be normally processed.⁶¹⁰ In practice, this assessment always leads the Prefects to consider that the applications must always be examined under the accelerated detention procedure.⁶¹¹

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.⁶¹² This extremely brief period of time drastically reduces the chances of benefiting from an in-depth examination of the claim. Therefore, only the CNDA could provide an in-depth examination of the claim. However, when the asylum seeker's detention is confirmed by the administrative court, they will not benefit from a suspensive effect of their appeal of a negative decision given by OFPRA before the CNDA. They can thus be removed to their country of origin even though the CNDA has not given its final decision on the case, in which case the Court rules there is no more case to adjudicate upon and does not look at substance. Consequently, the asylum seeker in detention does not benefit from an effective remedy nor from an in-depth examination of their claim.

⁶⁰³ Anafé *et al.*, ‘Menton : des personnes exilées détenues en toute illégalité à la frontière’, 7 June 2017, available in French at: <http://bit.ly/2Dnp7pb>.

⁶⁰⁴ Administrative Court of Nice, Order No 1702161, 8 June 2017.

⁶⁰⁵ Council of State, Order No 411575, 5 July 2017.

⁶⁰⁶ Administrative Court of Nice, Order No 2004690, 30 November 2020, available in French at: <https://bit.ly/2NVcNqH>.

⁶⁰⁷ Franceinfo, ‘Frontière italienne : les associations d'aide aux migrants ne pourront pas visiter le local de mise à l'abri à Menton’, 7 January 2021, available at: <https://bit.ly/3pB1sZk>.

⁶⁰⁸ Administrative Court of Nice, Order No 2101086, 4 March 2021, available in French at: <https://bit.ly/2OnsN4D>.

⁶⁰⁹ Article, L.754-3 Ceseda.

⁶¹⁰ Decree n. 2015-1166 of 21 September 2015.

⁶¹¹ Practice-informed observation of Forum Réfugiés also based on exchanges with other professionals, January 2023.

⁶¹² Article L. 531-29 Ceseda.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

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

1.1. Pre-removal detention

Asylum seekers are not placed in administrative detention centres for the purpose of the asylum procedure. Persons who claim asylum during their administrative detention can only be maintained in detention (*maintien en rétention*) if, based on a motivated and written decision, the Prefect considers that the claim aims solely to avoid an imminent removal.⁶¹³

On several occasions, Administrative Courts have clarified that, where the person has made references to a risk of persecution or harm upon return to the country of origin, an intention to apply for asylum solely to avoid imminent removal cannot be inferred from the fact that the person failed to register an asylum application prior to being placed in detention.⁶¹⁴

1.2. Detention under the Dublin Regulation

Asylum seekers under the Dublin procedure can be placed in administrative detention to enforce their transfer once the transfer decision has been notified, where there is a “significant risk of absconding”.⁶¹⁵ 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.⁶¹⁶

In response to this ruling, the *Ceseda* was amended in March 2018 to include the following criteria to determine the existence of a “significant risk of absconding”, where an applicant:⁶¹⁷

- ❖ Has previously absconded from the Dublin procedure in another country;
- ❖ Has received a rejection decision in the responsible Member State;
- ❖ Has been found again on French territory following the execution of a transfer;
- ❖ Has evaded the execution of a previous removal measure;
- ❖ Has falsified a document with the aim of staying on French territory;
- ❖ Has concealed elements of their identity, route, family composition or previous asylum applications;

⁶¹³ Article L. 754-3 *Ceseda*.

⁶¹⁴ See e.g. Administrative Court of Lille, Decision No 1803225, 11 May 2018 (Côte d’Ivoire); Administrative Court of Nancy, Decision No 1800978, 27 April 2018 (Sudan); Administrative Court of Strasbourg, Decision Nos 1801908 and 1801984, 4 April 2018 (Dominican Republic); Administrative Court of Paris, Decision No 1800364/8, 11 January 2018 (Guinea).

⁶¹⁵ Article 28(2) Dublin III Regulation.

⁶¹⁶ Court of Cassation, Decision No 1130, 27 September 2017. See also Court of Cassation, Decision No 17-14866, 7 February 2018.

⁶¹⁷ Article L.751-10 *Ceseda*.

- ❖ Does not benefit from material reception conditions and cannot prove their place of actual or permanent residence;
- ❖ Cannot prove their place of residence after refusing a proposal for accommodation by OFII, or after abandoning their place of accommodation without legitimate reason;
- ❖ Does not respond to requests from authorities without legitimate reason;
- ❖ Has previously evaded a house arrest measure;
- ❖ Has explicitly declared their intention not to comply with the Dublin procedure.

The law went beyond the limits set by the Court of Cassation insofar as detention may apply before the transfer decision. Asylum seekers under the [Dublin: Procedure](#) can thus be placed in detention during the procedure of determination of the responsible State.

3,384 asylum seekers were detained in view of their removal to another EU country under the Dublin procedure in 2021, up to 2,317 in 2020. Data for 2022 is not yet available.

Detention under the Dublin Regulation					
2016	2017	2018	2019	2020	2021
2,208	3,723	3,456	5,160	2,317	3,384

1.3. Detention at the border

Persons entering by train, boat or airplane and refused entry into the territory can be placed in waiting zones strictly for the time necessary for their departure.⁶¹⁸ If a person makes an asylum application at the border, they are automatically maintained in the waiting zone for the duration of the border procedure.

2. Alternatives to detention

Indicators: Alternatives to Detention

- Which alternatives to detention have been laid down in the law?
 - ☐ Reporting duties
 - ☒ Surrendering documents
 - ☐ Financial guarantee
 - ☒ Residence restrictions
- Are alternatives to detention used in practice?
 - ☒ Yes ☐ No

The Prefecture is responsible for assessing alternatives to detention, which can be imposed by the courts if they consider the prefecture's assessment was wrong. The *Ceseda* lays down house arrest (*assignation à résidence*) as an alternative to administrative detention. This measure can take different forms:

- ❖ House arrest where there is no reasonable prospects of removal:⁶¹⁹ the law foresees house arrest for a maximum period of six months (renewable once or several times, up to a total limit of one year) when “the foreigner can justify being unable to leave French territory or can neither go back to his country of origin, nor travel to any other country” and that as a result, the execution of the removal measure is compromised in medium or long term.
- ❖ House arrest as an alternative to administrative detention: the Prefect can put persons who can produce representation guarantees and whose removal is postponed only for technical reasons (absence of identification, of travel documents, or of means of transport) under house arrest for a period of 45 days, renewable once. When foreigners subjected to a return decision, accompanied by minor children, do not have a stable address (decent housing within legal conditions), it is possible to envisage house arrest in hotel-like facilities.

⁶¹⁸ Article L. 341-1 *Ceseda*.

⁶¹⁹ Article L. 751-6 *Ceseda*.

- ❖ House arrest with electronic monitoring for parents of minor children residing in France for 45 days. This measure is not implemented as far as we are aware. It seems to have been taken out of the CESEDA since the new codification of 2021.⁶²⁰

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

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.⁶²¹ This is only a possibility left to the discretion of the administration.

Despite previous ministerial instructions to the contrary,⁶²² in 2022, many Prefectures continued to systematically impose house arrest as soon as asylum seekers are placed in the Dublin procedure (see [Dublin: Procedure](#)), without conducting an individualised assessment to establish whether an alternative to detention is required.

It is further possible to detain third-country nationals accompanied by minor children if they do not respect house arrest prescriptions.⁶²³ It is also possible for the authorities to request the use of police force to ensure implementation of a house arrest order and to visit the third-country national in order to place him or her in a detention centre or to remove him or her from French territory. This use of police force has to be approved by the Judge of Freedoms and Detention (*juge des libertés et de la détention*). The judge has to make a motivated decision within 24 hours after a request.⁶²⁴

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

- Are unaccompanied asylum-seeking children detained in practice?

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

 - ❖ If frequently or rarely, are they only detained in border/transit zones? ☒ Yes ☐ No
- Are asylum seeking children in families detained in practice?

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

3.1. Detention of unaccompanied children

In theory, unaccompanied children cannot be returned and therefore cannot be detained as a consequence. Nevertheless, it is important to stress that in 2021, the six NGOs working in administrative detention centres met 102 detained persons who declared themselves to be children.⁶²⁵ 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.

Unaccompanied children are often maintained in waiting zones in inadequate conditions. The Ombudsman urged in 2017 for a better consideration of their interests, in particular by: consolidating training of agents working in waiting zones; informing children about their situation and rights; providing

⁶²⁰ Former Article L.562-2 Ceseda, not present in the new code.

⁶²¹ Practice-informed observation by Forum Réfugiés and partners, January 2023.

⁶²² 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.

⁶²³ Article L.741-5 Ceseda.

⁶²⁴ Article L. 733-9 Ceseda.

⁶²⁵ ASSFAM-groupe SOS Solidarités, Forum réfugiés-Cosi, France terre d'asile, La Cimade, 2022, available in French at: <https://bit.ly/3u9zJo6>.

them more space to speak and to be heard; establishing separate spaces for children in the waiting zone; and informing the Prosecutor (*Procureur de la République*) of all unaccompanied children in these locations.⁶²⁶ Moreover, the legal representation of unaccompanied minors in waiting zone is not always efficient in practice.⁶²⁷ For more information on whether children can be held in these locations, see the section

Border procedure (border and transit zones).

3.2. Detention of families with children

There has been a steady increase in detained families with children from 2013 to 2019. In 2020, the Ombudsman reported that the widespread use of immigration detention of children with families, and instances of keeping the child in pre-removal detention alone while the parents are not held (particularly in **Mayotte**), remained problematic issues.⁶²⁸

In 2021, 3,211 children were detained, of which 76 on mainland (41 families) and 3,135 (98%) in **Mayotte**.⁶²⁹ The Ombudsman has expressed concerns about persistent practices in the overseas department of **Mayotte**, where migrant children are falsely associated with other persons with whom they have no family ties in order for them to be placed in pre-removal detention and subsequently removed from the country. This mainly affects children from the **Comoros** arriving in **Mayotte** on makeshift crafts.⁶³⁰ Between 2012⁶³¹ and 2022,⁶³² France has been condemned 9 times by the ECtHR for detaining children in situation not compatible with article 3 of the ECHR (length of detention too long and/or very young children and/or unsuitable place of detention).

