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Asylum Information Database

Country Report: France

December 2015

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Cosi

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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 the Paris-based UNHCR office and finally statistics shared by the French authorities.

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Caveat: *In France, asylum policies – including reception procedures - are largely under prefectural execution. This review of practice is mostly based on observations in the départements of Rhône, Puy-de-Dôme and Alpes-Maritimes. However, the conclusions presented in this report on the concrete implementation of asylum policies have been cross-checked and triangulated with observations of these practices in other regions (in Paris for instance) 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 27 November 2015.

The AIDA project

The AIDA project is jointly coordinated by the European Council on Refugees and Exiles (ECRE), Forum Réfugiés-Cosi, Irish Refugee Council and the Hungarian Helsinki Committee. It aims to provide up-to date information on asylum practice in 16 EU Member States (AT, BE, BG, CY, DE, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 2 non-EU countries (Switzerland, Turkey) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. Furthermore the project seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.

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Glossary & List of Abbreviations

Administrateur *ad hoc*	*Ad hoc* administrator i.e. legal representative appointed for unaccompanied children
Déclaration de domiciliation	Document thanks to which asylum seekers declare the address where they can be contacted throughout the asylum procedure
Domiciliation	Legal address where the asylum seeker is registered
Guichet unique	Single desk i.e. system set up to gather the Prefecture and OFII desks to register asylum claims and provide orientation to reception centres following a vulnerability assessment
Jour franc	Clear day i.e. 24-hour period during which a person may not be removed
Non-lieu	No case to decide on
Pôle emploi	Employment Office
Ordonnance	Order, decision taken by a single judge without a hearing
Recours gracieux	Discretionary administrative appeal before the Prefect

ADA	Allowance for asylum seekers l Allocation pour demandeurs d'asile
ADDE	Lawyers for the Protection of Rights of Foreigners | Avocats pour la défense des droits des étrangers
AFP	Agence-France Presse
AME	State Medical Assistance | Aide médicale d'Etat
AMS	Monthyl subsistence allowance | Allocation mensuelle de subsistence
ANAFE	National Association of Border Assistance to Foreigners | Association nationale d'assistance aux frontières pour les étrangers
APS	Temporary residence permit | Autorisation provisoire de séjour
ASPR	Accueil aux médecins et personnels de santé réfugiés en France
ASSFAM	Association service social familial migrants
ATA	Temporary Waiting Allowance | Allocation temporaire d'attente
AT-SA	Temporary accommodation – asylum office | Accueil temporaire – service de l'asile
CADA	Reception Centre for Asylum Seekers | Centre d'accueil pour demandeurs d'asile
Caomida	Reception and Orientation Centre for Unaccompanied Asylum Seeking Children | Centre d'accueil et d'orientation pour mineurs isolés demandeurs d'asile
Caso	Reception, Care and Orientation Centre | Centre d'accueil, de soins et d'orientation
CASNAV	Academic Centres for Schooling of Foreign-Speaking Children | Centre académique pour la scolarisation des enfants allophones nouvellements arrivés et des enfants issus de familles itinérantes et de voyageurs
CDG	Charles de Gaulle Roissy Airport
Ceseda	Code on Entry and Residence of Foreigners and on Asylum | Code de l'entrée et du séjour des étrangers et du droit d'asile
CFDA	French Coordination on Asylum | Coordination française du droit d'asile
CGLPL	General Controller of Places of Detention | Contrôleur Général des lieux de privations de libertés
CIO	Information and Orientation Centre | Centre d'information et d'orientation
CJA	Code of Administrative Justice | Code de justice administrative

CMU	Universal medical coverage | Couverture maladie universelle
CNCDH	National Consultative Human Rights Commission | Commission nationale consultative des droits de l'homme
CNDA	National Court of Asylum | Cour nationale du droit d'asile
Comede	Medical Committee for Exiles | Comité médical pour les exilés
CPAM	Caisse primaire d'assurance maladie
CRA	Administrative Detention Centre | Centre de rétention administrative
Ctrav	Labour Code | Code du travail
DIRECCTE	Regional Directorates of Business, Competition, Consumers, Labour and Employment | Directions régionales des entreprises, de la concurrence, de la consommation, du travail et de l'emploi
DNA	National Reception Scheme | Dispositif national d'accueil
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FLE	French as a foreign language | Français langue étrangère
GAS	Reception and Solidarity Group | Groupe accueil et solidarité
GISTI	Groupe d'information et de soutien des immigrés
GUDA	Single desk for asylum seekers l Guichet unique pour demandeur d'asile
HCSP	High Council of Public Health | Haut Conseil de la santé publique
HUDA	Emergency accommodation for asylum seekers | Hébergement d'urgence dédié aux demandeurs d'asile
IAC	Concerted Admission Board | Instance d'admisison concertée
INPES	National Prevention and Health Edcuation Institute | Institut national de prévention et d'éducation pour la santé
JLD	Judge of Freedom and Detention | Juge des libertés et de la détention
LRA	Place of Administrative Detention | Local de rétention administrative
MRAP	Mouvement contre le racisme et pour l'amitié entre les peuples
MSF	Médecins Sans Frontières
ODSE	Foreigners' Health Rights Observatory | Observatoire du droit à la santé des étrangers
OEE	Observatory on the Detention of Foreigners | Observatoire de l'enfermement des étrangers
OFII	French Office for Immigration and Integration | Office français de l'immigration et de l'intégration
OFPRA	French Office for the Protection of Refugees and Stateless Persons | Office français de protection des réfugiés et des apatrides
OQTF	Order to leave the French territory l Ordre de quitter le terrritoire français
PAOMIE	Reception and Advice Platform for Unaccompanied Children | Permanence d'accueil et d'orientation des mineurs isolés étrangers
PASS	Permanent Access to Health Care | Permanence d'accès aux soins de santé
UMCRA	Medical Units of Administrative Detention Centres | Unités médicales des centres de rétention administrative
UNHCR	United Nations High Commissioner for Refugees
VTA	Transit Airport Visa | Visa de transit aéroportuaire
ZAPI	Waiting zone | Zone d'attente pour personnes en instance

Statistics

Table 1: Applications and granting of protection status at first instance: 2015 (January-September)

	Applicants in 2015	Pending applications in 2015	Refugee status	Subsidiary protection	Rejection	Refugee rate	Subs. Prot. rate	Rejection rate
Total	50,840	34,490	11,945	2,640	41,595	21.2%	4.7%	74.1%

Breakdown by countries of origin of the total numbers

Kosovo	3,870	1,565	300	125	3,375	7.9%	3.2%	88.9%
Sudan	3,075	1,695	740	15	1,525	32.4%	0.6%	67%
Syria	2,810	1,555	1,575	780	85	64.5%	31.9%	3.6%
DRC	2,800	2,090	855	65	4,240	16.5%	1.2%	82.3%
Russia	2,495	2,280	875	60	3,850	18.2%	1.2%	80.6%
Iraq	2,350	670	2,045	25	30	97.4%	1.2%	1.4%
Haïti	2,290	1,570	60	20	1,260	4.5%	1.5%	94%
Albania	2,225	1,295	45	240	2,045	1.9%	10.3%	87.8%
Bangladesh	2,200	1,130	210	25	2,545	7.5%	0.9%	91.6%
China	2,165	815	510	0	1,465	25.8%	0%	74.2%
Somalia	830	625	55	75	485	8.9%	12.2%	78.9%
Afghanistan	790	625	195	285	90	34.2%	50%	15.8%
Eritrea	720	345	330	0	250	56.9%	0%	43.1%

Source: Eurostat (rounded).

Table 2: Gender/age breakdown of the total numbers of first applicants: 2015 (January-September)

	Number	Percentage
Total number of applicants	50,840	100%
Men	31,880	62.7%
Women	18,960	37.3%
Children	9,525	18.7%
Unaccompanied children	Not available	Not available

Source: Eurostat (rounded).

Table 3: Comparison between first instance and appeal decision rates: 2015
Data for 2015 is not available.

Table 4: Applications processed under the accelerated procedure in 2015
Data on the accelerated procedure is not available for 2015.

Table 5: Subsequent applications lodged in 2015 (January-August)

	Number	Percentage
Total number of subsequent applications	3,750	100%

Main countries of origin

Bangladesh	435	11.65%
Kosovo	400	10.6%
Russia	395	10.5%
Albania	300	8%
DRC	160	4.2%

Source: Eurostat (rounded).

Table 6: Number of persons lodging applications in detention: 2013-2014

As data on detention is not disaggregated per ground of detention, available information relates to the number of asylum seekers lodging claims from detention, either at the border or in detention centre.

Place of detention	2013	2014
Detention at the border	1,346	1,126
Detention centre (CRA)	1,078	1,252
Total number of applications lodged	2,424	2,378

Source: OFPRA. Data for 2015 is not available.

Table 7: Number of applicants detained and subject to alternatives to detention

Data for alternatives to detention is not made available.

Overview of the legal framework and practice

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

Title in English	Original Title (FR)	Abbreviation	Web Link
Code of Entry and Residence of Foreigners and of the Right to Asylum, as modified by Law n. 2015-925 of 29 July 2015 on the reform of asylum law.	Code de l'entrée et du séjour des étrangers et du droit d'asile, tel que modifié par la loi n° 2015-925 du 29 juillet 2015 relative à la réforme du droit d'asile.	Ceseda	<http://bit.ly/1GQm3uQ> (FR) <http://bit.ly/1Vwt38q> (FR)
Relevant decrees: OFPRA Decision of 30 July 2015 on organisational modalities for the interview, implementing Article L.723-6 Ceseda	*Décrets pertinents :* Décision du 30 juillet 2015 fixant les modalités d'organisation de l'entretien en application de l'article L.723-6 du Ceseda		<http://bit.ly/1M0s3J1> (FR)
Decree n. 2015-1166 of 21 September 2015 on the implementation of Law n. 2015-925 on the reform of asylum law	Décret n° 2015-1166 du 21 septembre 2015 pris pour l'application de la loi du 29 juillet 2015 relative à la réforme du droit d'asile	Asylum Reform Decree	<http://bit.ly/1M0s3J1> (FR)
Decree n.2015-1329 of 21 October 2015 on the allowance for asylum seekers	Décret n° 2015-1329 du 21 octobre 2015 relatif à l'allocation pour demandeurs d'asile	ADA Decree	<http://bit.ly/1PS9mJW> (FR)
Decree n.2015-1364 of 28 October 2015 on the implementation of articles 13, 16 and 20 of the Law on the reform of asylum law and modifying the Code of Administrative Justice	Décret n° 2015-1364 du 28 octobre 2015 pris pour l'application des articles 13, 16 et 20 de la loi du 29 juillet 2015 relative à la réforme du droit d'asile et modifiant le code de justice administrative		<http://bit.ly/1Okn32P> (FR)
Code of Administrative Justice	Code de justice administrative	CJA	<http://bit.ly/1F1WC9k> (FR)
Code of Social Action and Families	Code de l'action sociale et des familles	CASF	<http://bit.ly/1RTu2xE> (FR)
Labour Code	Code du travail	Ctrav	<http://bit.ly/1FUos6Z> (FR)

Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions and detention

Title in English	Original Title (FR)	Abbreviation	Web Link
Circular of 2 November 2015 on the implementation of the reform of asylum law	Circulaire n°INTV1525995J du 2 novembre 2015 sur la mise en oeuvre de la réforme de l'asile		<http://bit.ly/1RaHGPQ> (FR)
Decree n.INTV1525115A of 29 October 2015 on general rules of functioning of CADAs	Arrêté n° INTV1525115A du 29 octobre 2015 relatif au règlement de fonctionnement type des CADAs		<http://bit.ly/1Ieo9fm> (FR)
Decree n.INTV1525116A of 29 October 2015 on residence contract in CADAs	Arrêté n°INTV1525116A du 29 octobre 2015 relatif au contrat de séjour type des CADAs		<http://bit.ly/1YxQ0eJ> (FR)
Decree n.INTV1525114A of 29 October 2015 on missions' statement of CADAs	Arrêté n°INTV1525114A du 29 octobre 2015 relatif au cahier des charges des centres d'accueil pour demandeurs d'asile	CADA Mission Decree	<http://bit.ly/1jnCQB6> (FR)
Decree n.2015-1364 of 28 October 2015 on the implementation of articles 13, 16 and 20 of the Law on the reform of asylum law and modifying the Code of Administrative Justice	Décret n° 2015-1364 du 28 octobre 2015 pris pour l'application des articles 13, 16 et 20 de la loi du 29 juillet 2015 relative à la réforme du droit d'asile et modifiant le code de justice administrative		<http://bit.ly/1Okn32P> (FR)
Decree n.INTV1523959A of 23 October 2015 on the questionnaire for assessing vulnerabilities of asylum seekers	Arrêté n°INTV1523959A du 23 octobre 2015 relatif au questionnaire de détection des vulnérabilités des demandeurs d'asile		<http://bit.ly/1RaHNen> (FR)
Decree n.2015-1329 of 21 October 2015 on the allowance for asylum seekers	Décret n° 2015-1329 du 21 octobre 2015 relatif à l'allocation pour demandeurs d'asile	ADA Decree	<http://bit.ly/1PS9mJW> (FR)
Decree n.INTV1524994A of 20 October 2015 on the form to declare the asylum seeker's address	Arrêté n°INTV1524994A du 20 octobre 2015 fixant le modèle du formulaire de déclaration de domiciliation de demandeur d'asile		<http://bit.ly/1MVoi49> (FR)
Decree of 16 October 2015 on the procedure related to the CNDA	Décret n°2015-1298 du 16 octobre 2015 relatif à la procédure applicable devant la Cour nationale du droit d'asile	CNDA Procedure Decree	<http://bit.ly/1Ncl2R2> (FR)
Decree n.INTV1524094A of 9 October 2015 on the validity of the asylum claim certification	Arrêté n°INTV1524049A du 9 octobre 2015 fixant la durée de validité de l'attestation de demande d'asile		<http://bit.ly/1jnCZEL> (FR)
Decree n. 2015-1166 of 21 September 2015 on the implementation of Law n. 2015-925 on the reform of	Décret n° 2015-1166 du 21 septembre 2015 pris pour l'application de la loi du 29 juillet 2015 relative à la		<http://bit.ly/1M0s3J1> (FR)