In May 2020, some deputies filled a proposal for a law (not debated to date) aiming to “strictly regulate the administrative detention of families with minors”.⁶³³ The National Consultative Commission on Human Rights criticised in an opinion the “proposed law to strictly regulate the administrative detention of families with children”. The draft does not categorically prohibit immigration detention of children; it merely limits such detention to 48 hours, with a possible extension of three days. Recalling that the ECtHR found France guilty of arbitrary detention on multiple occasions, the opinion calls on the National Assembly to amend the legislative proposal.⁶³⁴

3.3. Detention of victims of trafficking

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

⁶²⁶ Ombudsman, Decision No 2017-144, 26 June 2017, available in French at: <http://bit.ly/2Dko1v7>.

⁶²⁷ ANAFE, *Les administrateurs ad hoc en zone d'attente Un système au service de la violation des droits des enfants*, March 2022, available in French at: <https://bit.ly/3m7MK0m>

⁶²⁸ Défenseur des droits, *Rapport au Comité des droits de l'enfant*, 10 July 2020, available in French at: <https://bit.ly/2OkAMPG>.

⁶²⁹ ASSFAM-groupe SOS Solidarités, *Forum réfugiés-Cosi, France terre d'asile, La Cimade*, 2022, available in French at: <https://bit.ly/3u9zJo6>.

⁶³⁰ Défenseur des droits, *'Rapport au Comité des droits de l'enfant'*, 10 July 2020, available in French at: <https://bit.ly/2OkAMPG>.

⁶³¹ ECtHR, *Popov v. France*, 19 January 2012, No. 39472/07.

⁶³² ECtHR, *N.B. and others v. France*, 31 March 2022, No. 49775/20.

⁶³³ Assemblée Nationale, Proposal No. 2952, 12 May 2020, available in French at: <https://bit.ly/3k4JRrD>.

⁶³⁴ CNCDH, *'Avis sur la proposition de loi visant à encadrer strictement la rétention administrative des familles avec mineurs : une occasion manquée'*, NOR : CDHX2025771V, 4 October 2020, available in French at: <https://bit.ly/2NICTmg>.

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|------------------------------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 90 days |
| 2. In practice, how long in average are asylum seekers detained? | Not available ⁶³⁵ |

4.1. Duration of detention in CRA

A person can remain in administrative detention for a maximum of 90 days.⁶³⁶ Prior to the 2018 reform, the maximum time limit was 45 days.

The decision of placement in administrative detention taken by the authorities is valid for 2 days. Beyond this period, a request before the JLD has to be lodged by the Prefect to prolong the administrative detention.⁶³⁷ This judge can order an extension of the administrative detention for an extra 28 days after the initial placement. A second prolongation for 30 days is possible, followed by two further prolongations of 15 days granted under certain conditions, in particular if the persons deliberately obstruct their return by withholding their identity, the loss or destruction of travel documents,⁶³⁸ or where despite the goodwill of the executing administration, the removal measure has not yet been finalised. Beyond this period of 90 days, any foreigner who has not been removed must be released.

In practice, the length of stay of asylum seekers who have claimed asylum while in CRA is difficult to assess. On average, third-country nationals remained 22 days in administrative detention centres in 2021.

4.2. Duration of detention in LRA

Detention in LRA can only be ordered for a maximum period of 48 hours, after which the person must be transferred to a CRA.⁶³⁹ This is respected in practice.

4.3. Duration of detention in waiting zones

The placement in waiting zones is ordered for an initial period of 4 days.⁶⁴⁰ It can then be extended by the JLD for a period of 8 days,⁶⁴¹ and in exceptional cases or where the person obstructs their departure, for 8 additional days.⁶⁴² This brings the maximum period of detention in waiting zones to 20 days in total.

If necessary, the Border Police makes full use of the possibility to prolong detention and hold people in waiting zones for 20 days, although the average period of detention is 5 to 6 days in waiting zones such as **Roissy** and **Marseille**.⁶⁴³

A final exceptional prolongation is applicable to asylum seekers. If a person held in a waiting zone makes an asylum application after the 14th day, the law foresees the possibility of a further extension of detention for 6 more days following the submission of the asylum application, with a view to allowing the authorities

⁶³⁵ Statistics on the average detention of asylum seekers specifically is not available. However, regarding third-country nationals in general, statistics indicate an average detention of 22 days in 2021.

⁶³⁶ Article L.742-5 Ceseda, as amended by Article 29 Law n. 2018-778 of 10 September 2018. Originally set at a maximum of 7 days, the length of administrative detention was extended to 32 days in 2003, to 45 days in 2011 and to 90 days in 2018. In exceptional situations, not known in practice, foreigners can be detained for 6 months when they are sentenced for terrorism.

⁶³⁷ Article L.742-1 Ceseda.

⁶³⁸ Article L.742-4 et L.742-5 Ceseda.

⁶³⁹ Article R. 744-9 Ceseda.

⁶⁴⁰ Article L. 341-2 Ceseda.

⁶⁴¹ Article L. 342-1 Ceseda.

⁶⁴² Article L. 342-4 Ceseda.

⁶⁴³ ECRE, *Access to asylum and detention at France's borders*, June 2018, available at: <https://bit.ly/3oamVxg>, 8.

to conduct the asylum procedure.⁶⁴⁴ The detention period can thereby extend to 26 days if the person applies for asylum on the 20th day of detention.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

1.1. Administrative detention centres (CRA)

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

By 2021, there were 25 CRA on French territory, including in overseas departments. For statistics on the occupancy of the CRA in mainland, see Annual Report on administrative detention.⁶⁴⁵

Some CRA have specific places for women and families, including **Hendaye** (6 out of 30 places), **Lyon** (12 out of 104 places), **Mesnil-Amelot** (40 out of 240), **Rennes** (10 out of 70 places), **Rouen-Oissel** (19 out of 72 places) and **Guyane** (12 out of 38 places).

1.2. Places of administrative detention (LRA)

There are 22 administrative detention places (LRA) in France.⁶⁴⁶ According to the Ministry of Interior, about 2,426 foreigners have been detained in LRA in 2019, but a detailed breakdown of statistics per LRA is not available.⁶⁴⁷ More recent statistics are not available.

1.3. Waiting zones at the border

In the context of the **Border Procedure**, asylum seekers are held in a waiting zone while awaiting a decision on their application for an authorisation to enter the territory on asylum grounds.⁶⁴⁸

There is no public data on the exact number of waiting zones in France and their capacity. Recent information quoted by ECRE referred to asylum applications registered in 12 waiting zones in airports, located in:⁶⁴⁹

❖ Paris Roissy CDG Airport

❖ Paris Orly Airport

⁶⁴⁴ Article L. 342-4 Ceseda.

⁶⁴⁵ Forum Réfugiés et al., *Rapport annuel sur la rétention administrative*, available in French at: <https://bit.ly/3p2b7Od>.

⁶⁴⁶ The total number of LRA is not stable and permanent as these detention facilities can be created upon a decision of the Prefet.

⁶⁴⁷ Assemblée nationale, 'Rapport sur le projet de loi de finances 2021', 8 October 2020, available in French at: <https://bit.ly/3u6oZoy>, 33.

⁶⁴⁸ 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.

⁶⁴⁹ ECRE, *Access to asylum and detention at France's borders*, June 2018, 16.

- ❖ Paris Beauvais Airport
- ❖ Marseille Airport
- ❖ Lyon – Saint Exupéry Airport
- ❖ Toulouse Blagnac Airport
- ❖ Bâle-Mulhouse Airport
- ❖ Bordeaux Airport
- ❖ Nantes Airport
- ❖ Nice Airport
- ❖ Strasbourg Airport
- ❖ La Réunion

Some other waiting zones are located in ports (Marseille, Dunkerque etc.) or in train stations with international lines (e.g. Modane, Paris-Gare du Nord), but here is no detailed list.

Waiting zones may include “hotel-type services” accommodation as is currently the waiting zone of the **Paris Roissy CDG Airport** (in the ZAPI 3 - *zone d’attente pour personnes en instance*), which can receive up to 160 people. In other waiting zones, material accommodation conditions vary: third country nationals are sometimes held in a nearby hotel (like in **Only airport** at night) or in rooms within police stations. Not all are equipped with hotel type services. In **Marseille**, the accommodation facility of the waiting zone is located in the premises of the CRA of Marseille, located near the city centre.

In these accommodation areas, there should be an area for lawyers to hold confidential meetings with the foreign nationals. In practice, those are only established in the **Roissy CDG airport** (ZAPI 3).

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

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

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

Article R. 744-6 Ceseda sets out the conditions administrative detention centres must meet, notably in terms of crowdedness, sanitary installations, food, premises for private and legal-related visits.⁶⁵⁰ Centres in which families may be detained must provide specific rooms, including nursery equipment.⁶⁵¹ Men and women held in detention centres must have separated living spaces (*zones de vie*). The set-up of the rooms varies from one detention centre to the other, ranging from 2 to 6 persons per room. Specific provisions have been adopted concerning **Mayotte**: a detention centre cannot exceed a 140 places capacity, must integrate unisex rooms, free-access sanitary facilities, an open-air area, one room medically equipped, reserved for the medical team and a free-access telephone for organisations intervening in the centre.⁶⁵²

Overall, administrative detention conditions are deemed adequate in France but there are important differences between centres. Hunger strikes were led in four CRA in January 2019.⁶⁵³ Between 2017 and 2019, five migrants died in CRA⁶⁵⁴ and several suicides attempts were reported. In 2020, these situations persisted and were accentuated by the health crisis during which detention was even more perceived as

⁶⁵⁰ Voir further details see see article on Legifrance at: <https://bit.ly/42iCpy1>.