asylum law	réforme du droit d'asile		
OFPRA Decision of 30 July 2015 on organisational modalities for the interview, implementing Article L.723-6 Ceseda	Décision du 30 juillet 2015 fixant les modalités d'organisation de l'entretien en application de l'article L.723-6 du Ceseda		<http://bit.ly/1M0s3J1> (FR)
Circular on the implementation of Dublin and accelerated procedures	Circulaire IOCL1107084C du 1er avril 2011 relative au droit d'asile (Règlement Dublin et procédures prioritaires)		<http://bit.ly/1GQ3OqA> (FR)
Circular on the management of the emergency scheme for asylum seekers	Circulaire n° IOCL1113932C du 24 Mai 2011 sur le pilotage du dispositif d'hébergement d'urgence		<http://bit.ly/1GQ3TdJ> (FR)
Circular on the implementation of alternatives to administrative detention of families	Circulaire INTK1207283C du 6 juillet 2012 sur la mise en œuvre de l'assignation à résidence prévue à l'article en alternative au placement des familles en rétention administrative		<http://bit.ly/1RTunjM> (FR)
Decision on the list of associations entitled to send representatives to access administrative detention facilities	Décision INTV1305938S du 1er mars 2013 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder aux lieux de rétention		<http://bit.ly/1LWBUwu> (FR)
Decree on the access of associations to administrative detention facilities	Décret INTV1406903D n° 2014-676 du 24 juin 2014 relatif à l'accès des associations humanitaires aux lieux de rétention		<http://bit.ly/1UbVrP8> (FR)
Circular on third country nationals who voluntarily obstruct their identification with unusable fingerprints	Circulaire IMI/A /1000106/C du 2 avril 2010 relative à la jurisprudence du Conseil d'État en matière de refus d'admission au séjour au titre de l'asile - sur les étrangers qui rendent volontairement impossible l'identification de leurs empreintes digitales		<http://bit.ly/1GQ4coY> (FR)
Decision of 3 June 2015 on the list of associations entitled to propose representatives for access to waiting areas	Arrêté INTV1511516A du 3 juin 2015 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente		<http://bit.ly/1MVozUH> (FR)
Circular on the organisation of education for migrants children	Circulaire REDE1236614C n° 2012-143 du 2 octobre 2012 sur l'organisation des Centres Académiques pour la scolarisation des nouveaux arrivants et des enfants du voyage (Casnav)		<http://bit.ly/1KuFVuE> (FR)
Decree setting the technical characteristics of the	Arrêté NOR: JUSE1314361A du 12 juin 2013 pris pour		<http://bit.ly/1dA3rba> (FR)

communication means to be used at the CNDA	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		
Decree on the compensation for the missions of Legal aid carried out by lawyers at the CNDA	Décret n° 2013-525 du 20 juin 2013 relatif aux rétributions des missions d'aide juridictionnelle accomplies par les avocats devant la Cour nationale du droit d'asile et les juridictions administratives en matière de contentieux des étrangers		<http://bit.ly/1RTuOuz> (FR)
Circular on the modalities for the assistance provided to foreign unaccompanied minors: national scheme for shielding , evaluating and orientating	Circulaire NOR: JUSF1314192C du 31 mai 2013 relative aux modalités de prise en charge des jeunes isolés étrangers: dispositif national de mise à l'abri, d'évaluation et d'orientation		<http://bit.ly/1LWCaf4> (FR)

Overview of the main changes since the previous report update

The previous update of the report was published in **January 2015**.

Asylum reform

- The amended law on asylum was published in the Official Journal on 29 July 2015 after more than a year of legislative procedure. The new law transposes the recast Asylum Procedures Directive and Reception Conditions Directives. Therefore, as these two Directives were applicable as of 20 July 2015, a number of provisions were applicable before the publication of the law and before implementing decrees had been released. For instance, this was the case for the presence of a third person during the interview at the French Office for the Protection of Refugees and Stateless Persons (*Office Français de Protection des Réfugiés et des Apatrides* - OFPRA) which concerned all claims introduced after 20 July 2015. However, very few NGOs have asked to be entitled to accompany asylum seekers to their interview as this requires setting up an entire organisational system to be able to accompany asylum seekers, although they are not granted any additional funds for this new mission. Apart from this provision, few others concerning subsequent applications and vulnerability assessment and consideration in OFPRA procedures were applicable as of 20 July 2015. All other provisions have come into force no later than 1 November 2015. The amended law on asylum and the implementing decrees that resulted from it have profoundly changed the French asylum system. The impact on the practice is still to be seen and the coming year will bring much insight on the positive as well as negative changes resulting from the reform.

Procedure

- A foreign national intending to claim asylum has to present him or herself to the Prefecture that is orienting him or her to a pre-reception office, mainly orientation platforms already existing, whose mission statement changes, and ruled by specialised NGO already working with asylum seekers. The pre-reception office provides him or her with an asylum application form for the registration of his or her claim at the Prefecture. An appointment with the Prefecture is also arranged. In compliance with the recast Asylum Procedures Directive, this appointment should take place within 3 days after the asylum seeker has presented him or herself to the pre-reception office. The obligation to have an address (*domiciliation*) is not required anymore to introduce an asylum claim.

- The registration of the claim is processed at the "single desk" (*guichet unique*) where the Prefecture and the French Office on Immigration and Integration (*Office Français sur l'Immigration et l'Intégration* - OFII) both have offices. The aim of the single desk is to register the asylum claim and, on the same day and in the same location, to conduct a vulnerability assessment that allows the OFII to offer tailored material reception conditions. Therefore, upon leaving the single desk, the asylum seeker has been granted an asylum claim certification (*attestation de demande d'asile)*, that specifies if his or her claim has been channelled into a specific procedure, and has been proposed an accommodation place, when available.

- Asylum seekers under the Dublin procedure are also granted an asylum claim certification that allows them to remain on the French territory until their removal. During the determination procedure of the responsible State, they can be put under house arrest for a maximum duration of 6 months (renewable). The notification of their transfer can be challenged before Administrative Courts within 15 days (48 hours in case the asylum seeker is in detention).

- A claim can be channelled under accelerated procedures for 10 different grounds, among which 3 are applicable to unaccompanied minors. OFPRA can decide not to process a claim under accelerated procedure if the person's vulnerability so requires. This can be applied at any stage of the procedure.

- The assessment of vulnerabilities and their consideration throughout the asylum procedure is a completely new element that has been brought in by the asylum reform.

- According to the new law, all asylum seekers can benefit from the accompaniment of a third person (lawyer or representative of an NGO) to the interview at OFPRA. This provision also applies for asylum claims introduced at the border or in detention.

- Specific procedural safeguards have been added by the law regarding the definition of the list of safe countries of origin by OFPRA. Several stakeholders, including NGOs involved in refugee protection, asylum and foreign nationals' rights and human and children's rights promotion can ask a review of the list to add or withdraw a country. Some of these actors, allowed to take part at the board meeting of OFPRA as "experts", have a voting right regarding the list of safe countries of origin.

- In case of a negative decision, an appeal can be introduced before the National Court of the Right to Asylum (*Cour Nationale du Droit d'Asile* – CNDA) within one month. It has a suspensive effect both for regular and accelerated procedures. The Court shall give a decision on the case within 5 months under regular procedures and within 5 weeks under accelerated procedures. The latter is given by a single judge. Legal aid is granted as of right (*de plein droit*), except if the appeal is inadmissible.

Reception conditions

- The national reception scheme has been completely changed with the reform. From now on, the entire system is centralised and managed by OFII that has the full competence to grant, suspend, refuse or withdraw material conditions. Asylum seekers can be offered a place in any reception centre in France. They can be accommodated either in a reception centre for asylum seekers (*centre d'accueil pour demandeurs d'asile* – CADA) or in an emergency reception centre, even if they are under an accelerated procedure. However, seekers under Dublin procedure are still eligible only to the emergency reception scheme.

- If an asylum seeker refuses the accommodation offer from OFII, or if he or she does not present him or herself to the management of the assigned reception centre, or if he or she leaves the centre for more than a week without legitimate grounds, all material reception conditions can be refused or suspended.

- There is only one allowance for asylum seekers (*allocation pour demandeurs d'asile* – ADA), replacing the temporary waiting allowance (allocation temporaire d'attente – ATA) and the monthly subsistence allowance (*allocation mensuelle de subsistence* – AMS). ADA is calculated on the basis of the family composition, age and resources of the asylum seeker. All asylum seekers, including under Dublin or accelerated procedure, can benefit from this allowance.

- Asylum seekers have the right to access the labour market to work if OFPRA has not processed their asylum claim within 9 months.

Detention

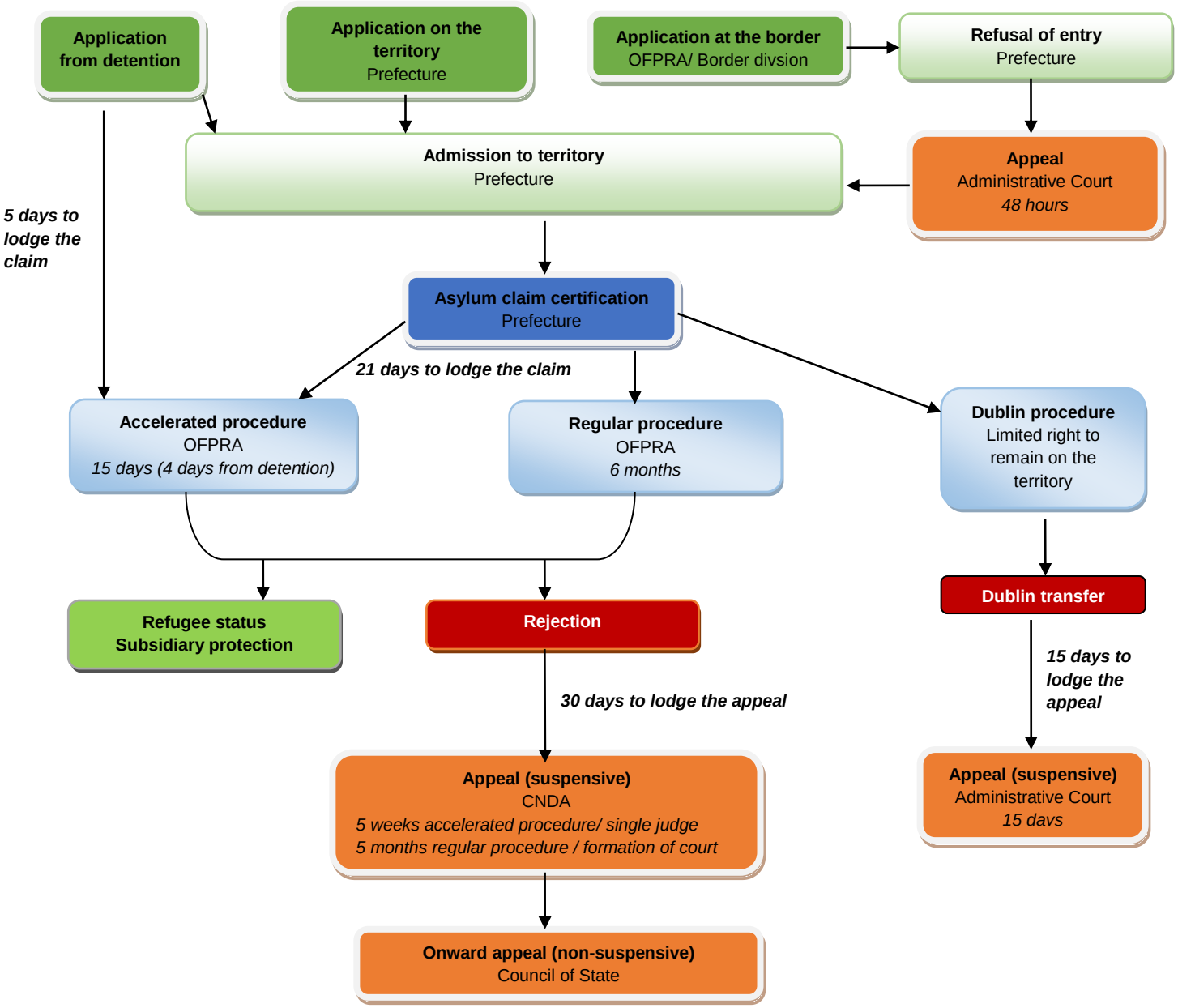
- An asylum seeker can introduce a claim in detention within a 5 day-period. He or she can introduce a claim after the 5-day deadline if the facts called upon have occurred after the 5th day.