⁶⁵¹ Article R. 744-6 Ceseda.

⁶⁵² *Ibid.*

⁶⁵³ Libération, ‘Mouvements de grève de la faim dans quatre centres de rétention administrative’, 18 January 2019, available in French at: <https://bit.ly/2ImNNVr>.

⁶⁵⁴ La Cimade, *Rétention : mort d’une personne par pendaison*, 30 December 2019, available in French at: <https://bit.ly/3arLPwb>.

unfair.⁶⁵⁵ In a report on detention conditions in the context of immigration in France, published in March 2020, the European committee for the prevention of torture (CPT) noted several points: lack of specialised training for staff, no systematic health examination before admission, almost total absence of activities and little contact with staff, prison-like environment, almost no activities in most of the places visited, information notices on rights which often only exist in French, no consultation with a psychologist, but also good practice of wide access to outdoor courtyards.⁶⁵⁶ There is limited information available as to whether these issues have been addressed as of the end of 2022.

2.1. Conditions in CRA

Overall living conditions

The previous versions of this country report⁶⁵⁷ provided a detailed overview on the overall living conditions in the different CRA based on the annual Detention report prepared by several NGOs.

Separate places are provided for families in the 10 centres which are duly authorised. Access to education is not foreseen in France in CRA since children are not supposed to stay there. However, the prohibition of administrative detention for children is only applicable to unaccompanied children; children with their families can be detained for 90 days without access to education.

Access to open-air areas depends on the facilities. Facilities built after 2006, such as in **Marseille**, have become prison-like. In the majority of the centres, no activity is provided. Depending on the CRA, there may be a TV room (sometimes out of order or only broadcasting programmes in French), a few board games, a table football or even several ping pong tables but this is still insufficient, especially considering the length of detention which can go up to 90 days.⁶⁵⁸ Lack of activities and boredom are the day to day reality of persons held in these centres. The detainees can in principle keep their mobile phones, but only if they do not include camera equipment. Most people are therefore not authorised to keep their phones and the police refuses to authorise them even if the detainees offer to break the camera tool. Detainees may have access to reading material, depending on the centre but computers are never made available. Finally, detainees can have contact with relatives during restricted visit hours, however a number of detention centres are located in remote areas or accessible with difficulty (no or limited public transportation).

Health care and special needs in detention

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

Sanitary and social support is provided by medical and nursing staff. Their availability varies from one centre to the other (from 2 days to 7 days a week). The care is given by doctors and nurses who belong to independent hospital staff. They are grouped in medical administrative detention centres (UMCRA).⁶⁵⁹ In principle, each person placed in administrative detention is seen by the nurse upon arrival. The person is seen by the doctor upon request or upon request of the nurses, in principle within 2 days of arrival. The threshold to determine that a health status is incompatible with administrative detention seems to vary a lot depending on the doctors and the detention centres. In case of high-risk pregnancy, doctors of the

⁶⁵⁵ See e.g. Infomigrants, 'Centres de rétention en France : la colère d'étrangers sans perspective d'avenir', 13 August 2020, available in French at: <https://bit.ly/2NIFztS>.

⁶⁵⁶ Council of Europe, CPT, *Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 23 au 30 novembre 2018*, 24 March 2020, available in French at: <https://bit.ly/39rfnJw>.

⁶⁵⁷ See updates until 2020 Update included, available here: <https://bit.ly/3KLYFJo>.

⁶⁵⁸ *Ibid.*

⁶⁵⁹ Ministry of Interior, *The Centres of Administrative Detention*, available in French at: <http://bit.ly/1dM8BkC>.

UMCRA may provide a certificate stating the incompatibility of the person's health with administrative detention – but this is not automatic and this recommendation is not always followed by the Prefect.⁶⁶⁰

The General Controller of Places of Detention (CGLPL) issued an opinion in December 2018, urging for a revision of the UMCRA framework and an expansion of their capacity.⁶⁶¹ Moreover, in a report published after an unannounced visit to an administrative detention centre in Lyon, the CGLPL highlighted a number of shortcomings in the detention conditions. These included insufficient information on house rules, no systematic medical checks upon admission, and limited access to a psychiatrist.⁶⁶² In practice, however, nothing has changed since 2019.

The practical problems observed regarding access to healthcare relate to a lack of consideration for psychological or psychiatric problems of detainees, as highlighted by CGLPL.⁶⁶³ Dozens of suicide attempts are reported each year in these centres. In some detention centres, the lack of continuing presence of medical units leads police officers to assess the needs of patients, as is the case for example in **Guadeloupe**. In **Bordeaux**, in only one occasion has a detainee been released for medical reasons whereas many of them suffer from physical or psychological pathologies.

In 2019, more than 20 civil society organisations sent an open letter to the Minister of the Interior, raising concerns about the increasing number of suicides, hunger strikes and self-harm in immigration detention centres; the increase in the occupancy rate of the centres; and the difficulties in accessing care, especially psychiatric care.⁶⁶⁴ In practice, however, the issues remained unanswered.

The lack of medical confidentiality is another concern. Out of 13 CRA visited by the CGLPL in 2017 and 2018, more than half presented concerns about compliance with the principle of confidentiality.⁶⁶⁵ Recent figures are not available but similar issues continue to be reported.

The six NGOs working in detention centres have also identified an important issue regarding victims of human trafficking. In some cases, these victims are properly orientated and supported by the medical unit and the police, in **Lille** for example. Nevertheless, most victims of trafficking were not provided with specific support according to the same NGOs. Their number in detention centres is increasing, namely in **Coquelles**, **Metz** or **Sète**.

2.2. Conditions in waiting zones

Conditions in waiting zones differ considerably from one area to another.

Roissy is the most structured and organised waiting zone in France,⁶⁶⁶ insofar as it provides tailored infrastructure and concentrates all relevant actors in the same place. These include: the French Red Cross (*Croix rouge française*) which provides humanitarian assistance and counselling; Anafé, which provides legal information and assistance by phone and through a physical presence three days a week; OFPRA conducts interviews with asylum seekers; and as of 2017 the JLD is stationed in an Annex of the TGI of **Bobigny** in a building adjacent to the waiting zone. Neither the Red Cross nor OFPRA are physically present in other waiting zones in the country.

⁶⁶⁰ Ministère de l'Intérieur, ministère des Solidarités et de la Santé, Instruction du Gouvernement du 11 février 2022 relative aux centres de rétention administrative – organisation de la prise en charge sanitaire des personnes retenues NOR : INTV2119176J. Available in French at : <https://bit.ly/44hm4eN>.

⁶⁶¹ CGLPL, Avis du 17 décembre 2018 relatif à la prise en charge sanitaire des personnes étrangères au sein des centres de rétention administrative, available in French at: <https://bit.ly/2TiP5Bm>.

⁶⁶² CGLPL, *Rapport de la troisième visite du centre de rétention administrative de Lyon Saint-Exupéry*, available in French at: <https://bit.ly/3clFbE1>.

⁶⁶³ *Ibid.*

⁶⁶⁴ The open letter is available in French at: <https://bit.ly/2W32Dps>.

⁶⁶⁵ *Ibid.*

⁶⁶⁶ Anafé, *Aux frontières des vulnérabilités*, February 2018, 35.

More problematic conditions are reported in other waiting zones: NGOs have not the capacity to regularly access them and people detained can thus establish contact only by phone in order to obtain legal aid. Waiting zones are also usually very small and the police is not trained accordingly.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

- | | | | |
|-------------------|---|---|--|
| ❖ Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR: | <input type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input checked="" type="checkbox"/> No |
| ❖ Family members: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |

3.1. Access to CRA

Six NGOs are present quasi-permanently (5 to 6 days a week) in the centres as a result of their mission of information for foreigners and assistance in exercising their rights (see section on [Legal Assistance](#)). The following NGOs lead this mission in CRA:

- ❖ Lot 1 (Bordeaux, Nantes, Rennes, Toulouse, Hendaye): **La Cimade**;
- ❖ Lot 2 (Lille 1 and 2, Metz, Geispolsheim): **SOS Solidarités ASSFAM-Groupe SOS**,
- ❖ Lot 3 (Lyon, Marseille and Nice): **Forum réfugiés**;
- ❖ Lot 4 (Nîmes, Perpignan and Sète): **Forum réfugiés**;
- ❖ Lot 5 (Overseas): **La Cimade**;
- ❖ Lot 6 (Le Mesnil-Amelot 1, 2 and 3): **La Cimade**;
- ❖ Lot 7 (Palaiseau, Plaisir, Coquelles and Rouen-Oissel): **France Terre d'Asile**;
- ❖ Lot 8 (Bobigny and Paris): **ASSFAM-Groupe SOS**;
- ❖ Mayotte: **Solidarité Mayotte**.

Representatives of these accredited NGOs can have access to all CRAs. are able to access the administrative detention places. Accessible rooms and facilities are listed: ⁶⁶⁷ this excludes the police offices, the registry, the video surveillance room, the kitchen, the technical premises. A maximum of 5 persons can make a visit within 24 hours. The time of the visits should not hinder the proper functioning of the centre, preferably during the day and the week. The head of the centre will be informed of the visit 24 hours in advance and can reschedule the visit by giving reasons and for a limited period.

In addition, some people enjoy free access to the CRA:

- ❖ The Council of Europe Commissioner for Human Rights;
- ❖ The members of the European Committee for the Prevention of Torture;
- ❖ The French and European Members of Parliament;
- ❖ The General Controller of places of freedom deprivation;
- ❖ The Prefects;
- ❖ Public prosecutors; and
- ❖ JLD.