- Foreign nationals introducing a claim in detention can benefit from legal and linguistic assistance.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

❖ Regular procedure:	☒ Yes	☐ No
▪ Prioritised examination:[1]	☒ Yes	☐ No
▪ Fast-track processing:[2]	☒ Yes	☐ No
❖ Dublin procedure:	☒ Yes	☐ No
❖ Admissibility procedure:	☐ Yes	☒ No
❖ Border procedure:	☒ Yes	☐ No
❖ Accelerated procedure:[3]	☒ Yes	☐ No
❖ Other:		

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

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

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

1 For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) APD. This is now included in Article L. 723-3 Ceseda, as amended by the Law of 29 July 2015.
2 Accelerating the processing of specific caseloads as part of the regular procedure.
3 Labelled as "accelerated procedure" in national law. See Article 31(8) APD.

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

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
French Office for the Protection of Refugees and Stateless Persons (OFPRA)	497	Ministry of Interior	☐ Yes ☒ No

5. Short overview of the asylum procedure

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

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

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

(2) At the single desk, the Prefectures examine whether France is responsible for the examination of the claim by applying the criteria of the Dublin Regulation and also decide whether to channel an application into the regular or the accelerated procedure. Within the same premises and, in theory, on the same day, the French Office for Immigration and Integration (OFII) interviews the asylum seeker to assess his or her special needs in terms of reception conditions.[4] OFII is responsible for the management of the national reception scheme and allocates available places to newly registered asylum seekers, whatever procedure they are channelled to.

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

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

In order to lodge an asylum application in France, asylum seekers must first present themselves to the Prefecture that is orienting them to the local entitled organisation. This first visit to the Prefecture is intended to monitor the flow of people arriving and, in registering their names, to check whether they have already introduced a claim in another Prefecture. However, in practice asylum seekers tend to go straight to the local entitled organisation which mission is to centralise intentions to lodge asylum claims and to give appointments to asylum seekers to the single desk. Orientation platforms should perform this task in addition to other entitled organisations (Croix Rouge for example). At the single desk their asylum claim is first registered and they are granted an asylum claim certification.[5] The certification is equivalent to the temporary residence permit. If it is granted, the person enters into the asylum procedure and has to complete his or her application form in French and send it to OFPRA within a 21

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

[5] The temporary residence permit on asylum grounds has been replaced by an asylum claim certification following the reform on the law on asylum. Conditions for the certification to be delivered and reniewed are described in the Decree n° 2015-1166 of 21 September 2015 of the Ministry of the Interior.

calendar day period, both under regular and accelerated. The certification is not delivered to asylum seekers having introduced a claim at the border or from a detention centre. Asylum seekers under a Dublin procedure do receive an asylum claim certification but this specifies that they are under a Dublin transfer procedure. Asylum seekers will not get access to OFPRA if another state accepts responsibility for their asylum claim. The certification does not allow travelling to other Member States.

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

(a) The foreign national introduces a subsequent application after the final rejection of his or her first subsequent application; or
(b) The foreign national is subject to a final decision of extradition.

These provisions have been introduced by the July 2015 reform of the law on asylum.

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

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

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

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

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

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

The Prefectures as well as OFPRA are under the administrative supervision of the Ministry of Interior. OFPRA is an administrative authority specialised in asylum and responsible for examining and granting, refusing, or withdrawing refugee status or subsidiary protection.[6] It is independent in taking individual decisions on asylum applications and does not take instructions from the Ministry of Interior. A single procedure applies. French legislation provides for systematic personal interviews of applicants at first instance; except if OFPRA is about to take a positive decision or if the asylum seeker's medical situation prevent him from attending the interview. All personal interviews are conducted by OFPRA. The reform of the law on asylum has introduced a new provision according to which asylum seekers can be accompanied to their interview by a third person (lawyer or member of an accredited NGO). This third person cannot intervene during the interview but may formulate remarks at the end of the interview. This provision also applies to claims introduced at the border and from detention. After the asylum seeker

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

and, eventually, the third person have been heard, the protection officer writes an account and a draft decision, which is then, in most cases, submitted for validation to their section manager.

The CNDA is the Administrative Court handling appeals against first instance negative decisions of the Director General of OFPRA. This appeal must be lodged within 30 calendar days after the notification of the OFPRA decision to the applicant. The appeal has an automatic suspensive effect for all applicants, regardless of the type of procedure their claim is processed, except for asylum claims introduced from detention (see section on Registration). The CNDA examines the appeal on facts and points of law. It can annul the first instance decision, and therefore grant subsidiary protection status or refugee status, or confirm the negative decision of OFPRA.

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

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

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

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

B. Procedures

1. Registration of the asylum application

Indicators: Registration

1. Are specific time-limits laid down in law for asylum seekers to lodge their application?
   ☒ Yes ☐ No
2. If so, what is the time-limit for lodging an application?
   - ❖ On the territory: 21 days[7]
   - ❖ From detention: 5 days
3. 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

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

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

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

In order to lodge an asylum application in France, asylum seekers must present themselves to the local organisation responsible for pre-reception. Orientation platforms are mainly but not exclusively expected to perform this task. This new step in the registration procedure aims to avoid long lines in front of Prefectures, as foreign nationals presenting themselves to the single desk ("*guichet unique*") have an appointment. The appointment has to take place within 3 days after asylum seekers have expressed their intention to lodge an asylum claim.[8] This deadline can be expanded up to 10 days when a large number of foreign nationals wishing to introduce an asylum claim arrive at the same time.[9] At the time of writing, the 3 days deadline was not respected in several Prefectures: in **Lyon** the average delay is 15 days, in **Paris** it is 1 month and in **Seine Saint Denis**, 2 months. It is no longer mandatory to provide an address ("*domiciliation*") to register asylum seekers' claim. However, as long as administrative notifications are still sent by mails, asylum seekers have to provide an address for the procedure to be smoothly conducted. An address certificate (*déclaration de domiciliation*) is also necessary to benefit from certain social benefits, in particular the Universal Medical Coverage (CMU). 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:[10]

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

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

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

The asylum claim certification is delivered for a specific period of time, renewable until the end of the procedure. Depending on the procedure, the period of validity varies:[11]

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

8 Article L.741-1 Ceseda, as amended by the Law of 29 July 2015.
9 *Ibid*.
10 Article R.741-3 Ceseda, as amended by the Decree of 21 September 2015.
11 Ministerial ruling on application of Article L.741-1 Ceseda, as amended by the Law of 29 July 2015, published on 9 October 2015.

- Under Dublin procedure, the asylum claim certification is valid for an initial period of time of 1 month, renewable for 4 months (as many times as necessary).

Then, the asylum seeker has 21 calendar days to fill in the application form in French and send it by registered mail to OFPRA.[12] In order for the claim to be processed by OFPRA, the filled and signed application form as to be accompanied by a copy of the asylum claim certification, 2 ID photos and, if applicable, a travel document and the copy of the residence permit. Upon reception of the claim, OFPRA shall inform the asylum seeker as well as the competent Prefect and the OFII that the claim is complete and ready to be processed. In case the claim is incomplete the asylum seeker has to be asked to provide the necessary missing elements or information within 8 additional days.[13]

The Prefecture may refuse to grant an asylum claim certification for 2 reasons:[14]

(a) The foreign national introduced a subsequent application after the final rejection of his or her first subsequent application; or
(b) The foreign national is subject to a final decision of extradition.

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

In addition, the renewal of an asylum claim certification can be refused, or the asylum claim certification can be refused or removed when:[15]

(a) OFPRA has taken an inadmissibility decision;
(b) The asylum seeker has withdrawn his or her asylum claim;
(c) OFPRA has closed the asylum claim. OFPRA is entitled to close an asylum claim if it has not been introduced within 21 days; or if the asylum seeker did not present him or herself to the interview ; or if the asylum seeker has consciously refused to provide fundamental information; or if the asylum seeker has not provided any address and cannot be contacted;[16]
(d) A first subsequent application has been introduced by the asylum seeker only to prevent a notified or imminent order of removal;
(e) The foreign national introduced a subsequent application after the final rejection of his or her first subsequent application; or
(f) The foreign national is subject to a final decision of extradition. In case of a refusal, or refusal of a renewal, or removal of the asylum claim certification, the asylum seeker is not allowed to remain on the French territory and this decision can be accompanied by an order to leave the French territory (OQTF).

The decision can be challenged before the Administrative Court and it has a suspensive effect. In parallel to the registration of the claim at the Prefecture, the file of the asylum seeker is transferred to the French Office for Immigration and Integration (OFII) that is responsible for the management of the national reception scheme. The reform of the law on asylum has introduced a system of single desk (*guichet unique*), experimented since 1 November 2015 in some pilot Prefectures and it is to be expanded to 34 desks in total as of 31 January 2016 (see section on Reception Conditions).

The first instance determination authority in France is OFPRA. When OFPRA receives a complete application within the required deadlines, it registers it and sends a confirmation letter to the applicant. If not, OFPRA refuses to register the application. Such a refusal can be challenged before the Administrative Court of Melun. This remedy can be useful if a "valid" excuse can be argued (e.g. health problems during the period).

12 Article R.723-1 Ceseda, as amended by the Decree of 21 September 2015.
13 *Ibid*.
14 Article L.741-1 Ceseda, as amended by the Law of 29 July 2015.
15 Article L.743-2 Ceseda, as amended by the Law of 29 July 2015.
16 Article L.723-13 Ceseda, as amended by the Law of 29 July 2015.

French law does not lay down strict time limits for asylum seekers to lodge an application for asylum after entering the country. However, the revised law specifies that one reason why OFPRA shall process an asylum claim in accelerated procedure is that "without legitimate reason, the seeker who irregularly entered the French territory or remained there irregularly did not introduced his or her asylum claim in a period of 120 days as from he or she has entered the French territory."[17]

Under the former law, several difficulties had been highlighted in practice for asylum seekers with regard to the registration of their claim on the territory. For instance, the requirement to obtain a temporary residence permit from the Prefecture before they could lodge their asylum application with OFPRA in fact imposed an additional delay for asylum seekers, as some Prefectures did not respect the prescribed time limit of 15 days between the filing of the required documents and the appointment at the Prefecture to deliver the temporary permit.[18] The reform of the law on asylum does not fundamentally change the process as asylum seekers still have to get a preliminary document allowing them to remain on the territory before they can introduce their claim. However, the deadline between their first expression of intention for lodging a claim at the Prefectures and the effective registration of their claim and the consequent delivery of the asylum claim certification has been reduced to 3 days.[19] It can be expanded up to 10 days in case of exceptional situation where many foreign nationals intend to lodge a claim at the same time. As the *"domiciliation"* address is not a requirement anymore, delays should be more easily respected. However, at the time of writing, the delay for registering asylum claims was of 15 days in the **Rhône**, 1 month in **Paris** and 2 months in **Seine Saint Denis**.

Even though these deadlines did not pertain to the registration of the asylum application *per se*, they could have a dramatic impact on the time spent before access to the asylum procedure is really effective. The new procedure intends to reduce these delays and facilitate early access to the procedure and reception conditions.

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

Applications lodged in detention

It should also be noted that in administrative detention centres, it is indicated to the persons held that their asylum application will not be admissible if it is lodged more than 5 calendar days after the notification of their rights read upon arrival, except if the foreign national calls upon new facts occurred after the 5-day deadline has expired.[20] Asylum seekers in detention can benefit from legal and linguistic assistance.[21] These provisions introduced in the revised law on asylum have formalised the decision of 30 July 2014 of the Council of State in which it considered that, in certain cases, the asylum seeker held in administrative detention could lodge an asylum application after the 5-day deadline if (a) he or she could not lodge his or her asylum application because he or she could not benefit from an effective legal and linguistic assistance; or (b) in order to substantiate his or her case, he or she alleges facts which happened after this deadline.[22]

Applications at the border and refusal of entry

17 Article L.723-2(III)(3), as amended by the Law of 29 July 2015.
18 Article R. 742-1 Ceseda.
19 This new provision stated in Article L. 741-1 of the revised Ceseda is applicable as of 30 July 2015.
20 Article L551-3 Ceseda, as amended by the Law of 29 July 2015.
21 *Ibid*.
22 Council of State, Decision n° 375430, 30 July 2014, available in French at: http://bit.ly/1LK6tsf.

A specific border procedure to request an admission into the country on asylum grounds is provided by French legislation for persons arriving illegally or with false identity or travel documents on French territory through airports or harbours (see section on Border Procedure).[23] When the foreign national presents him or herself at the border expressing his or her intention to claim asylum, he or she is informed without delay about the asylum procedure, his or her rights and obligations throughout the procedure as well as the consequences in case he or she does not comply with his or her obligations or refuses to cooperate with competent authorities.[24] The request must be taken into account and the Border Police has to take a statement of the request for an admission on asylum grounds. The person is held in a waiting zone for an initial duration of 4 days.[25]

The reason why people expressing their intention to apply for asylum at the border are kept in a waiting zone for 4 days is to determine whether they are entitled to enter the country or if they shall be sent back to their country of origin or transit. In addition to the situation where the foreign national represents a "severe threat to public safety", the revised law on asylum formulates 3 grounds for refusal of entry into the country of foreign nationals having expressed their intention to apply for asylum:

(a) The asylum claim is the responsibility of another Member State;
(b) The asylum claim is inadmissible;
(c) The asylum claim is manifestly unfounded.