Others have more limited access: consulate staff; lawyers; families of persons held.⁶⁶⁸ 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 focus on surveillance rather than providing opportunities for the visits to take place. Family visits are therefore sometimes cancelled for the morning. Since the asylum law reform, representatives from UNHCR have access to the administrative detention centres in France under

⁶⁶⁷ Décret du 24 juin 2014 modifiant les articles R. 744-27 à R. 744-32 du Ceseda complété par une note d'information du 28 octobre 2014 du ministre de l'intérieur relative aux modalités d'accès des associations humanitaires aux lieux de rétention.

⁶⁶⁸ Ministry of Interior, *Persons having access to centres and locations of administrative detention*, available in French at: <http://bit.ly/1SanmeE>.

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 for asylum in France.⁶⁶⁹

The law also allows journalists access to administrative detention centres.⁶⁷⁰ This access must be authorised by the Prefect.⁶⁷¹ In case of denial of access, the decision has to be motivated.⁶⁷² Their presence must be compatible with the detainees' dignity, security measures and the functioning of centre.⁶⁷³ The detainees can refuse to appear on photographs or to be mentioned in articles. The journalists have to preserve the anonymity of the detained children under all circumstances. This condition does not apply to adults giving their authorisation for their identity to be revealed.⁶⁷⁴ The reform also established the rule that journalists following Members of Parliament visiting detention centres cannot be denied access to these centres. The same limitations regarding the anonymity apply in this case.⁶⁷⁵

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.

In the context of Covid-19, NGO activity continued in all centres which remained open.

3.2. Access to waiting zones

The list of NGOs accredited to send representatives to access the waiting zones, established by order of the Ministry of the Interior was last revised in June 2021 and will be valid until June 2024.⁶⁷⁶ It includes 9 organisations:

- ❖ Association nationale d'assistance aux frontières pour les étrangers (Anafé);
- ❖ La Cimade;
- ❖ Croix-Rouge française;
- ❖ France terre d'asile;
- ❖ Forum réfugiés;
- ❖ Groupe accueil et solidarité (GAS);
- ❖ Groupe d'information et de soutien des immigrés (GISTI);
- ❖ Ligue des Droits de l'Homme;
- ❖ Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP)

Only **Anafé** provides support regularly in the waiting zone of **Roissy** airport, being present in their office for few days each week. In other waiting zones, NGOs conduct visits based on the availability of their volunteers and/or when someone calls them from waiting zones. Indeed, when a foreigner is detained in a waiting zone, he/she must be given a list of contacts by the police including NGOs available in the area.

⁶⁶⁹ Article R. 744-26 Ceseda.

⁶⁷⁰ Article L. 744-15 Ceseda.

⁶⁷¹ Article R. 744-34 Ceseda.

⁶⁷² Article R. 744-35 Ceseda.

⁶⁷³ Article L. 744-15 Ceseda.

⁶⁷⁴ *Ibid.*

⁶⁷⁵ Article R. 744-39 Ceseda.

⁶⁷⁶ Arrêté du 1^{er} juin 2021 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente, available in French at: <https://bit.ly/3pu3Kwb>.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | | |
| ❖ First review | 2 days | |
| ❖ Second review (if person not removed) | 30 days | |

Foreigners held in CRA are informed about the reasons for their placement in these centres through the notification of the administrative decision. 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.⁶⁷⁷ According to the law,⁶⁷⁸ this notification should be made (orally) to the foreigner in a language they understand. In practice, this is done in most of the cases but not always. Detainees are also notified that their asylum claim will be inadmissible if it is submitted 5 days after their rights have been notified. The claim is deemed to be admissible after 5 days only if it is based on elements or events occurred after these 5 days. This condition is not applicable to foreigners from safe countries of origin; their claim will be deemed inadmissible in any case when it is submitted five days after they have had their rights notified.⁶⁷⁹

The law foresees a judicial review of the lawfulness of the administrative detention of all foreigners. The legality of detention falls under the dual control of the Administrative Court and the Civil Court. Each court examines specific and complementary aspects of the procedures. It is quite difficult to assert if there is a judicial review of the lawfulness of administrative detention, as the Administrative Court reviews the lawfulness of the removal order and house arrest if this measure was taken by the Prefect before the placement in detention. The Civil Court i.e. the JLD intervenes two days after this placement.

1.1. Administrative Court: Legality of administrative decisions of removal and house arrest

The Administrative Court intervenes upon request of the foreigner (asylum seeker if relevant) who challenges the legality of the decisions taken by the Prefect, i.e. the measures of removal and/or house arrest.⁶⁸⁰ Removal and house arrest orders can be challenged within 48 hours. This period starts from the notification of the measure, and not from the arrival at the administrative detention centre. The administrative judge can, for example, verify that the Prefect has not committed a gross error of appreciation by ordering the removal of the territory when the foreigner is entitled to stay on the French territory. In sum, the court has to decide on the reasons why a foreigner has been placed in detention.

Moreover, the French Constitutional Court ruled on 4 October 2019 that the administrative court is competent to assess the legality of a decision to maintain a person in administrative detention if, based on a motivated and written decision, the Prefect considers that the asylum claim has only been lodged to prevent a notified or imminent order of removal.⁶⁸¹

⁶⁷⁷ Article L.744-6 Ceseda; Article R.744-17 Ceseda.

⁶⁷⁸ Articles L. 141-2 et L.141-3 Ceseda.

⁶⁷⁹ Article L.754-1 Ceseda.

⁶⁸⁰ Article L.741-10 Ceseda

⁶⁸¹ Constitutional Court, Decision 2019-807, 4 October 2019, available in French at: <https://bit.ly/2UGAELy>.

The judge can also verify if the Prefect's decision of house arrest does not contravene the best interests of the foreigner and if the measure is proportionate. The administrative court must decide within 72 hours.⁶⁸²

The Administrative Court can, only in cases of an asylum claim, control the lawfulness of the detention. If an asylum claim is submitted during detention, it is possible to challenge the decision of placement in detention within 48 hours after the notification of the detention. The claimant has to prove their claim has not been submitted only in order to thwart the removal measure. The court has to decide within 72 hours after the claim has been lodged.⁶⁸³

In several Prefectures, the asylum seeker is placed in detention on a Friday, to avoid the possibility for him to access legal assistance during the weekend, and to carry out the transfer within 48 hours. In these frequent cases, there is no effective appeal for those people.

1.2. Judge of Freedoms and Detention (JLD): Conformity of deprivation of liberty

The JLD, whose competence is set out in Article 66 of the Constitution, intervenes in the procedure by request of the Prefect at the end of the first 2 days of administrative detention in order to authorise a prolongation of the detention, after having examined its lawfulness. As stated by the Constitutional Court in its ruling of 4 October 2019, however, the competence of the administrative court to assess the legality of an order to maintain people who ask for asylum in detention does not violate the French Constitution.

As regards the mandate of the JLD, they will check whether the police respected the procedure and the rights of the person during the arrest, the legality of the police custody and the placement into administrative detention. The judge will also examine whether the custody is compatible with the personal situation of the detainee. The JLD intervenes a second time after 28 days of detention if the person is still detained and has not been removed. This judge can also be requested to intervene at any moment by the person detained in administrative detention centres but these requests have to be very solidly argued (serious health problems for instance) and are hardly ever considered admissible.⁶⁸⁴ Appeals lodged against the measure of removal or house arrest have suspensive effect over its execution.⁶⁸⁵ It is also possible for the foreigner to call upon the JLD at any moment during the first 48 hours through a motivated request.⁶⁸⁶

The law enables foreigners to challenge the removal decision from the moment of its notification. This implies it would be impossible, theoretically, to remove someone before they have been in a position to call upon the judge, either administrative or civil.

Since the end of 2017, there have been cases of court hearings conducted by videoconference from the CRA of **Toulouse**, whereas this was already the case in other CRA.⁶⁸⁷ 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 fact that the hearing must be accessible to the public.⁶⁸⁸ Some other cases have been reported in 2019, e.g. in **Hendaye**.⁶⁸⁹ The use of videoconference has been further developed during the health

⁶⁸² *Ibid.*

⁶⁸³ *Ibid.*

⁶⁸⁴ Article L.743-18 Ceseda.

⁶⁸⁵ Article L.722-8 Ceseda.

⁶⁸⁶ Articles R.741-3 and L.742-8 Ceseda.

⁶⁸⁷ See e.g. Observatoire de l'enfermement des étrangers, '*Justice hors la loi ! Une audience illégale au sein du centre de rétention de Toulouse*', Press Release, 4 February 2019.

⁶⁸⁸ 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>.

⁶⁸⁹ Le Figaro, 'Polémique après l'audience d'étrangers en visioconférence dans un commissariat'. 10 October 2019, available in French at: <https://bit.ly/37zim4q>.

crisis in the context of COVID-19.⁶⁹⁰ Many court hearings have been carried out via videoconferencing since March 2020, thus raising fears that it becomes a standard practice after the health crisis. Concerns raised include the fact that it may render communication more difficult, especially in light of technical problems already reported in practice, and risk of undermining the rights of the defence. In **Mesnil-Amelot** near Paris, on the other hand, the JLD hearings take place in an annex of the Court (TGI) located in the CRA. Annexes of the competent courts are also established in **Coquelles** and **Marseille** for detention hearings.

As regards detention in the context of the **Border Procedure**, the JLD is competent to rule on the extension of the stay of foreigners in the waiting zone beyond the initial 4 days. The stay cannot be extended by more than 8 days,⁶⁹¹ renewable once.⁶⁹² 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.”⁶⁹³ The administrative authority must lodge a request with the JLD to extend custody in the waiting zone and must explain the reasons for this (impossible to return the foreign national due to lack of identity documents, pending asylum application, etc.).

In **Roissy**, since end of 2017, hearings take place in an annex of the Court (TGI) of Bobigny. NGOs have noted that this annex undermines the public character of hearings given the obstacles to physically accessing the waiting zone of Roissy, as well as the right to legal representation insofar as lawyers have no access to phone, fax or Wi-Fi to receive urgent documents if needed.⁶⁹⁴

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
☒ Yes ☐ No

Legal assistance for persons held in administrative detention (including asylum seekers) is provided by law. Currently, six NGOs which assist foreigners are authorised, by agreement (public procurement) with the Ministry of Interior, to provide “on duty” legal advice in CRA. As they are informed of all arrivals in the centres, they inform the detainees and help them exercise their rights during the detention procedure (hearings in front of the judge, filing of an appeal, request for legal aid etc.)⁶⁹⁵ These NGOs are present in the administrative detention centres quasi-permanently (5 to 6 days a week). Some of these NGOs have set aside a budget to hire interpreters to assist detainees who do not speak French or English, whereas others resort to volunteers.

Conversely, no legal assistance is provided in LRA.

As for the assistance given by lawyers, the law foresees that foreigners held in administrative detention can be assisted for free by a lawyer for their appeals (during the hearing) in front of the administrative court or for their presentation in front of the JLD. In practice, detainees can benefit from this assistance provided for free, before both the administrative⁶⁹⁶ and civil courts.⁶⁹⁷ They can choose their own or request one be appointed.

⁶⁹⁰ InfoMigrants, ‘Avec le recours aux visioconférences, une justice expéditive pour des étrangers en rétention’, 20 August 2020, available in French at: <https://bit.ly/3saR5NF>.

⁶⁹¹ Article L. 342-1 Ceseda.

⁶⁹² Article L. 342-4 Ceseda.

⁶⁹³ Article L. 342-5 Ceseda.

⁶⁹⁴ ECRE, *Access to asylum and detention at France’s borders*, June 2018, 9.

⁶⁹⁵ French Public Administration, *Rights of Foreigners Placed in Detention*, available in French at: <http://bit.ly/1Mh1exu>.

⁶⁹⁶ Article R. 776-22 CJA.

⁶⁹⁷ Article R. 552-6 Ceseda.

With regard to the confidentiality granted to the discussions between lawyers and their clients when they meet within the detention centres, the situation can vary from one centre to the other. An office with frosted windows is usually provided. It is however very rare that lawyers agree to go to the detention centres, as they are usually located quite far from the city centre. Lawyers can easily contact their clients by calling a public phone or by calling the NGO present in the centre that will make sure the call is forwarded to the detainee.

E. Differential treatment of specific nationalities in detention

With regard to accessing the asylum procedure from detention, the law clarifies that detainees, upon hearing their rights, are notified that their asylum claim will be inadmissible if it is submitted 5 days after their rights have been notified. The claim is deemed to be admissible after 5 days only if it is based on elements or events occurred after these 5 days. However, for persons coming from safe countries of origin (see [Safe Country of Origin](#)), this last exception does not apply.⁶⁹⁸

⁶⁹⁸ Article L. 551-3 Ceseda.

Content of International Protection

A. Status and residence

1. Residence permit

Indicators: Residence Permit

- | | |
|--|----------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? | |
| ❖ Refugee status | 10 years |
| ❖ Subsidiary protection | 4 years |

Residence permits are granted to **refugees** for 10 years (*Carte de resident*).⁶⁹⁹ The same permit is also granted *ipso jure* to their family, in particular to:

- ❖ Spouses, legal partners (PACS) or *de facto* partners (*concubinage*) if they arrived with them or at least before registration of the asylum claim and if they are of the same nationality (they actually benefit from the same protection status as their family member, through the principle of family unity);
- ❖ Spouses, legal partners (PACS) or *de facto* partners (*concubinage*) if they have been admitted to join them under the family reunification procedure;
- ❖ Spouses, legal partners (PACS) or *de facto* partners (*concubinage*) where their union was sealed after the asylum application, under the condition it has been lasting for at least 1 year, and if they are genuinely living together;
- ❖ Children up to their 19th birthday regardless of the conditions of arrival;
- ❖ For minor refugees: their parents and underaged brothers and sisters. The date retained to determine if the refugee is or was a minor for this purpose is the date of the lodging of the claim.

Since 1 March 2019, residence permits delivered to **subsidiary protection** beneficiaries are granted for four years (*Carte de séjour pluriannuelle*).⁷⁰⁰ The same residence permits are granted to their family according to the same rules as for refugees.⁷⁰¹

Refugees may encounter difficulties to get their residence permits issued or renewed.⁷⁰² Their residence permits have to be issued within the next 3 months following their request for such documentation. The same goes for the subsidiary protection beneficiaries.⁷⁰³ However, OFPRA may take longer than expected to deliver the necessary documentation that has to be submitted for the issuance of their permits, namely the OFPRA birth certificates. Without them, prefectures refuse to deliver the residence permits and only provide certificates that a request for a residence permit has been lodged (*récepissé*).

According to provisional Ministry of Interior statistics, France granted 26,515 residence permits to refugees and stateless persons and 10,635 to subsidiary protection beneficiaries in 2022 (compared to 23,481 and 12,811 respectively in 2021).⁷⁰⁴

⁶⁹⁹ Article L. 424-3 Ceseda.

⁷⁰⁰ Article L. 424-9 Ceseda, inserted by Article 1 Law n. 2018-778 of 10 September 2018.

⁷⁰¹ *Ibid.*

⁷⁰² 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.

⁷⁰³ Article R. 424-7 Ceseda.

⁷⁰⁴ Ministry of Interior, *Chiffres clés – titres de séjour*, 26 January 2023, available in French at: <https://bit.ly/3nQ7SbP>.

2. Civil registration

When protection is granted, a “family reference form” is sent to the beneficiary of international protection by OFPRA, either with the OFPRA protection decision or later, notably when protection has been granted by the CNDA.

Upon receipt of the family reference form duly completed, signed by the beneficiary of international protection and sent by post, OFPRA begins its process for the drawing up of the civil status documents. The time limit for issuing these documents is 3 months, insofar as possible. For 2021, OFPRA reported a 8 months average time for delivering those documents. However, this is only an average and some beneficiaries of international protection wait much longer for their documentation. OFPRA prioritises the issuance of civil status documents for some categories of persons, for instance unaccompanied children, girls at risk of FGM and relocated refugees.⁷⁰⁵ Additional resources have been allocated to this mission of OFPRA, but this has not yet produced a significant effect in a context of increasing asylum claims.

OFPRA considers the potential documents provided by the beneficiary of international protection in their asylum application file if any, namely foreign civil status documents, identity or travel documents (national identity card, passport). However, the beneficiary need not have these documents. Statements of the beneficiary when filing their application for asylum, during the interview at OFPRA and on the family reference form, are also taken into account.

The personal status of the beneficiary of international protection will be ruled by the laws of their country of origin for all rights acquired before the granting of international protection. For instance, a prior religious marriage will be valid in France if the national law of the person considered it as official, even though French law does not recognise this type of union. By way of exception, French law will apply to acts prior to the recognition of international protection in two cases: (a) French law prevails in case of a right contrary to French public order e.g. polygamous marriage; and (b) same sex marriage will automatically be recognised pursuant to French law, even if not recognised under the law of the country of origin.

French law applies to all events subsequent to the granting of international protection. The beneficiary may therefore marry, enter into a civil union (PACS) or divorce according to French law.⁷⁰⁶

3. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2022:	37,150 ⁷⁰⁷
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According to French law, **refugees** obtain a long-term resident status from the moment they are granted asylum. At the first renewal, they may *ipso jure* be issued permanent resident status.⁷⁰⁸ This requires however proving their proficiency in French,⁷⁰⁹ and their presence must not be a threat to the public order.⁷¹⁰

The threat to the public order is assessed in practice through the potential criminal sentences passed against the third-country national. No systematic discrimination against specific nationalities has been reported in this regard. The difficulty encountered to benefit from this status is more likely linked to a lack of information. As mentioned in the law, this status has to be claimed. *Ipso jure* has to be interpreted as the fact it cannot be denied if a third-country national, complying with the conditions listed by legal

⁷⁰⁵ OFPRA, *2017 Activity report*, 56.

⁷⁰⁶ OFPRA, *Guide of procedures*, available in French at: <https://bit.ly/40dlrjd>.

⁷⁰⁷ This refers to the total number of residence permits delivered to refugees, subsidiary protection and stateless persons.

⁷⁰⁸ Article L. 426-4 Ceseda.

⁷⁰⁹ *Ibid.* and Article L.413-7 Ceseda.

⁷¹⁰ Article L. 412-5 Ceseda.

provisions, asks for it. Prefectures, at the renewal of the first residence permit, do not automatically indicate to refugees they can be issued such a document.

4. Naturalisation

Indicators: Naturalisation		
1. What is the waiting period for obtaining citizenship?	❖ Refugee status	None
	❖ Subsidiary protection	5 years
2. Number of citizenship grants in 2022:		Not available

There are several ways to obtain citizenship according to French law. It is possible to be naturalised by declaration or by decree. Naturalisation by declaration is only possible for refugees and beneficiaries of subsidiary protection's children born in France or having arrived in France before turning 13 years old. Otherwise, these children will either have to lodge an asylum claim of their own (which they would get either automatically as the children of their parent or in their own right based on individual risk) or submit a residence permit request as family of refugees. It is also possible to access citizenship by marriage to a French citizen.