Apart from the first situation, the decision to refuse the entry into the country cannot be taken without consultation of OPFRA, whose opinion, if favourable to the entry into the country, is binding, except in the situation where the foreign national constitutes a threat to national security.

A suspensive appeal can be lodged to contest the decision of the ministry to apply the Dublin Regulation to a foreign national in a waiting zone at the French border. In case the asylum claim is deemed inadmissible, the seeker can challenge this decision before the CNDA. This appeal has a suspensive effect.

There is no strict deadline to apply for asylum when applicants are waiting for their admission at the border, the person may apply for asylum at any time during the time he or she is held in the waiting zone, meaning during 4 days.

There are occasional reports of people simply being refused entry at the border. For example, in January 2014, the press reported that two young Guineans were denied entry to French territory upon their arrival (in Marseille) on a cargo ship from Dakar. ANAFE reported that the border police had refused to register their asylum application and refused their admission to the territory. These young Guineans were then taken back to the ship, without having been placed in the waiting zone and without benefiting from the "clear day" (*"jour franc*") notice period (24 hours during which the person cannot be returned). This *refoulement* ended dramatically as these two boys jumped into the sea to escape this forced return and one of them drowned.[26]

More recently, the situation at the French-Italian border has alerted a number of civil society organisations. Most migrants arriving in Italy and wishing to continue their journey onward to other EU countries to apply for asylum travel to France via Nice, then Paris where they try to reach other countries up North. Most of them came from Eritrea and were in need of protection but did not want to apply for asylum in France or Italy. Despite their effort to continue their journey onward, the increasing number of migrants arriving in Italy also generated an increasing number of people in Nice. In April 2015 there were every day in between 60 and 200 people at the train station in Nice, sleeping in front of the

23 Article L221-1 et seq. Ceseda.
24 Article R.213-2 Ceseda, as amended by the Decree of 21 September 2015.
25 Article L221-3 Ceseda.
26 ANAFE, 'Zone d'attente de Marseille / Mort d'un jeune Guinéen dans le Port de Marseille : l'Anafé demande une enquête' (Marseille waiting area/ death of a young Guinean in the port of Marseille: ANAFE requests an inquiry), 13 January 2014, available at: http://bit.ly/1T89kfJ.

station while waiting for a train to Paris. However, due to the deteriorating situation in Paris where there were several irregular camps being set up, controls, arrests and readmissions to Italy have significantly increased in **Alpes-Maritime** during from May to mid-June 2015, thus leading to a sharp decrease in the number of migrants in Nice and Manton.

During the first week of June 2015, 1,439 arrests have been officially registered, among which 1,097 led to a readmission to Italy. Mid-June, the French-Italian border was simply closed and hundreds of migrants were blocked in Vintimiglia, Italy where they only received support from the Italian Red Cross and local NGOs. Those who tried to cross the border were immediately arrested and either sent back to Italy with an immediate readmission order or after having been placed in administrative detention centre. On 24 and 25 June 2015, several French NGOs (GISTI, Cimade, ANAFE and Lawyers for the Defense of Foreigners' Rights) and migrants introduced a claim for an emergency ruling for possible infringement of civil liberties to the *Conseil d'Etat*, arguing that the French police is operating systematic and discriminatory controls at the French-Italian border which are contrary to the Schengen Border Code, the European Convention on Human Rights (ECHR) and the EU Charter on Fundamental Rights. Their claim has been rejected on 29 June 2015. The *Conseil d'Etat* has stated that it is legal to process to identity checks and controls within 20 kilometres between the Italian border and the French territory as well as in train stations, airports and harbours. Moreover, the *Conseil d'Etat* recommends referring to the competent courts to contest alleged violations or rights and illegal controls and placements in detention as it is not the competent authority.[27]

2. Regular procedure

2.1. 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 (incl. extensions):[28]	18 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 as of 31 December 2014:[29]	27,787

The first instance authority in France, OFPRA, is a specialised institution in the field of asylum, under the administrative supervision of the Ministry of Interior since November 2007.[30] A time-limit of 6 months is set for OFPRA to make a decision under the regular procedure since the entry into force of the reform of the law on asylum.[31] 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.[32] 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.[33]

The (total) average length for OFPRA to make a decision was 203.5 days in 2014 (average for all types of procedures).[34]

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27 Conseil d'Etat, *Gisti and Others,* Order of 29 June 2015, available in French at: http://bit.ly/1CLaSs6.

28 Article R.723-2 Ceseda, as amended by the Decree of 21 September 2015. In line with Article 31(3) recast Asylum Procedures Directive.

29 Only first asylum applications, excluding accompanying minors. 2015 data will only be available during the first quarter of 2016.

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

31 Article R.723-2 Ceseda, as amended by the Decree of 21 September 2015.

32 Article R 723-3 Ceseda, as amended by the Decree of 21 September 2015.

33 Article R.723-2 Ceseda, as amended by the Decree of 21 September 2015.

34 OFPRA, *2014 Activity report*, 10 April 2015, available in French at: http://bit.ly/1eljAS9.

At OFPRA level, there was a backlog of 28,787 cases, on which 16,000 constitute the incompressible stock,[35] on 31 December 2014.[36] These files were on average 214 days old (including a 3 month period that cannot be shortened).[37] At the appeal stage, there was a stock of 20,031 pending cases on 31 December 2014. Most of the files dated from 2014 (18,441), some dated from 2013 (1,358) but a few were pending since 2012 (215) and even one from 2009.[38] In 2014, 177 case workers have issued 69,255 decisions. In other words, each case worker has examined approximately 391 cases during the year.[39] The overall recognition rate for 2014 is 28% (16.9% of the OFPRA decisions and 14.9% of the CNDA decisions have resulted in the granting of a protection status).[40] The overall protection rate for unaccompanied minors was 64.1% for 2014.[41]

An action plan for the reform of OFPRA, adopted on 22 May 2013, has been implemented since September 2013. It includes a monitoring mechanism of the quality of the decisions taken through an assessment of several sample cases. In addition, a "harmonisation committee", chaired by the Executive Director, was created to harmonise the doctrine (including monitoring the jurisprudence of the CNDA).[42]

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

In this context, a first evaluation was undertaken by the two stakeholders (OFPRA and UNHCR) between January and May 2014, focusing on a representative sample of asylum decisions (201 case files) taken during the first semester 2013. OFPRA published the results of this first quality control initiative in October 2014.[43] Even though no major difference was noticed in the treatment, by OFPRA, of the asylum applications under the accelerated procedure and under the regular procedure, important shortcomings were highlighted concerning $^{1}/_{5}$ of the case files under review. In particular the way interviews were conducted in these cases showed that no complementary questions were asked by OFPRA when the arguments of the asylum seeker were considered to be insufficiently consistent or credible. Also the legal analysis of the asylum application by OFPRA was not always sufficiently thorough. Proofs (such as certificates, judgments issued by foreign courts) were insufficiently taken into account. In addition, decisions were often too short and not sufficiently reasoned. Finally, the reasoning appeared to focus on the establishment of past facts of persecution rather than on the well-founded fears in case of return to the country of origin. Following the quality control and in the context of the ongoing reform of OFPRA, regular trainings are being provided to case workers and tailored tools have been designed, in particular regarding the interview, the assessment of proof and supportive documents and the reasoning of decisions taken. In 2014, a specific training on how to receive painful stories has been delivered to 80 OFPRA case workers. In its 2014 Activity report, OFPRA has announced a second quality control for 2015.

2.2. Fast-track processing

35 Except accompanying minors.
36 OFPRA, *2014 Activity report*, 10 April 2015.
37 It includes some time for the registration of the application (around 2 weeks), time for the preparation and sending of the summon for the interview (around 1 month), time for the interview, the desk research, the verifications and the legal analysis (around 1 month).
38 CNDA, *2014 Activity report*, 29 April 2015.
39 OFPRA, *2014 Activity report*, 10 April 2015.
40 Ministry of Interior, *Statistics*, 15 January 2015, available at: http://bit.ly/1GTMHTF.
41 OFPRA, *2014 Activity report*, 10 April 2015.
42 See a description of the action plan for the reform of OFPRA: *Ibid,* 54-55.
43 OFPRA, Contrôle qualité, Premier exercice d'évaluation *(réalisé entre janvier et mai 2014 sur des décisions notifiées au cours du premier semestre 2013* (Quality Control, First evaluation carried out between January and May 2014 on the basis of decisions notified during the first semester 2013), 17 September 2014, available in French at: http://bit.ly/1LLTkyU.

The reform of the law on asylum 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".[44] This is a completely new provision as no formal system existed before.

In addition to this new legal provision, certain nationalities are subjected to a specific processing. Syrian nationals see their claims being processed under prioritised procedures with the objective of being processed within 3 months. In 2014, the average processing time was 93 days.[45]

Since 2013, OFPRA is also conducting decentralised and external missions in order to accelerate the examination of claims from seekers with specific nationalities or having specific needs. This has resulted in 9 decentralised missions in Lyon, Grenoble, Strasbourg, Metz and Bordeaux since 2013. Considering the particular vulnerability of migrants in Calais, OFPRA has been conducting field missions with the aim to explain the asylum procedure as well as rights of asylum seekers and refugees in France. These missions have resulted in the registration of 600 asylum claims in between November 2014 and April 2015, 95% of which from Sudanese nationals. In May 2015, a specific mission was held in Calais, targeting Eritrean nationals. In this context, 111 asylum claims have been processed directly in Calais by OFPRA protection officers.[46]

2.3. Personal interview

Indicators: Regular Procedure: Personal Interview

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

French legislation provides for systematic personal interviews of applicants. This obligation has been strengthened by the reform of the law on asylum, as instead of 4 there are now only 2 legal grounds for omitting a personal interview:[47]

(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 and this trend tends to be strengthened. In 2014, 97% of all asylum seekers were summoned for an interview, compared to 94% in 2013 (the rate for interviews actually taking place is steady: 80% in 2014, 79% in 2013).[48]

All personal interviews are conducted by protection officers from OFPRA. Asylum seekers are interviewed individually without their family members. A minor child can also be interviewed alone if OFPRA has serious reasons to believe that he or she might have endured persecutions unknown to other family members.[49]

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44 Article L 723.3 Ceseda, as amended by the Law of 29 July 2015.
45 OFPRA, *Activity Report 2014*, 10 April 2015.
46 OFPRA, 'Les interventions de protection de l'Ofpra', 26 June 2015, available in French at: http://bit.ly/1JMfElR.
47 Article L723-6 Ceseda, applicable for asylum claims introduced as of 20 July 2015.
48 OFPRA, *2014 Activity report*, 10 April 2015.
49 Article L 723-6 Ceseda, as amended by the Law of 29 July 2015.

A very new provision has been introduced by the July 2015 reform of the law on asylum regarding the interview: asylum seekers have the possibility to be accompanied by a third person, either a lawyer or a representative of an authorised NGO.[50] In a Decision of 30 July 2015, OFPRA's Director General has detailed the conditions for the organisation of the interview. The third person has to inform OFPRA, to the extent possible, 7 days prior to the interview in the regular procedure and 4 days in the accelerated procedure of his or her intention to accompany an asylum seeker to the interview. The absence of a third person does not prevent OFPRA from conducting the interview. The third person is not allowed to intervene or to exchange information with the asylum seeker or the interpreter during the interview, but he or she can formulate remarks and observations at the end of the interview. These observations are translated if necessary and written down in the interview report. The interview is also fully recorded.[51]

The asylum seeker or the third person can ask to read the interview report before a decision is taken on the case. At the end of the interview, the asylum seeker and the third person who accompanies him or her are informed of their right to have access to the copy of the interview. The latter is either immediately given to the asylum seeker or it is sent before a decision is taken.[52] However, neither the law nor the OFPRA Decision of 30 July 2015 allow for the possibility of further comments before the decision is taken.

An audio recording of the interview is also made. It cannot be listened to before a negative decision has been issued by OFPRA, in view of an appeal of this decision.[53] In case a technical issue prevents the audio recording from being put in place, additional comments can be added to the registration of the interview. If the asylum seeker refuses to confirm that the content of the interview registered is in compliance with what has effectively been said during the interview, the grounds for his or her refusal are written down. However, it cannot prevent OFPRA to issue a decision on his or her claim.[54]

The interview report and the draft decision written by the protection officer are then submitted for the validation of the section manager. Since September 2013, a procedure of transfer of signature has been set up in order to accelerate the processing delays. Therefore, in December 2014, 53 protection officers, or 30% of the total number of protection officers, benefited from this transfer of signature and could validate directly their decision.