Beneficiaries of international protection usually obtain citizenship by decree. The criteria and conditions for naturalisation are listed in the Civil Code and the 1993 Decree on citizenship,⁷¹¹ as follows:

- ❖ Five years of previous regular residence;⁷¹²
- ❖ Strong knowledge of French: the candidate can produce a diploma or any document certifying of their linguistic skills, proving they are able to have a conversation about any topic of their interest;⁷¹³
- ❖ Strong knowledge of the History of France and its institutions, culture, and place in the world, as well as strong knowledge of the rights and obligations associated with French citizenship;⁷¹⁴
- ❖ The candidate must not have been sentenced during their stay in France to a penalty of 6 months or more of imprisonment;⁷¹⁵
- ❖ The candidature must subscribe entirely to the values and symbols of French Republic.⁷¹⁶

A leaflet is issued to any candidate to citizenship. This document describes the criteria to meet to be deemed eligible. The law establishes integration in the French society as a compulsory condition. This leaflet is thus not distributed in other languages. Along with the leaflet, the candidates are issued the list of documents they have to produce.⁷¹⁷ 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.⁷¹⁸ The difficulty they encounter is linked to their knowledge of the language.

Beneficiaries of **subsidiary protection** fall under the general rules. They have to wait for 5 years before being authorised to lodge their citizenship claim. This period can be shortened to 2 years if they graduate after 2 years spent in a French university, if they render an exceptional service to France or if they can demonstrate they are particularly well-integrated.⁷¹⁹

⁷¹¹ 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>.

⁷¹² Article 21-17 Civil Code.

⁷¹³ Article 37(1) Decree n. 93-1362.

⁷¹⁴ Article 37(2) Decree n. 93-1362.

⁷¹⁵ Article 21-23 Civil Code.

⁷¹⁶ Article 21-24 Civil Code.

⁷¹⁷ Article 37-1 Decree n. 93-1362.

⁷¹⁸ Article 21-19 Civil Code.

⁷¹⁹ Article 21-18 Civil Code.

The citizenship application has to be lodged at the Prefecture. The prefecture has 6 months to process the claim,⁷²⁰ during which an interview is conducted to assess the level of integration of the candidate, regarding especially their knowledge of the language and of the French “culture”.⁷²¹ If the Prefecture takes a positive decision, it is sent to the Ministry of Interior in charge of adopting a decree relating to the acquisition of citizenship by the candidate.⁷²² The Ministry has to make its decision within 18 months following the transfer of the notice by the prefecture.⁷²³ These deadlines can be extended once for three months on the basis of a written and motivated decision.⁷²⁴

In practice, refugees encounter many difficulties beyond the mere ones linked to the language requirement. The interview also aims to determine the level of integration into French society of the candidates. This assessment is very wide since, according to lawyers supporting refugees in this process, economic and cultural aspects are taken into account, as well as ties with their original community. The Prefecture will particularly scrutinise the relationship claimants have with French people. In that sense, claimants are used to submitting more documents than those required by law. For example, they will produce testimonies from teachers if they have children, proof of their economic situation or testimonies of French friends.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

In 2021, OFPRA ended protection of 864 persons (compared to 312 in 2020), affecting 706 persons with a refugee status and 158 persons with a subsidiary protection. OFPRA justifies this increase by an increase in personnel and better specialisation of the agents working on cessation and withdrawals.⁷²⁵ Statistics on the year 2022 were not available at the time of writing of this report.

5.1. Grounds for cessation

Regarding **refugees**, the law reflects the cessation grounds set out in Article 1C of the Refugee Convention.⁷²⁶

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.⁷²⁷

In 2021 475 cessations of protection for refugees were due to the application of article 1-C of the Geneva Convention (end of fears of persecutions) mainly for people from **Russia, DRC, Sri Lanka and Türkiye**.⁷²⁸

⁷²⁰ Article 41 Decree n. 93-1362.

⁷²¹ Article 46 Decree n. 93-1362.

⁷²² *Ibid.*

⁷²³ Article 21-25-1 Civil Code.

⁷²⁴ *Ibid.*

⁷²⁵ OFPRA, 2021 Activity report, June 2022, available in French at: <https://bit.ly/3KHmAKi>, 65.

⁷²⁶ Article L. 511-8 Ceseda.

⁷²⁷ Article L.512-3 Ceseda.

⁷²⁸ OFPRA, 2021 Activity report, June 2022, available in French at: <https://bit.ly/3KHmAKi>, 65.

These are the three same main nationalities affected by cessation procedures in 2019. Information on the number of cessations in 2021 was not available at the time of writing (March 2022).

There is no systematic review of protection status in France. Cessation is not applied to specific groups. There are no systematic difficulties in relation to the application of cessation either. In practice, people who were granted asylum on the grounds of family unity may, following divorce, no longer be considered as refugees. In relation to children, however, the CNDA held in 2018 that, in line with the principle of family unity, a child benefitting from the same refugee status as his mother could not be subject to cessation by the mere fact of reaching the age of 18, as long as the mother maintained refugee status.⁷²⁹ Family unity is not applied to subsidiary protection beneficiaries.

In practice, cessation is mostly applied when there is a fundamental change of context in the country of origin of beneficiaries. For instance, the CNDA applied cessation in 2016 to a **Vietnamese** who was granted refugee status in 1977 because of the fundamental changes which occurred in the country since that date.⁷³⁰ In 2018, it refused to apply cessation to refugees from **DRC** and **Sri Lanka** due to the fact that the change of circumstances was not of a significant and durable nature.⁷³¹

In a case concerning two girls at risk of FGM in **Mali**, the CNDA refused to apply cessation despite statements from the girls' mother that the prevalence of FGM was dropping in the country of origin. The Court relied on the best interests of the child principle enshrined in the Convention on the Rights of the Child, and the protection against FGM set out in L. 561-8 Ceseda, to conclude that there was no change of circumstances.⁷³²

As regards cessation grounds due to the individual conduct of the beneficiary pursuant to Article 1C of the Refugee Convention, the CNDA has delivered several relevant judgments:

- ❖ **Re-establishment in the country of origin:** Cessation under Article 1C(4) of the Convention was applicable in the case of a beneficiary who travelled to the country of origin despite warnings that their Travel Document does not allow travel to that country, and who obtained authorisation to travel from the country's consular authorities in France.⁷³³
- ❖ **Re-availment of protection of the country of origin:** In the case of a refugee who was issued a driver's licence in the country of origin without physically returning to the country – as the procedure was handled by his wife – the issuance of an official document could not constitute re-availment of the protection of the country of origin pursuant to Article 1C(1) of the Convention.⁷³⁴

5.2. Cessation procedure

The cessation decision can be made without any interview by OFPRA. OFPRA has however the obligation to notify the refugee or beneficiary of subsidiary protection of the decision to initiate cessation proceedings and the grounds for this decision. The beneficiary is therefore able to formulate observations against this decision. They may be summoned to an interview at OFPRA similar to the regular procedure scheme.

The cessation decision taken by OFPRA can be challenged before the CNDA under the same conditions as an appeal lodged under the [Regular Procedure: Appeal](#). In such a case, the CNDA will examine the applicability of all cessation clauses and not limit itself to the specific cessation ground raised by OFPRA, according to a 2017 ruling of the Council of State⁷³⁵ confirmed by the CNDA in 2018.⁷³⁶

⁷²⁹ CNDA, *M. O.*, Decision No 17013391, 31 December 2018.

⁷³⁰ CNDA, *M. D.*, Decision No 14018479, 25 February 2016.

⁷³¹ CNDA, *M. K.*, Decision No 18001386, 17 October 2018 (DRC); *M. L.*, Decision No 17047809, 25 May 2018 (Sri Lanka).

⁷³² CNDA, *Mme S and Mme F.*, Decision Nos 17038232 and 17039171, 26 November 2018.

⁷³³ CNDA, *M. Q.*, Decision No 16032301, 6 July 2017.

⁷³⁴ CNDA, *M. H.*, Decision No 16029914, 14 September 2018.

⁷³⁵ Council of State, Decision No 404756, 28 December 2017.

⁷³⁶ CNDA, *M. M.*, Decision No 15003496, 28 November 2018.

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the withdrawal procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

The withdrawal of the residence permit is only possible in France if protection status is also withdrawn.

The 2018 asylum reform rendered withdrawal of international protection mandatory, whereas it was previously only optional for OFPRA.

According to the law, as amended in 2018, refugee status shall be withdrawn where the refugee:⁷³⁷

- ❖ Should have been excluded from refugee status under Articles 1D, E and F of the Convention;
- ❖ Obtained status by fraud;
- ❖ On the basis of circumstances arising after the grant of protection, must be excluded under Articles 1D, E and F of the Convention;
- ❖ Constitutes a serious threat for national security;
- ❖ Has been sentenced in France, another EU Member State or third country whose criminal legislation and jurisdictions are recognised by France for a crime related to terrorism or for an offence by 10 years of imprisonment, and represents a serious threat for society.

The CNDA has interpreted the concept of fraud for the purposes of withdrawal under L. 511-8 Ceseda. It found on two occasions in 2018 that refugee status cannot be withdrawn if the fraudulent elements of the claim were not determinant for the grant of protection.⁷³⁸

In 2021, 231 withdrawal decisions affecting refugees were taken on the ground of article L. 511-7 CESEDA, i.e. a public order threat. Statistics on the year 2022 were not available at the time of writing.⁷³⁹

Subsidiary protection shall no longer be granted in the event where:⁷⁴⁰

- ❖ OFPRA or the Prefecture discover, after the protection is granted, that the beneficiary should have been excluded from protection according to the Refugee Convention exclusion clauses, or constitutes a serious threat to public order, public security or national security;
- ❖ Subsidiary protection was obtained by fraud;
- ❖ On the basis of circumstances arising after the grant of protection, the beneficiary must be excluded from protection;
- ❖ There are serious reasons to believe that the beneficiary has committed serious crimes which would be sentenced by imprisonment if committed in France and has left the country of origin solely to evade prosecution.

The procedure is the same as for **Cessation**.

⁷³⁷ Articles L.511-8 and L. 511-7 Ceseda, as amended by Article 5 Law n. 2018-778 of 10 September 2018.