The report is not a verbatim transcript of the interview as in practice the protection officer takes notes him or herself at the same time as he or she conducts the interview. The report is a summary of the questions asked by the protection officer, the answers provided by the asylum seeker and, since the adoption of the reform of the law on asylum, the observations formulated by the third person, if applicable. It also mentions the duration of the interview, the presence (or not) of the interpreter and the conditions in which the asylum seeker wrote his or her application. The report is sent to the asylum seeker together with any notification of a negative decision. The section on the opinion of the protection officer is not included in the document received by the asylum seeker, but it can be obtained upon special request. The report is written in French and is not translated for the applicant. In practice, the quality of the interview report can be very variable. This aspect was also mentioned in the recent above-mentioned quality control initiative whose results were published in October 2014.[55]

The presence of an interpreter during the personal interview is provided if the request had been made in the application form. Interpreters are usually available,[56] but some difficulties are frequently observed

50 *Ibid*.
51 OFPRA, Decision of 30 July 2015 establishing organisational modalities for the interview according to the implementation of Article L.723-6 of the Ceseda (Décision du 30 juillet 2015 établissant les modalités d'organisation de l'entretien en application de l'article L.723-6 du Ceseda).
52 Article R.723-7 Ceseda, as amended by the Decree of 21 September 2015.
53 Article L. 723-7 Ceseda, as amended by the Law of 29 July 2015.
54 Article R.723-8 Ceseda, as amended by the Decree of 21 September 2015.
55 OFPRA, *Contrôle qualité, Premier exercice d'évaluation réalisé entre janvier et mai 2014 sur des décisions notifiées au cours du premier semestre 2013*, 17 September 2014.
56 OFPRA, *Activity report 2014* states that 84% of interviews were carried out with an interpreter in 2014.

(for instance translation in Russian is often imposed even though the language requested was Chechen and Serbo-Croatian can be imposed even if the Romani language has been requested). Rare languages (such as Susu or Edo) are often not well represented. Since the reform of the law on asylum, the law provides for a choice of interpreter according to gender considerations, in particular if the asylum seeker has been subjected to sexual violence.[57] This new disposition also applies to protection officer. According to some stakeholders, the quality of the translations provided can vary widely. Some asylum seekers have reported issues with translations that are too simplified (approximate translations or not in line with their answers) or with inappropriate behaviour (inattentive interpreters or interpreters taking the liberty to make personal reflections or laughing with the protection officer). Finally, sometimes the protection officers themselves act as interpreters and this can have a diverse impact. Some asylum seekers report difficulties to open up to a person who speaks the language of the country involved in the invoked persecutions. Nevertheless, some advantages have also been reported, such as demonstrating a particular interest for the region of origin.

In addition to audio recording, interviews can be conducted through video conferencing. There are 3 cases where OFPRA can decide to conduct the interview through video conferencing where:[58]

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

2.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?	☒ Yes	☐ No
❖ If yes, is it	☒ Judicial	☐ Administrative
❖ If yes, is it suspensive	☒ Yes	☐ No
2. Average processing time for the appeal body to make a decision:	6 months and 4 days	

Following the rejection of their asylum application by the Director General of OFPRA, the applicant may challenge the decision to the CNDA. The CNDA is an administrative court specialised in asylum. The CNDA is divided into 12 chambers. These chambers are divided into formations of courts each of them made up of 3 members:[59] 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)[60] and 2 designated assessors, including one appointed by UNHCR. This presence of a judge appointed by UNHCR at the CNDA is a unique feature of the French asylum system.

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

57 Article L.723-6 Ceseda, as amended by the Law of 29 July 2015.
58 Article R.723-9 Ceseda, as amended by the Decree of 21 September 2015.
59 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.
60 10 judges acting as presidents are now working full time at the CNDA, in addition to part time judges on temporary contracts.

The appeal must be filed by registered mail within 1 month from the notification of the negative decision by OFPRA. The Decree on CNDA Procedure of 16 August 2013[61] has introduced a longer period for asylum applications lodged in French overseas departments;[62] these asylum seekers have 2 months to appeal the OFPRA decision. There is no specific form to submit this appeal but it has to be written in French.

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

The CNDA sends a receipt of registration to the applicant which notifies the applicant of his or her right to consult his or her file, the right to be assisted by a lawyer, the fact that the information concerning his or her application is subject to automated processing, of the possibility that his or her appeal will be processed by order ("*ordonnance*") namely by a single judge without a hearing. The same receipt requests the applicant to indicate the language in which he or she wishes to speak at the hearing in order to select the interpreter. In case the appeal has been lodged after the deadline, and in case of dismissal ("*non-lieu*") or withdrawal of the applicant, the president of the CNDA or the president of one of the sections can dismiss the appeal "by order" ("*ordonnance"*). If the appeal does not contain any serious elements enabling a questioning of the OFPRA decision, it can also be dismissed "by order" ("*ordonnance")* but after a preliminary assessment of the case.[63]

Since the reform of the law on asylum of 29 July 2015, a time limit is set in law for the CNDA to make a decision. The CNDA has to rule within 5 months under the regular procedure. When the appeal concerns a decision from OFPRA issued under the accelerated procedure or if it concerns an appeal for a claim considered inadmissible, then the CNDA has to rule within 5 weeks. Under the regular procedure, the appeal is processed by a Court panel while in other cases only one single judge – either the President of the CNDA or the President of the section – rules on the appeal.

The CNDA has registered 37,345 appeals in 2014 and has ruled on 39,162 decisions.[64] The average processing time for the CNDA to make a decision was 6 months and 4 days as of the end of December 2014,[65] against 8 months and 26 days in 2013.

The 2013 Decree on CNDA procedure has modified some of the procedural steps pertaining to the appeal stage. The Decree provides that the deadline for closing the inquiry is 5 days minimum before the date set for the hearing (instead of 3 days as was the case until now). This means that it is only possible to add further information to the appeal case until 5 days before the hearing.[66]

Unless the appeal is rejected by order ("*ordonnance"*), the law provides for a hearing of the asylum seeker. The 2013 Decree established that a summons for a hearing has to be communicated to the

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61 Decree n°2013-751 of 16 August 2013 on the procedure related to the CNDA, official journal n°0191, completed by two orders (*arrêtés*) from 22 April 2014, published in the official journal of 30 April 2014. A useful explanatory note was published on the CNDA website in September 2013: http://bit.ly/1HAwuYj.

62 Guadeloupe, Guyana, 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.

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

64 CNDA Activity report 2014, 30 April 2015, available in French at: http://bit.ly/1LpT9KK.

65 CNDA, *2014 Activity report*, 30 April 2015.

66 Article R733-13 Ceseda, as inserted by Decree on CNDA Procedure.

applicant at least 30 days before the hearing day.[67] These hearings are public unless the President of the section decides that it will be held *in camera* and take place at the CNDA headquarters near Paris.[68] In most cases, hearings were held in camera following a specific request from the applicant. Since the reform, the hearing in *camera* is *ispo jure* (*de plein droit*) meaning that it is applied upon request of the applicant. Asylum seekers who are not accommodated in reception centres have to organise and pay for their journey themselves, even if they live in distant regions. Only asylum seekers who did not receive the temporary allowance (ATA) could receive "emergency support" to cover these transport costs.[69] Following the implementation of the reform of the asylum law it remains to be seen if this will still be effective. The hearing begins by the presentation of the report by the *rapporteur*. If the applicant is assisted by a lawyer, he or she is invited to make oral submissions, the administrative procedure before the CNDA being mainly written. The judges can also interview the applicant. Following the hearing, the case is placed under deliberation. Decisions of the CNDA are published (posted on the walls of the court building) during a period of 2 to 3 weeks.[70] Negative decisions are transmitted to the Ministry of Interior.

Since a law of 2011, and the following implementing decree of 12 June 2013, the use of video conferencing for the CNDA hearings is allowed.[71] The applicant will be informed by registered mail and will have 15 days to refuse it; however, the possibility to refuse only applies to those living in mainland France. In practice, this is only applied to applicants overseas and it replaces mobile court hearings.

Finally, the decree on the procedure related to the CNDA of 16 August 2013 foresees that in cases where the CNDA plans to reject the appeal by order ("*ordonnance*") due to the absence of serious elements enabling a questioning of the OFPRA decision, the CNDA has the obligation to inform the applicants about their rights to access their file.[72] Moreover, the same decree provides that if the CNDA fails to provide an interpreter in the language indicated by the applicant, the CNDA has to inform the latter that he or she will be heard in another language one can reasonably think he or she will understand.[73] In practice, applicants are always heard in the language for which they have asked to have an interpreter.

Asylum seekers face several obstacles to challenging a negative OFPRA decision. Indeed, despite the translation of time limits and appeal modalities at the back of the refusal notification, some asylum seekers sometimes do not understand, in particular those who are not accommodated in reception centres. Since 2012, these are no longer eligible for support for the preparation of their appeal within the orientation platforms. They can only rely on volunteer assistance from NGOs, whose resources are already overstretched.

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.[74] This appeal must be lodged within 2 months of notification of the CNDA decision.[75] The Council of State does not review all the facts of the case, but only allegations supported by the

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67 Article R733-19 Ceseda. In case of "emergency" however, the period between the summons and the hearing can be reduced to 7 days.

68 Except for overseas departments where missions from the CNDA are regularly organised to hear the applicants.

69 Ministry of Interior, *Reference framework for first reception services for asylum seekers*, December 2011, available at: http://bit.ly/1C5aQLg, Objective 5.6.

70 CNDA decisions are however not accessible on the Internet. Only a selection of them are published by the CNDA on its website.

71 Decree of 12 June 2013 setting the technical characteristics of the communication means to be used at the CNDA, Official journal 18 June 2013, NOR: JUSE1314361A. Article L.733-1 Ceseda, as amended by the Law of 16 June 2011.

72 Article R733-4(5) Ceseda, as inserted by Decree on CNDA Procedure.

73 Article R733-8 Ceseda, as inserted by Decree on CNDA Procedure.

74 Article L511-1 CJA.

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

applicant. If the Council of State annuls the decision, it refers to the CNDA to decide again on the merits of the case, but it may also decide to rule itself on the granting or refusal of protection.

This appeal before the Council of State must be presented by a lawyer registered with the Council of State. If the asylum seeker's income is too low to initiate this action, he or she may request legal aid to the Office of legal aid of the Council of State. In practice, it is very difficult to obtain it. This appeal is not suspensive and the applicant may be returned to his or her country of origin during this period.

2.5. 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

Legal assistance at first instance

The modalities and the degree of legal assistance provided to asylum seekers in the first instance (at OFPRA level) depend on the type of reception conditions they enjoy.

- If the applicant is accommodated in a reception centre for asylum seekers (CADA), he or she can be supported in the writing of his or her application form by staff from the reception centres. According to the mission set out in their framework agreement,[76] CADA teams (legal advisers) should also assist the applicant in the preparation of his or her interview at OFPRA. The team can provide advice and support to find a lawyer, either under the legal aid scheme or outside of it.
- If the applicant cannot be accommodated in a reception centre, then the "reference framework" for asylum seekers' "orientation platforms"[77] applies,[78] with the exception of those benefiting from support provided in some emergency reception structures who can benefit from the assistance provided in those centres. In this case asylum seekers are assisted in their paperwork, such as their application for legal aid and their residence permit renewal process. Asylum seekers may also be assisted in the drafting of their asylum application but the preparation for the interview is theoretically excluded.

Depending on where these legal assistance services take place (CADA or orientation platforms), they are funded by OFII, by the Ministry of Interior and/or by EU funding under the Asylum, Migration and Integration Fund (AMIF). Some local authorities sometimes contribute to this funding.

Access to legal assistance is therefore uneven depending on the type of reception conditions provided. Asylum seekers in the most precarious situations, those without reception conditions, are offered fewer services than those accommodated in CADAs. This situation leads to unequal treatment between asylum seekers accommodated in CADAs, who receive support and in-depth assistance, and asylum seekers housed in emergency facilities, who are without direct support and are sometimes located far

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

77 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.

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

away from the regional orientation platforms. Furthermore, these platforms do not have the same capacity as CADAs, and this greatly limits the services provided to these persons.[79]

Legal assistance at the appeal stage

At the time of writing, asylum seekers continued to receive legal assistance at the appeal stage before the CNDA but the modification of the terms of references of the CADAs will certainly change the practice. Indeed, the terms of references of CADAs have been modified since November 2015 and support to asylum seekers in the appeal phase is not included anymore. Legal support for the preparation of appeals to the CNDA is also no longer funded within the "reference framework" of the orientation platforms. Therefore, asylum seekers have to rely on legal support from lawyers.

Since 1 December 2008, the law foresees the granting of legal aid ("*aide juridictionelle*") for lawyers to file an appeal to the CNDA in case of an OFPRA negative decision, thus removing the entry and residence conditions imposed since 1991.[80] Legal costs can therefore, upon certain conditions, be borne by the State.

The reform of the law on asylum consecrates the right to legal aid as it is considered as *ipso jure* ("*de plein droit*"). Legal aid is of an automatic entitlement and is granted upon request under the following conditions:

- The appellant's resources do not exceed a certain threshold. For example: €941 per month for full legal aid for a single person, €1,112 per month for partial legal aid (55%) for a single person and €1,110 per month for full legal aid for a person with one dependant;[81]
- The appeal does not appear to be manifestly inadmissible; and

The legal allowance application is submitted within 15 days after receiving the notification of the negative decision from OFPRA or within 1 month if the request for legal aid is included within the appeal to OFPRA negative decision.