⁷³⁸ CNDA, *M. G.*, Decision No 14020621, 15 February 2018, where the Court found that the refugee's overall credibility was unaffected by the fraudulent representation of certain dates during the asylum procedure; CNDA, *M. B.*, Decision No 13024407, 28 September 2018, where the refugee's fraudulently declared identity (that of one of his brothers) did not affect his well-founded fear of persecution on ethnic and political grounds upon return to Türkiye.

⁷³⁹ OFPRA, *2021 Activity report*, June 2022, available in French at: <https://bit.ly/3KHmAki>, 65.

⁷⁴⁰ Articles L.512-3 and L. 512-2 Ceseda, as amended by Article 5 Law n. 2018-778 of 10 September 2018.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?
☐ Yes ☒ No
❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?
☐ Yes ☒ No
❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement?
☐ Yes ☒ No

The same legal framework is applicable to refugees and beneficiaries of subsidiary protection in terms of family reunification. As soon as refugees and subsidiary protection beneficiaries are granted protection, they are entitled to apply for it. Family reunification is allowed for:⁷⁴¹

- ❖ Spouses or partners (PACS) with whom they were in a relationship prior to lodging their asylum claim if they are at least 18 years old;
- ❖ *De facto* partners (*concubinage*) who are at least 18 years old with whom they were and remain in a durable and steady relationship, including living under the same roof;
- ❖ Children until their 19th birthday; the date to determine this is the date of lodging of the family reunification request before the embassy
- ❖ For minor refugees: their first degree parents and their parents' dependent children; the date chosen to determine if the refugee is or was a minor for the purpose of this procedure is the date of lodging of the asylum claim

The application for family reunification is not time-limited. Family reunification is not subjected to income or health insurance requirements,⁷⁴² even if the requested is lodged after 3 months contrary to the possibility offered by EU law to then have refugees go through the normal procedure for foreigners which has such requirements.

Beneficiaries' family members have to request a visa at the French embassy with all the documentation proving their relationship with the refugee or the beneficiary of subsidiary protection they want to join.⁷⁴³ The embassy communicates to OFPRA the elements collected and asks for certification of the declarations. If the information collected by the embassy corresponds to the declarations the beneficiary made to OFPRA both at the beginning of their asylum claim and when asked during the family reunification procedure, the family members must be issued a visa without delay.⁷⁴⁴

In practice, beneficiaries and their family members face difficulties in gathering the documentation proving their family ties (which add to the difficulties related to the complexity of the visa form). In case of traditional or religious unions, they do not have any certificate of the celebration and cannot then prove they are married or partners. They must then prove a stable and durable relationship, which requires much more documents. The same problems have been identified concerning birth certificates. Such documentation does not even exist in some countries and the delays for being issued a visa in order to come to France, in the framework of family reunification, can be very long.

Due to COVID-19, family reunification was suspended for months in 2020: this situation was not foreseen in the decision listing exceptions allowing entry into France. This decision was challenged, and the Council

⁷⁴¹ Article L. 561-2 Ceseda, as amended by Article 3 Law n. 2018-778 of 10 September 2018.

⁷⁴² Article L. 561-2 Ceseda.

⁷⁴³ Article L. 561-5 Ceseda.

⁷⁴⁴ Articles L. 561-14 to L. 561-16 Ceseda.

of state decided in January 2021 that family reunification should not be limited in the context of health crisis.⁷⁴⁵ It ruled, *inter alia*, that this decision disproportionately infringes the right to normal family life and the best interests of the child. Consequently a new decision was issued allowing the entry to territory to persons coming for the purpose of family reunification.⁷⁴⁶

2. Status and rights of family members

Family members are not granted the same status as sponsors, even though they are issued the same residence permit. Upon their arrival in France, they have to present themselves at the Prefecture in order to be issued this permit. They have to comply with the same obligations as any third-country national allowed to stay in France. They will have the same rights as their sponsors, especially in terms of integration. Family members are not beneficiaries of international protection even if they have benefited from family reunification with such a beneficiary.

C. Movement and mobility

1. Freedom of movement

Beneficiaries of protection are entirely free to settle in any part of French territory. They are not restricted to specific areas.

The law states that the duration of validity of their travel documents is defined by Article 953 of the General Tax Code: 5 years for **refugees**, if it is a biometric travel document, and one year for **beneficiaries of subsidiary protection**.⁷⁴⁷ 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.⁷⁴⁸ In practice, whereas the law is clear on the 5-year duration, Prefectures issue only 2-year travel documents for refugees.

2. Travel documents

Geographical limitations are applied to these travel documents. Refugees and beneficiaries of subsidiary protection are not allowed to travel to countries where personal fears have been identified.⁷⁴⁹ Failure to respect these limitations may lead to the **Cessation** of the protection grant, as confirmed by a 2017 ruling of the CNDA.⁷⁵⁰

Travel documents are issued by Prefecture. In practice, no specific problem has been reported, except the fact that prefectures can be very slow in delivering the document. This procedure was recently digitalised through the ANEF portal, meaning BIPs must file applications to receive travel documents online: rather than helping, these seems to have worsened the situation, with very long delays.⁷⁵¹

⁷⁴⁵ Council of State, Decisions Nos 447878, 447893, 22 January 2021, available in French at: <https://bit.ly/37xVWol>.

⁷⁴⁶ Décret No. 2021-99 du 30 janvier 2021 modifiant les décrets No. 2020-1262 du 16 octobre 2020 et No. 2020-1310 du 29 octobre 2020 prescrivant les mesures générales nécessaires pour faire face à l'épidémie de covid-19 dans le cadre de l'état d'urgence sanitaire. NOR : SSAZ2103545D.

⁷⁴⁷ Article L.753-4 Ceseda.

⁷⁴⁸ See Ministry of Interior, *Accueil des Etrangers*, at: <http://bit.ly/2ImCIJR>.

⁷⁴⁹ Articles L. 561-9 and L. 561-10 Ceseda.

⁷⁵⁰ CNDA, *M. Q.*, Decision No 16032301, 6 July 2017.

⁷⁵¹ Practice-informed observation by Forum Réfugiés, January 2023.

D. Housing

Indicators: Housing

- | | |
|---|---------------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 6 months |
| 2. Number of beneficiaries staying in reception centres as of 31 Dec 2022 | Not available |

Beneficiaries are allowed to stay in reception centres 3 months following the positive OFPRA decision.⁷⁵² This period can be renewed for 3 months with the express agreement of OFII.⁷⁵³ During their stay in the centre, beneficiaries are helped in finding accommodation according to the mechanisms adopted by the local authorities. At the end of 2021, 16,437 BIPs were housed within the National Reception Scheme out of a total of 101,089 places listed by OFII (which differs from the total listed by the Ministry of Interior).⁷⁵⁴ According to OFII, beneficiaries of international protection stay an average of 8 month in reception centres after having received a protection status.⁷⁵⁵

Beneficiaries can be sent to temporary accommodation centres (*Centres provisoires d'hébergement*, CPH) upon an OFII decision. They will be then allowed to stay there for 9 months. This stay can be renewed once for a 3-month period.⁷⁵⁶ At the end of 2022, there were 9,918 places in CPH. At the end of 2021, there were 8,914 accommodation places in CPH spread across the different regions as follows:

Capacity of CPH per region: 2021	
Region	Maximum capacity
Auvergne Rhône-Alpes	1,075
Bourgogne Franche-Comté	388
Bretagne	462
Centre	331
Grand Est	615
Hauts de France	447
Ile de France	2,962
Normandie	389
Nouvelle Aquitaine	705
Occitanie	543
Provence Alpes Côte d'Azur	469
Pays de la Loire	528
Total	8,914

Source: Information relative à la gestion du parc d'hébergement des demandeurs d'asile et des réfugiés, NOR : INTV2100948J, 15 January 2021, available in French at: <https://bit.ly/3oIF1N6>.

The implementation of integration mechanisms relies on Prefectures and local authorities. They sign an agreement with stakeholders to support and assist beneficiaries with their integration.⁷⁵⁷ Beneficiaries

⁷⁵² Article R. 552-11 Ceseda.

⁷⁵³ *Ibid.*

⁷⁵⁴ OFII, 2021 Activity report, 24.

⁷⁵⁵ Le Monde, 'Après la crise due au coronavirus, l'accès au logement des réfugiés sous tension', 24 June 2020, available in French at : <https://bit.ly/2ZAkk04>.

⁷⁵⁶ 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>.

⁷⁵⁷ Article L. 561-14 Ceseda.

have to sign a republican integration contract in which they commit to respecting French fundamental values and to complying with French legal obligations.⁷⁵⁸ The agreement between Prefectures and local stakeholders determines the role of each actor and their obligations towards the beneficiaries.⁷⁵⁹ The organisations running these centres have to house the beneficiaries but also support them throughout their integration process. They have to assist them in accessing French classes, funded by the French State, and accompany them in choosing their professional orientation. At the end of their stay in CPH, beneficiaries fall under the general rules applicable to foreigners and have to integrate the private market to get housing.

The actions implemented to facilitate beneficiaries' integration vary from an area to another. 12 months, in case the initial duration of stay has been extended, may not be enough for beneficiaries to get integrated. France terre d'asile and Forum réfugiés – Cosi manage systems intending to facilitate this access to integration. These mechanisms are focused on beneficiaries' integration but are based on the French general provisions dedicated to access to housing for insecure populations.

Forum réfugiés runs the [Accelair](#) programme. This programme is dedicated to refugees living in the **Lyon** area and who have been granted asylum less than one year ago. On the basis of this programme, places are saved for refugees within the properties managed by providers of social housing. Refugees registered in this programme are supported during between 6 and 18 months. The duration of the support may depend on the individualised project of each beneficiary. This assistance aims to make refugees autonomous and to ensure their integration.⁷⁶⁰ It has been in place in Auvergne and Occitanie since 2016. In 2022, 4,087 families benefited from these programmes managed by Forum refugees. In its National Strategy for Integration published in June 2018, the government announced the development of similar programmes throughout the country.⁷⁶¹ Several integration projects have been developed through the country in 2019 such as HOPE, a program run by AFPA (a public institution) which provides professional training and accommodation for refugees in many départements.