In case of a negative decision by OFPRA, means and deadlines for introducing an appeal are written down in the decision sent to the asylum seeker. There are 2 possibilities to request legal aid to challenge OFPRA's decision before the CNDA:[82]

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

(2) When introducing the appeal to the CNDA, the asylum seeker, or his or her lawyer in case he or she has one, can request legal aid. If the request is filed during the appeal period, this 1-month deadline to appeal is suspended until a decision on legal aid is made. A new period starts after the receipt of the decision of the legal aid office of the CNDA.[83]

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.[84] The refusal to grant legal aid may be challenged before the President of the CNDA within 8 days. This legal aid for asylum seekers is funded though the State budget for the general legal aid system.

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

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

81 See Ministry of Justice, *Legal Aid*, up to date as of 18 March 2015, available at: http://bit.ly/1PVVICf.

82 Article 9-4, Title I of the Law n° 91-647, 10 July 1991 on Legal aid, as amended by the Law of 29 July 2015.

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

84 *Ibid*.

In practice, legal aid is quite widely granted. In 2014, the CNDA's legal aid office registered 25,835 requests (13.9% more than in 2013) and took 30,561 decisions (a 38% increase compared to 2013). Requests were accepted in 88.8% of cases.[85]

Until 2013, lawyers working in the field of asylum were granted lower financial compensation (8 credits, or €182 per file) than the fee allocated for ordinary cases before administrative courts. A Decree of 20 June 2013 doubles the unit value (16 credits, or €365.44) for appeals with a hearing and 4 credits (or €95) for appeals without a hearing before the CNDA.[86]

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.[87] In particular, it is not enough to cover the cost of an interpreter during the preparation of the case.[88] This is so off-putting that lawyers specialised in asylum law refuse most of the time to work under the legal aid scheme. Lawyers are often court-appointed by the CNDA.[89] The difficulty is that, even though court-appointed lawyers are informed of the name of their client in between 2 and 3 months before the hearing, they only have the address of their clients and no phone numbers which often prevent both parties to effectively get in touch. Moreover, most of these lawyers are based in Paris whereas asylum seekers can be living elsewhere in France. Therefore, they often do not meet their clients until the last moment. These lawyers sometimes refuse to assist asylum seekers in writing their appeal and only represent them in court. This makes it difficult for asylum seekers to properly prepare for the hearing. Asylum seekers who are not accommodated in reception centres are therefore on their own to write their appeal and face a high risk of seeing their appeal rejected by order ("*ordonnance*") due to insufficient arguments.

3. Dublin

3.1. General

Indicators: Dublin: General
No data on Dublin is available for 2015.

The Dublin procedure is implemented by Prefectures, therefore it can vary greatly from one Prefecture to another across France and, even within the same Prefecture, practice can vary over time and depending on the cases.

Application of the Dublin criteria

The Dublin procedure is applied to all asylum seekers without exception (as per the Regulation). The official policy of the French Dublin unit is that it does not transfer unaccompanied children under the Dublin Regulation. Unaccompanied children can however be placed under a Dublin procedure by Prefectures.

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

85 CNDA, *2014 Activity report*, 30 April 2015.
86 Decree n° 2013-525 of 20 June 2013 on the compensation for the missions of Legal aid carried out by lawyers at the CNDA.
87 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.
88 Senate, *Information Report n°130*, prepared by Senators Jean-Yves Leconte and Christophe-André Frassa, 14 November 2012.
89 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).

criteria. According to a Circular of 1 April 2011,[90] the taking of fingerprints will be decisive in the search for the most likely responsible State.

The practice might evolve with the implementation of the reform of the law on asylum as the Circular of 2 November 2015 states that "in case another Member State would be responsible for processing the asylum claim, the Prefecture conduct the interview with the asylum seeker in order to establish his or her conditions of entry, his or her itinerary and potential family ties in another Member State".[91]

The discretionary clauses

It is difficult to know how the sovereignty clause is applied. It used to be observed that Prefectures sometimes simply delivered a temporary residence permit (which enables the asylum seeker to lodge a regular application for asylum) after having channelled the asylum seeker under the Dublin procedure, without explaining why and without mentioning whether it is under one clause or the other.[92]

In Paris, the humanitarian clause seemed to be used for asylum seekers who were deemed not fit for travel and for whom no transfer could be carried out. These clauses are not widely used in any case in France. For example, in the prefecture of Nice, an asylum seeker who was ill was transferred to Poland whilst his wife had applied for asylum in France.

No recent information allows us to describe a new practice regarding the use of the discretionary clauses.

3.2. Procedure

Indicators: Dublin: Procedure

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

The procedure which is described in this section is mainly drawn from the current practice in the **Rhône *département***.

When they go to the Prefecture to apply for asylum, all applicants are given an information leaflet explaining, among others, the Dublin procedure; Leaflet A, produced by the EU and translated into several languages.[93] They also receive the general guide for asylum seekers, also translated into several languages, and a form to notify their intention to introduce an asylum claim (see section on Registration).

A date for a future appointment is set in order to complete the request for an asylum claim certification. At this meeting which shall take place within 3 days (up to 10 days in case of massive influx of asylum seekers) fingerprints are taken and the above-mentioned form is completed.

During the application process, the officers in Prefectures are requested to take fingerprints for each and every asylum seeker above 14 years old and they have a duty to check these fingerprints in the Eurodac system. An exception is made for asylum seekers whose fingerprints are unfit for identification

90 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.

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

92 Dublin Transnational Network, *Dublin II Regulation: Lives on Hold: French report*, December 2012, available at: http://bit.ly/1UgeKXu, 35-37.

93 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.

(i.e. unreadable). In this case, asylum seekers will be summoned again and then their claim will be channelled into the accelerated procedure if their fingerprints are still unfit for identification,[94] except very specific cases related to a proved illness. The asylum claim cannot be fully registered without the fingerprints have been taken and checked in the Eurodac system. Therefore, the asylum claim certification is only delivered once all information, including fingerprints, has been registered.[95]

Asylum seekers receive an asylum claim certification specifying the procedure under which they have been placed, for instance the Dublin procedure.[96] This asylum claim certification allows asylum seekers placed under Dublin to remain legally on the French territory during the entire procedure for the determination of the responsible State.

Once a claim is channelled under the Dublin procedure, the applicant receives a second information leaflet on the Dublin procedure (Leaflet B, produced by the EU and translated into several languages)[97] and a Dublin notice document ("*convocation Dublin*") issued by the Prefecture. The applicant does not always get a copy of the interview form. Since November 2014, the **Rhône** Prefecture has asked applicants to sign a letter written in French and listing all the information given (as requested under Article 4 of the Dublin III Regulation) and the language in which it is given.

The presence of an interpreter at that stage is not guaranteed and practice varies widely depending on the Prefectures e.g. in **Nice** or in **Clermont-Ferrand**, an interpreter is called to translate the written information when the applicant does not speak French. The applicant must go to the Prefecture every month with his or her Dublin notice document.

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

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

The reform of the law on asylum states that during the responsible State determination procedure, the foreign national can be notified a house arrest for a 6-month period. This house arrest has to be motivated and it is renewable once for the same period of time. The foreign national then has to present him or herself to the Prefecture when asked to. The Prefecture can also seize his or her passport or identity documents.[98] The Circular of 2 November on the implementation of the reform of the asylum law states that the new provisions in the Law of 29 July 2015, allows to put asylum seekers under Dublin procedure under house arrest from the very beginning of the procedure and thus before the notification of transfer and that "in order to guarantee the effective implementation of transfers, [Prefecture] should make sure to use these provisions". This could lead to a quasi-systematic notification of a house arrest to asylum seekers under Dublin procedure.

Individualised guarantees

94 Article L.723-2 Ceseda, as amended by the Law of 29 July 2015.
95 Circular of 2 November 2015 on the implementation of the Law 29 July 2015.
96 Articles L741-1 and L.742-1 Ceseda, as amended by the Law of 29 July 2015.
97 European Commission and Migrationsverket, *Leaflet B: "I am in the Dublin procedure – What does this mean?"*, 2014, available at: http://bit.ly/1dBoCd2.
98 Article L.742.2, as amended by the Law of 29 July 2015.

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

Transfers

Any transfer decision must be motivated and notified in writing to the applicant.[99] It shall mention deadlines to appeal and explain the appeal procedure. When the foreign national is not assisted by a lawyer or an association, the main elements of the decision have to be communicated in a language he or she understands or is likely to understand.

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

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

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

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

Finally, it should be noted that the rate of actual implementation of transfers is strikingly low. Whereas the French authorities had received 3,281 agreements from other Member States to take charge or take back asylum seekers under the Dublin Regulation, only 470 transfers were carried out in 2014 (a 14.32% transfer rate).[100]

The situation of Dublin returnees

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

99 Article L.742-3, as amended in the Law of 29 July 2015.
100 Eurostat, *Dublin statistics 2014*.

3.3. 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 no specific interview in the Dublin procedure in France. All asylum seekers fill in a form during an appointment at the Prefecture to apply for the asylum claim certification.[101] The form includes a part entitled "personal interview" which contains information enabling the Prefecture to determine the State responsible for protection, in conformity with Annex I of the Commission Implementing Regulation No 118/2014.[102] During this appointment, which takes place at the desk in Prefectures (therefore not in offices guaranteeing confidentiality), questions are asked about civil status, family of the applicant, modalities of entry into French territory, countries through which the applicant possibly travelled prior to his or her asylum application, etc. Applicants have the possibility to mention the presence of family members residing in another Member State.

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. The presence of an interpreter during this appointment can vary; translation into the applicant's language is often done by a compatriot. Those appointments are not recorded. The asylum applicant does not always receive a copy of the interview form.

3.4. Appeal

Indicators: Dublin: Appeal

☐ Same as regular procedure

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

Asylum seekers placed under the Dublin procedure can introduce an appeal before the Administrative Court to challenge the decision of transfer. The appeal has to be introduced within 15 days after the asylum seeker has been notified the decision of transfer, compared to 2 months before the reform. The appeal has a suspensive effect. The designated judge has to rule within 15 days after the appeal has been lodged.[103]

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

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

103 Article L.742-4 Ceseda, as amended by the Law of 29 July 2015.

In practice, the shorter time-limit for introducing an appeal might prevent seekers who are not accompanied or who are accompanied in orientation platforms from introducing their appeal on time. It will require a bigger organisational effort from orientation platforms not to miss these short deadlines. In addition, it requires stricter and more comprehensive delivery of information from the Prefectures, in order for asylum seekers placed under Dublin procedure to be aware of appeal deadlines from the beginning of the procedure.

The decision to place the asylum seeker under house arrest can be challenged before the administrative court too. The asylum seeker has 48 hours to appeal and the judge has to take a decision within 72 hours. This appeal has suspensive effect.

3.5. Legal assistance

Indicators: Dublin: Legal Assistance

☐ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☒ Legal advice

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

Apart from cases where applicants under a Dublin procedure have access to reception facilities through the emergency scheme, usually they only have access to the legal assistance provided by the orientation platforms. For example, in **Lyon**, the platform managed by Forum réfugiés-Cosi provided legal support to approximately 240 persons under the Dublin procedure in 2015.

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

3.6. 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? Greece

As a consequence of the European Court on Human Rights (ECtHR)'s ruling in *MSS v Belgium and Greece*,[104] the Ministry of Interior has asked the Prefects to stop, on a temporary basis and awaiting further instructions, transfers towards **Greece** in a telegram dated 14 March 2011. Consequently, Prefectures must apply the sovereignty clause of the Dublin Regulation and therefore declare France as the responsible State for examining the asylum application.[105] As a general rule, applicants who should have been transferred to Greece according to the Dublin Regulation have direct access to a temporary residence permit with a view to lodging their application for asylum in France. It happens sometimes

104 ECtHR, *MSS v Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.
105 Circular of 1 April 2011 on the application of the Dublin Regulation.

however that the Prefecture looks for another Member State which could be the next one responsible for the applicant; there are cases where Hungary was found to match one of the responsibility criteria for instance.

In addition, several times in 2013, French administrative courts suspended the transfer of asylum seekers under the Dublin Regulation to **Hungary**. The Council of State confirmed on 16 October 2013 an administrative court decision to suspend the transfer of a Mauritanian asylum seeker to Hungary, arguing that "bearing in mind the treatment this person had received during his detention at the Debrecen centre, there was a serious risk that his asylum application would not be examined by the Hungarian authorities in a way complying with the safeguards required by the respect for the right to asylum".[106] However, Dublin transfers to Hungary are far from being systematically suspended and it also depends on the Prefecture. For instance, in the **Ain Département** transfers to Hungary are systematically cancelled.

4. Admissibility procedure

The July 2015 reform of the law on asylum has introduced the possibility to decide on the admissibility of the asylum claims.[107] When a claim is introduced on the French territory in the Prefecture, it is sent to OFPRA that invites asylum seekers to an interview (see section on Regular Procedure: Personal Interview). Even asylum seekers whose claim is deemed inadmissible are invited to the interview, except in the case of subsequent applications listed below.

OFPRA is competent for issuing a decision of inadmissibility. This decision has to be motivated and notified in writing to the asylum seeker within 1 month after the claim has been introduced or, if the decision is grounded on elements revealed during the interview, within 1 month after the interview. The notification of the decision includes procedural aspects and delays to introduce an appeal to challenge the inadmissibility decision. An automatic right to legal aid (see section on Regular Procedure: Legal Assistance) is not applicable to inadmissible claims.

Claims are deemed inadmissible in the following cases:

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

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

106 Council of State, Decision n°372677, 16 October 2013, available at: http://bit.ly/1FXxK2m.
107 Article L.723-11 Ceseda, as amended by the Law of 29 July 2015.

5. Border procedure (border and transit zones)

5.1. General (scope, time-limits)

Indicators: Border Procedure: General

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

A specific border procedure to request an admission into the country on asylum grounds is provided by French legislation,[108] for persons arriving on French territory through airports or harbours. This procedure is separate from the asylum procedure on French territory.[109] Nobody is exempt from the application of this procedure.

Unaccompanied children are also subject to these provisions[110] but in a more restrictive way than adults since the adoption of the new asylum law. According to the law, an unaccompanied minor can be held in a waiting zone only under exceptional circumstances listed in the law:[111]

(1) The unaccompanied minor originates from a safe country of origin;
(2) The unaccompanied minor introduces a subsequent application deemed inadmissible;
(3) The asylum claim is based on falsified identity or travel documents; or
(4) The presence of the unaccompanied minor in France constitutes a serious threat to public order, public safety or state security.

This border procedure is framed by Article R213-2 Ceseda, as amended by the Decree of 21 September 2015:

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

Article L221-4 Ceseda also provides that:

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

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108 Article L.213-8 Ceseda, as amended by the Law of 29 July 2015.

109 ANAFE, *Rapport annuel 2011 – zones d'ombre à la frontière – observations et interventions de l'Anafé en zone d'attente* (Annual Report 2011 – Shadow zones at the border), December 2012, available at: http://bit.ly/1geuevu.

110 For detailed additional information on the risks for children in waiting areas, see ANAFE, *La procédure en zone d'attente: Guide théorique et pratique de l'Anafé* (Theoretical and practical Guide, Procedure in waiting areas), January 2013, available in French at: http://bit.ly/1NCh7zz; Human Rights Watch (HRW), 'France: Unaccompanied Children Detained at Borders', 8 April 2014, available at: http://bit.ly/1hW8T7c.

111 Article L.221-2 Ceseda, as amended by the Law of 29 July 2015.

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. As of June 2015, there are 14 waiting zones in mainland France. Most of the activities take place at the Roissy Charles de Gaulle (CDG) airport (81.3% of the claims).

Moreover, following the Ceseda of 16 June 2011, waiting zones can be extended to within 10km from a border crossing point, when it is found that a group of at least 10 foreigners just crossed the border. The group of 10 can have been identified at the same location or various locations within the 10km area. This exceptional extended waiting zone can be maintained for a maximum of 26 days.[112] This possibility has not been implemented until now.

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

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

(1) France is the responsible State to examine the claim;
(2) The asylum request is not manifestly unfounded; and
(3) The asylum claim is not inadmissible.[113]

The reform of the asylum law defines "manifestly unfounded" claims: "A claim is manifestly unfounded when considering the foreign national's statements and documentation it is manifestly irrelevant as far as asylum criterion or manifestly lacking credibility regarding the risk of persecutions or severe violations."

The Judge of Freedoms and Detention ("*juge des libertés et de la détention*") (JLD) is competent to rule on the extension of the stay of foreigners in the waiting zone.[114] 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".[115] The administrative authority must make a request to the JLD to extend custody in the waiting zone and must explain the reasons for this (impossible to return the foreign national due to lack of identity documents, pending asylum application, etc.)

The duration of the stay in the waiting zone can be up to 20 calendar days; 26 days in exceptional cases. According to the official figures of the Ministry of the Interior, in 2011 the average duration of the stay of foreigners in the waiting zones was 3.5 days at **Roissy CDG** and 1.9 days at **Orly**. More recent figures are not available. This means that many foreigners are returned before having been able to present their situation before the judge.[116]

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112 Article L221-2 Ceseda.
113 Article L213-8-1 Ceseda, as amended by the Law of 29 July 2015.
114 The oversight of waiting zones covers all third-country nationals placed in waiting zones (i.e.not only asylum seekers).
115 Article L222-3 Ceseda.
116 ANAFE, *Annual Report 2011,* December 2012. This situation was also criticised in details in a recent report published by Observatoire de l'Enfermement des Etrangers (OEE), *Rapport d'observation « Une procédure en trompe l'oeil » Les entraves à l'accès au recours effectif pour les étrangers privés de liberté en France*, May 2014, available at: http://bit.ly/1CfQLlI, based on field research made between September 2013 and May 2014 in several detention places and on interviews with many stakeholders.

The law provides a deadline of 2 working days for OFPRA to give its opinion to the Ministry of the Interior as of the moment the intention of the foreign national to claim asylum has been written down by the Border Police.[117] Within these 2 days, OFPRA has to conduct an interview with the asylum seeker.

In 2014, the number of asylum applications made at the border reached its lowest level over the past 10 years with only 1,126 registrations of requests to enter the French territory on asylum grounds, including 45 requests from unaccompanied minors, with the support of a legal representative ("*Administrateur Ad-Hoc*"). The top 5 nationalities of asylum seekers at the border in 2014 were nationals of Syria (8.4%), Central African Republic (7.5%), the Philippines (7.0%), Nigeria (6.1%) and the Ivory Coast (4.7%).[118]

The Border Division of OFPRA interviews the asylum seekers and formulates an opinion. This opinion is communicated to the Ministry of Interior. While the Ministry of Interior was taking the final decision to authorise or refuse entry into France, OFPRA's opinion is now binding, except in case the asylum seeker represents a threat to national security.[119] In theory, this interview is conducted to check whether the given facts are manifestly irrelevant or not. This review could look like a kind of admissibility procedure. It should only be a superficial review of the asylum application. In practice, the assessment usually covers the verification of the credibility of the account; interview reports contain comments on stereotypical, imprecise or incoherent accounts, with a lack of written proof. This practice of *de facto* examining the request on the merits is extremely problematic. The reform has introduced the possibility for applicants to be accompanied to their interview by a third person (see section on Regular Procedure: Personal Interview). This provision also applies to interviews conducted at the border. Specific provision regarding vulnerable asylum seekers have also been introduced, in particular OFPRA can consider that the specific vulnerability of the asylum seeker requires special procedural guarantees and thus terminate the detention in the waiting zone.[120]

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

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

A deadline for the decision of the Ministry of Interior is not provided for in legislation. In practice, in 2014, 98% of the OFPRA opinions were delivered in less than 96 hours (1.39 days on average). Between 2007 and 2011, the rate of positive opinions given by OFPRA decreased significantly (only 10.1% of positive opinions in 2011).[121] In 2014, 28.9% of the requests received a positive opinion and a right to enter the French territory with a view to lodge and asylum application. 18 unaccompanied minors (40%) mainly from Syria, Democratic Republic of the Congo (DRC), Afghanistan, Sri Lanka and Sudan received a positive decision in 2014.[122]

117 Article R.213-5 Ceseda, as amended by the Decree of 21 September 2015.
118 OFPRA, *2014 Activity report*, 10 April 2015.
119 Article L.213-8-1 Ceseda, as amended by the law of 29 July 2015.
120 Article L.221-1 Ceseda, as amended by the law of 29 July 2015.
121 ANAFE, *Theoretical and practical Guide, Procedure in waiting zones*, January 2013.
122 OFPRA, *2014 Activity report*, 10 April 2015.

5.2. Personal Interview

Indicators: Border Procedure: Personal Interview
☐ Same as regular procedure

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

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

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

Furthermore, the OFPRA interview notes are only provided at the same time as the negative decision issued by the Ministry of Interior. In the waiting zones of **Orly airport** and **outside Paris**, the OFPRA protection officer now asks during the telephone interview whether the asylum seeker would like the interview report to be sent to him or her personally by e-mail or whether he or she would prefer it to be sent directly to his or her lawyer, or as a last resort, to the Border Police fax machine.[123] Sending the report like this does not guarantee the confidentiality of the information and it is contrary to the law,[124] which states that OFPRA should send the asylum applicant a copy of the report in a sealed envelope.

The law provides the same provisions on interviews in the border procedure as in the regular procedure:[125]

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

At **Roissy CDG airport**, the OFPRA Border Division interviews the asylum seeker in the waiting zones (ZAPI3). With the exception of the Roissy CDG airport waiting zone, the interviews in all other border

123 ANAFE, *Annual Report 2011*, December 2012.
124 Articles R213-3 and R213-2 Ceseda.
125 Article R.213-4 Ceseda, as amended by the Decree of 21 September 2015.

procedures are done by phone, with translation provided by an interpreter who is included in the phone call. Overall, an interpreter was used in 54% of the interviews in 2014.[126]

5.3. Appeal

Indicators: Border Procedure: Appeal
☐ Same as regular procedure

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

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

There are 2 appeal processes at the border, depending on the decision challenged.[127]

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

Appeal to the CNDA

When the claim is rejected for inadmissibility,[128] the asylum seeker can challenge this decision before the CNDA. The appeal can be introduced within 1 month and the CNDA then has 5 weeks to issue a decision. It has a suspensive effect on the removal.

At a first sight, one can already notice that the overall procedure deadline is not compatible with the maximum time-limit for maintaining a foreign national in waiting zones. We will see in practice in the coming months how this new provision of the law on asylum is applied.

In addition to inadmissibility, a claim can be refused when deemed manifestly unfounded. No specific appeal procedure is planned by the law. However, following a State Council (*Conseil d'Etat*) ruling,[129] the CNDA is already competent to cancel or confirm a decision taken by OFPRA declaring an application manifestly unfounded.[130] Therefore, the main issue will be to make sure whether asylum seekers refused access to the territory on the ground of a manifestly unfounded claim have sufficient information on a possible appeal procedure or not.

Appeal to the Administrative Court

Before the Administrative Court, the applicant can contest the inadmissibility on the French territory which is consecutive to the rejection of the asylum claim which is challenged before the CNDA.

Apart from the above mentioned cases, the inadmissibility on the French territory might derive from the fact that France is not responsible for the asylum claim, meaning the Dublin procedure shall apply.

Hence, when the claim is rejected because the seeker falls under the Dublin procedure and another State is responsible for processing his or her asylum claim, the person has 48 hours to make an appeal

126 OFPRA, *2014 Activity report*, 10 April 2015.
127 There is also a judicial control by the JLD who oversees the conditions and the extension of the stay of all the foreigners (not only asylum seekers) in the waiting zones (see Border Procedure: General above).
128 Article L.213-8-1 2° Ceseda, as amended by the law of 29 July 2015.
129 Conseil d'Etat, *OFPRA v M.Y*, Decision Nos 362798 and 362799, 10 October 2013.
130 CNDA, Decision G.F M.A n°13020725 R, 11 April 2014.

to the Administrative Court to overturn the decision, during which he or she cannot be returned. This appeal has suspensive effect.[131]

In a decision of 28 November 2011, the Council of State clarified that the 48-hour deadline to lodge an appeal before the administrative court does not begin until the OFPRA report is received by the asylum seeker in a sealed envelope as provided by the law. However, it found that "failure to transmit this report, if it is an obstacle to the initiation of the appeal deadline, and the automatic execution of the ministerial decision to refuse entry on the basis of asylum, has no influence on the legality of this decision."[132]

The provisions concerning the period available to the Administrative Court to decide on the appeal have evolved recently.[133] The decisions must henceforth be delivered at a hearing.[134]

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

Based on "considerations of the proper application of justice", the Council of State assigns the case to the Administrative Court that is closest to the concerned waiting zone,[135] and no longer to the Administrative Court of Paris only, as was previously the case.

There are many practical obstacles to lodging appeals effectively at the border. Modalities for the implementation of appeals are too restrictive for most foreign nationals held in waiting zones, who should in principle have access to an effective appeal procedure. Although it has suspensive effect, this appeal is very difficult to carry out because it has to be made in French within 48 hours, with a legal justification, otherwise it might be rejected without a hearing by the Administrative Court. Language is an important obstacle to lodging an appeal, as there is no free interpreting service available in the waiting zone. ANAFE and other NGOs such as Forum réfugiés-Cosi rely on some volunteer interpreters but they are not always available.[136] There is no "on duty" lawyer system in the waiting zone and, in most waiting zones, NGOs try to provide legal advice by telephone. Besides, as the procedure for examining asylum applications at the border is so poorly defined, arguments linked to an infringement of the procedure are difficult to substantiate. The justification for the appeal therefore has to be based on the demonstration that the asylum application is well-founded in order to challenge the ministerial motivation.