In 2022, the government introduced a new global programme, named AGIR. This programme was influenced in large part by the ACCELAIR program of Forum Réfugiés. It aims to provide global support for refugee integration concerning housing, employment and benefits.⁷⁶² The deployment of the program, began during 2022 in twenty-seven departments. It should continue in twenty-five new departments in 2023 before being generalised to the entire national territory in 2024. The impact in practice remains to be seen throughout 2023.

Another example of proactive support is the national platform for the housing of refugees, introduced as a pilot project by the Inter-Ministerial Delegation for Accommodation and Access to Housing (*Délégation interministérielle à l'hébergement et à l'accès au logement, DIHAL*).⁷⁶³ The platform maps out available accommodation options outside large cities and matches beneficiaries of international protection with a spot. In 2020, 9,818 housing places were mobilised for refugees thanks to this programme. Figures on the year 2021 and 2022 are not available.

However, despite several measures taken to further beneficiaries access to accommodation, a high numbers of status holders leave reception centres with nowhere to go.

⁷⁵⁸ Article L. 413-2 Céseda.

⁷⁵⁹ This agreement is attached by to Decree n. 2016-253 of 2 March 2016.

⁷⁶⁰ Forum réfugiés – Cosi, *Programme d'intégration des réfugiés – Accelair*, available at: <https://bit.ly/3KGDY1O>.

⁷⁶¹ Ministry of Interior, *Stratégie nationale pour l'accueil et l'intégration des personnes réfugiées*, 5 June 2018, available in French at: <https://bit.ly/2tY4qfN>.

⁷⁶² Ministry of Interior, 15 décembre 2021, "Lancement d'AGIR", available in French at: <https://bit.ly/3CvZyKO>.

⁷⁶³ DIHAL, *Plateforme nationale pour le logement des réfugiés*, May 2018, available in French at: <https://bit.ly/2VLkDRp>.

Moreover, many beneficiaries of protection live in the streets or in camps. In Paris, amongst thousands of migrants living in camps that are regularly dismantled, 15 to 20% are refugees.⁷⁶⁴

E. Employment and education

1. Access to the labour market

Beneficiaries are allowed to access the labour market from the moment they are granted asylum, whether they are refugees or beneficiaries of subsidiary protection. They have the same access as French nationals except for positions specifically restricted to nationals.

However, they encounter the same difficulties regarding the access to this market as those they face in terms of [Housing](#). The same legal framework regulates the mechanisms of integration of beneficiaries regarding employment. The organisations running CPH or those running integration programmes such as Accelair or Hope (see above about housing) are funded to support beneficiaries in choosing their professional path and facilitating their integration in the labour market.⁷⁶⁵ To do so, these organisations implement partnerships with stakeholders in charge of access to the labour market and the struggle against unemployment. Then, they work in close collaboration with the French national employment agency (*Pôle emploi*) or with local charities and NGOs to facilitate the professional integration of beneficiaries.

In practice, it is more difficult for them to find a job. The first obstacle is obviously the language. Even if the law provides that the French State provides French classes,⁷⁶⁶ the current 400 hours of classes is rarely sufficient for beneficiaries to obtain adequate command of the language in order to get a job.⁷⁶⁷ Therefore, they often turn to their native community to be supported in their professional path, which might complicate their integration.

In the countryside, they also have difficulties because of remoteness of location. Outside big French cities, it is compulsory to have a car in order to have a chance to find a job. However, beneficiaries cannot afford to buy a vehicle and do not benefit from any family support.

Moreover, refugees and beneficiaries of international protection suffer from a lack of recognition of their national diplomas. This implies therefore that highly skilled beneficiaries face the main obstacles to enter the labour market. They have to accept unqualified jobs, mostly without any link with their previous job in their country of origin. Social workers refer to protection beneficiaries as a “sacrificed generation”. They have renounced practicing their original trade so that their children can graduate in France and be able to aim for highly skilled positions.

In February 2018, a report from Member of Parliament Aurélien Taché put forward 72 proposals aiming at reinforcing integration policies for migrants in France, among them beneficiaries of international protection.⁷⁶⁸ A National Strategy for Integration based on this report was announced in June 2018,⁷⁶⁹ while several provisions of the 2018 reform reflect some of the recommendations such as

⁷⁶⁴ Francetvinfo, *Évacuation de campements de migrants à Paris : "Une partie des personnes se sont évaporées dans Paris", d'après l'adjoite à la mairie chargée de la solidarité*, 7 November 2019, available in French at: <https://bit.ly/2wpLmMy>.

⁷⁶⁵ Article 8 Standard Agreement relating to the functioning of CPH, attached to the Decree of 2 March 2016 relating to temporary accommodation centres for refugees and beneficiaries of subsidiary protection, available in French at: <http://bit.ly/2jNt1xD>.

⁷⁶⁶ Article L.311-9 Ceseda.

⁷⁶⁷ AFP, 'Intégration des réfugiés : « sur la langue on perd un temps fou », selon un rapport', 13 January 2018, available in French at: <https://bit.ly/3ARFmTD>.

⁷⁶⁸ Aurélien Taché, *72 propositions pour une politique ambitieuse d'intégration des étrangers arrivant en France*, February 2018, available in French at: <https://bit.ly/2AiyZkG>.

⁷⁶⁹ Ministry of Interior, *Stratégie nationale pour l'accueil et l'intégration des personnes réfugiées*, 5 June 2018, available in French at: <https://bit.ly/2tY4qfN>.

increased French classes, development of integration programmes like *Accelair*, mobilisation of housing for refugees etc.

During COVID-19 in 2020, unemployment increased in France, affecting also access to the labour market for beneficiaries of international protection. In January 2021, the Ministry of Interior launched a national call for projects for the year 2021 on the integration of newcomers, including beneficiaries of international protection: a total of 49 projects were selected and provided funding amounting to a total of 4 million euros.⁷⁷⁰ Another call for project was launched in July 2022.

2. Access to education

Access to education is the same for beneficiaries as for asylum seekers (see [Reception Conditions: Access to Education](#)). The main difference is linked to access to vocational training for adults. These trainings fall under the professional integration systems described in the section on [Housing](#).

Beneficiaries' children are allowed to access any school included into the national education system. They do not have to attend preparatory classes. In the event they have special needs, in terms of language or disability for example, they will be orientated accordingly to the general education system.

According to the OFII, 3,482 beneficiaries of international protection received a student scholarship in 2020.⁷⁷¹ No data was available for 2021 and 2022.

F. Social welfare

Once they are granted protection, beneficiaries have access to social rights under the same conditions as nationals. This includes health insurance, family and housing allowances, minimum income, and access to social housing.

Several administrations are in charge of providing these services. These include: the health insurance fund (CPAM) for health insurance (PUMA), the family allowance fund (CAF) for family allowances, the housing allowance (APL) and the minimum income (RSA), and *Pôle Emploi* for job search support and unemployment compensation.

The Court of Cassation ruled in a judgment of 13 January 2011 that **refugees** can benefit retroactively from all benefits and other social welfare from the date of their arrival in France.⁷⁷² This is linked to the declaratory nature of refugee status, which does not exist for beneficiaries of **subsidiary protection**.

Social welfare administrations are essentially regulated at *département* level. It is therefore necessary to inform them of any change of address and *département* for an effective follow-up. The websites set up by these administrations facilitate such procedures.

In practice, the difficulties encountered by beneficiaries of international protection are the same as those faced by nationals and are linked to the inadequacies and shortcomings of the French system, which is sometimes dysfunctional (e.g. access to counter sometimes difficult, delay for payments etc.). On the other hand, certain difficulties may remain due to the lack of proficiency in the French language, combined by the lack of cooperation of certain administrative agents.

⁷⁷⁰ Ministry of Interior, *Appel à projets national 2021 relatif à l'intégration des étrangers primo-arrivants, dont les bénéficiaires de la protection internationale*, 29 July 2021, available at: <https://bit.ly/377Sr6z>.

⁷⁷¹ OFII on Twitter.

⁷⁷² Cour de Cassation, Decision NO. 09-69986, 13 January 2011, available in French at: <https://bit.ly/2waAemF>.

G. Health care

Health care for beneficiaries is the same as provided to asylum seekers, which is the same provided to French citizens. The difficulties encountered by beneficiaries are not specific to their status but are typical of structural dysfunctions identified within the French health care system (see [Reception Conditions: Health Care](#)).

In the context of COVID-19, testing and vaccine campaigns did not provide for any distinction according to nationality and legal status and have therefore been available for BIPs if they meet priority criteria.⁷⁷³

⁷⁷³ Ministry of solidarity and health, 'La stratégie vaccinale et la liste des publics prioritaires', no longer available online.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	29 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	http://bit.ly/1Vwt38q (FR)

All legal standards of the CEAS have been transposed in French legislation and the transposition has been considered correct in national litigation on this aspect. Doubt remains, however, regarding the conformity of several provisions:

- ❖ **Receptions conditions limited to adults** (Article D. 553-3 CESEDA): Unaccompanied minors are accommodated in the child protection system when their minority is assessed: if not, they can ask for asylum as minors but they are not eligible to reception conditions.
- ❖ **Financial allowance for asylum seekers** (Decree 2018-426 of 31 May 2018): The Council of State requested an increase of the amount of the allowance twice, in order to comply with the case law of the CJEU.⁷⁷⁴ The last amount decided by Decree was not challenged before the Council of State, but there are doubts as regards compliance with this case law.
- ❖ **Access to health care** (Decree 2019-1531 of 30 December 2019): During the first three months upon arrival in France, access to health care for all asylum seekers (including vulnerable persons) is limited to urgent care.

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CJEU, C-79/13, *Saciri and Others*, Judgement of 27 February 2014.