ANAFE has denounced the illusory nature of the effectiveness of this suspensive appeal in a report published in January 2014.[137] According to this report, the modalities of the appeal are far too restrictive and there is an accumulation of serious material difficulties: difficult access to a phone, lack of copy machines, difficulties to obtain the summary of the OFPRA interview. Finally, the 48-hour period starts from the time of notification of the negative decision. Beyond this strict deadline, no other appeal is

131 Article L213-9 Ceseda.
132 Council of State, Decision n° 34324828, 28 November 2011.
133 See Decree n° 2012-89 of 25 January 2012 which amended Article R777-1 CJA.
134 Contrary to what was provided in Article L. 213-9 Ceseda, which stated that the administrative judge had a period of 72 hours to decide – after the hearing.
135 Article R351-8 CJA.
136 ANAFE, *Newsletter no. 10, testimony of support workers*, December 2012.
137 ANAFE, Le *dédale de l'asile à la frontière* (The asylum maze at the border), December 2013, available at: http://bit.ly/1R9cbHW.

possible (with the exception of appeals to the ECtHR). Some notifications of a negative decision are made in the middle of the night, which means that by the time the asylum seekers are able to contact a lawyer or speak with advisers, the time available is drastically reduced.[138]

In December 2013, ANAFE publicly denounced the case of an Eritrean asylum seeker, whom the Border Police tried to board on a plane to Bahrain within the 48-hour period after the rejection of his asylum application by OFPRA and therefore disregarded his right to lodge an appeal to the administrative court.[139]

Finally, two locations for "off-site" appeal hearings were discussed vividly in France in autumn 2013. Indeed a hearing room opened in September 2013 in the administrative detention centre of *Le Mesnil-Amelot* (near Paris) and another one was planned to be used in the waiting zone of Paris-Charles de Gaulle airport as of January 2014. The authorities had justified the relocation of these appeal hearings by explaining that it would avoid costly transfers, sometimes conducted in conditions which do not respect the dignity of the persons concerned. Many NGOs[140] have raised concerns with regards to this initiative as it gives the impression that foreigners are not appellants like any other. The Council of Europe Commissioner for Human Rights, Nils Muižnieks sent a letter to the Justice Minister, Ms Christiane Taubira, on 2 October 2013, in which he mentioned that "these off-site" proceedings entail holding hearings in the immediate proximity of a place of deprivation of liberty, in which the applicants are being held or detained. This situation, combined with the fact that this place is under the authority of the Ministry of the Interior, which is also a party to the proceedings, could undermine the independence and impartiality of the court concerned, at least in the eyes of the applicants".[141] On 15 October 2013, the Justice Minister responded to these concerns by setting up an enquiry mission in charge of determining if the off-site hearing room located at Roissy airport is complying with European and national obligations.[142] Two rapporteurs handed over their conclusions to the Justice Minister on 17 December 2013 who immediately announced the freezing of the opening of the site in the waiting zone of Paris-Charles de Gaulle airport. The report does not challenge the necessity to have the judges come to the airport but stresses that several changes have to be made to respect the migrants' rights; for instance the door between the court and the waiting zone needs to be walled up and the control of the hearing should not be carried out by the border police.[143] Some NGOs like GISTI have stressed that the root of the problem lies in the fact that "nobody will go as far as the air freight zone to attend a hearing", depriving these migrants from the public nature of these judgments.[144] In a ruling of 9 September 2015, the Court of Cassation (*Cour de Cassation*) gave a conclusion to these heated discussions: the opening of off-site hearing rooms is validated. The Court of Cassation considers that this system is legal and that the conditions of hearings and the working conditions of lawyers and judges are similar to those in regular appeal hearings.

138 ANAFE, *Annual Report 2011,* December 2012.

139 ANAFE, 'Zone d'attente de l'aéroport de Roissy : La France tente de refouler illégalement un demandeur d'asile érythréen' (France tries to expel illegally an Erythrean asylum seeker), 3 December 2013, available at: http://bit.ly/1R9cana.

140 See the collective action launched in June 2013, "Défendre et juger sur le tarmac : stop à la délocalisation des audiences". (*Representing and judging on the tarmac: no to the relocation of hearings)*, available at: http://bit.ly/1RokPyG.

141 Letter from Nils Muižnieks to Ms Christiane Taubira, 2 October 2013, available at: http://bit.ly/1LqRCUH.

142 Ministry of Justice, Press release announcing the enquiry mission, available in French at: http://bit.ly/1M2GzzX.

143 Ministry of Justice, *Report on the off-site hearing room located in theat Roissy airport*, Bernard Bacou and Jacqueline de Guillenchmidt, 17 December 2013.

144 Le Monde, 'Christiane Taubira gèle l'ouverture du tribunal des étrangers à Roissy' *(C. Taubira suspends the opening of the Roissy foreigner's court)*, 18 December 2013, available at: http://bit.ly/1FNmr3R.

5.4. Legal assistance

Indicators: Border Procedure: Legal Assistance

☐ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☐ Yes ☒ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☒ Representation in interview ☒ Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
   - ❖ CNDA: ☒ Yes ☐ With difficulty ☐ No
     Free legal assistance covers ☒ Representation in courts ☒ Legal advice
   - ❖ Administrative Courts: ☐ Yes ☒ With difficulty ☐ No
     Free legal assistance covers ☒ Representation in courts ☒ Legal advice

There is no permanent legal adviser or NGO presence in the French waiting zones; only ANAFE is occasionally present in Roissy CDG airport. Asylum seekers must therefore try to get hold of an adviser by phone from the waiting zone. Many concerns have been raised about effective access to a telephone.[145] These difficulties have also been highlighted by the Controller General of places of freedom deprivation:

> "In waiting areas, there are telephones generally in good condition, but without any explanation on how to use them through posters or information within the documents provided to the foreign national. These telephones can only be used by purchasing phone cards, and therefore, by those who have money to buy one."[146]

A third person (lawyer or representative of an accredited NGO) can be present during the OFPRA interview;[147] and legal representatives shall be present for unaccompanied children.

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

Asylum seekers can request to be assisted by a court appointed lawyer during their hearing before the JLD who is competent to rule on the extension of their stay in the waiting zone. In theory, the asylum seeker should have hired one previously at his or her own expense, or prepared a sufficiently well-argued request in French by him or herself, in terms of facts and points of law. This is another illusory measure that does not guarantee the asylum seeker access to an effective remedy, even though they have access to court-appointed lawyers if necessary.[148]

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

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

146 Controller General of prisons and detention centres, *2011 Activity report*, April 2012.

147 Article L213-8-1 Ceseda, as amended by the Law of 29 July 2015.

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

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.[149]

The General Controller of places of freedom deprivation recommended in his 2013 report that the law should be amended to take into account some essential principles. For instance, he argues that it should not only foresee a "space" for lawyers, but should ensure the material framework guarantees and the confidentiality attached to the mission of counselling for third country nationals held in the waiting zones.[150]

6. Accelerated procedure

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

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

The reasons for channelling an asylum seeker into an accelerated procedure are outlined in Article L 723-2 Ceseda. The accelerated procedure is automatically applied where:

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

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

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

In the above mentioned cases, the Prefecture decides to channel related claims under accelerated procedure and refers the claims to OFPRA for the office to process them under accelerated procedure. It is not from the initiative of OFPRA. In that case, the asylum claim certification specifically mentions that the asylum seeker is placed under accelerated procedure. While before the reform the Prefecture was sending the asylum claim of seekers under "prioritised procedures" to OFPRA, asylum seekers under accelerated procedure now have to send the asylum claim form to OFPRA within 21 days, similarly to asylum seekers under regular procedure.

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

149 ANAFE, *Le dédale de l'asile à la frontière*, December 2013.
150 General Controller of places of freedom deprivation, *Activity Report 2013*, 11 March 2014, available in French at: http://bit.ly/1FXNItl.

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

In any of the abovementioned cases, OFPRA can decide not to process a claim under accelerated procedure when this is deemed necessary, in particular when an asylum seeker originating from a country listed on the safe country of origin list calls upon serious grounds to believe that his or her country of origin might not be safe considering his or her particular situation.

In addition, specific procedural safeguards shall be implemented by OFPRA to meet a vulnerable asylum seeker's special needs.[151] In that respect, OFPRA can process claims of vulnerable applicants under the prioritised procedure (see section on Regular Procedure: Fast-Track Processing) or decide not to process it under accelerated procedure.[152]

As in the regular procedure, OFPRA is the authority responsible for the decision at first instance in accelerated procedures. Its decisions should in theory be made within 15 calendar days.[153] This period is reduced to 96 hours if the asylum seeker is held in administrative detention.[154] There is no specific consequence if the Office does not comply with these time limits. In practice, before the reform of the law, some asylum seekers under the prioritised procedure waited for months before receiving the decision from OFPRA. In 2014, however, the average period for the examination of first asylum requests in prioritised procedure was 73 days.[155] OFPRA explains this increase by the growing number of asylum claims processed under the prioritised procedure, and new objectives defined throughout the year 2014 sought to prioritise asylum claims from Syrians, Bangladeshi, Balkans third-country nationals and asylum seekers in Calais. The same situation might occur under the new law.

The prioritised procedure represented 33.4% of the total of asylum caseload in 2014. This is a 27% increase in comparison to 2013. This increase is explained mainly by the placement of Georgia, Albania and Kosovo (until October 2014) on the list of safe countries of origin. The main countries of origin of asylum seekers placed under prioritised procedure were Albania, Sudan, Kosovo, Armenia and Georgia.[156] Placement under a prioritised procedure often resulted from the use of the safe country of origin concept,[157] from evaluations carried out by the Prefectures that the applications are abusive (suspected falsification of identity) and from the frequent use of the prioritised procedure for asylum requests lodged from administrative detention centres, even though the latter is in constant decrease for a couple of years (7.4% in 2014). However, the reform of the law on asylum has increased the number of grounds for channelling a claim under an accelerated procedure. Therefore, it remains to be seen how and for which grounds accelerated procedures will be used but there is a risk that they will be used more often than prioritised procedures.

151 Article L.723-3 Ceseda, as amended by the Law of 29 July 2015.
152 *Ibid*.
153 Article R723-3 Ceseda. Delays are even shorter (96 hours) for persons held in administrative detention centres and in waiting zone.
154 Article R723-4 Ceseda, as amended by the Decree of 21 September 2015.
155 OFPRA, *2014 Activity report*, 10 April 2015.
156 *Ibid*.
157 In 2013, 33.6% of accelerated procedures related to safe country of origin grounds: OFPRA, *2013 Activity report*, 28 April 2014.

6.2. Personal Interview

Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

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

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

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

For first asylum applications processed under the accelerated procedure (excluding subsequent applications), 97.5% of the applicants were called for an interview in 2014.[158]

Video conferencing is mainly used for asylum applicants in overseas departments and for asylum seekers maintained in administrative detention centres (most of whom were, up to now, channelled into the accelerated procedure). In addition, according to the reform of the law on asylum, video conferencing can be used in case an asylum seeker cannot attend the interview for medical or family reasons.

6.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

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

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

As the preparation of these appeals is hardly supported by NGOs, not least since assistance to draft the appeal was removed from the mandate of the orientation platforms by the new reference framework in 2011, 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*").

Together with many other stakeholders such as UNHCR,[159] Forum réfugiés-Cosi has called for many years for a suspensive appeal for all asylum seekers, regardless of the procedure applied to them. In that sense, the introduction of a suspensive effect for appeals against negative decisions in the accelerated procedures, guaranteed in the new Law on asylum of 29 July 2015, constitutes a real improvement. Indeed, the lack of suspensive effect could have serious consequences when a return decision was taken by the Prefecture following a negative decision from OFPRA on the asylum

158 OFPRA, *2014 Activity report*, 10 April 2015.

159 UNHCR, *Submission for the Compilation established by the OHCHR, Universal Periodic Review, French Report*, July 2012.

application. Some Prefectures systematically ordered returns with compulsory removal orders from France, after

The decision of OFPRA or of the Prefectures to channel an application under the accelerated procedure (in cases listed from (c) to (j) included) cannot be challenged separately from the final negative decision on the asylum claim.[160] As far as cases (a) and (b) are concerned (claims channelled under accelerated procedure for safe country of origin or admissible subsequent application grounds), the law does not stipulate whether a separated appeal from the final negative decision can be introduced or not. The practice of lawyer and potential case-laws on this specific element might provide further clarification in that respect.

6.4. 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

Legal assistance at first instance

In theory, asylum seekers channelled into an accelerated procedure have the same rights with regard to access to legal assistance as those in a regular procedure. This shall be strengthened with the implementation of the reform of the law on asylum. Indeed, before the reform asylum seekers placed under accelerated procedures had limited access to material reception conditions and therefore to free legal assistance provided in CADAs. As they are entitled to the same reception conditions as asylum seekers under regular procedure, their access to free legal assistance at first instance will be the same as for asylum seekers under regular procedure.

Legal assistance at the appeal stage before the CNDA

In theory, 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 delay to process the appeal is different: 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 have an effective access to legal assistance. Indeed, court-appointed lawyers inform the Office for legal aid of their availability 6 months in advance but this information is not reported into the "availability files" of the CNDA. Therefore, court-appointed lawyers might not be available to attend the hearing they have been designated for. Finally, even though court-appointed lawyers are able to attend the hearing chances that they will be able to meet with the applicant ahead of the hearing are very low.

[160] Article L.723-2 VI Ceseda, as amended by the Law of 29 July 2015.

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

Indicators: Information and Access to NGOs and UNHCR

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No
   - ❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No
2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No
4. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

The provision of information is codified in Article R751-2 Ceseda:

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

Information is provided in a language that the asylum seeker understands or is likely to understand.[161] This information have been compiled under a general "Guide for asylum seekers in France" (*guide du demandeur d'asile en France*).[162] The guide is supposed to be provided by the Prefecture. The 2015 Asylum Seeker's Guide is available in French and, at the time of writing, in 18 other languages on the Ministry of the Interior website. Practices used to vary from one Prefecture to another, and many failed to provide the guide.

In April 2014, OFPRA published a guide on the right of asylum for unaccompanied minors in France.[163] The guide is quite comprehensive, describing the steps of the asylum procedure, the appeals and the procedure at the border. OFPRA has stated its intention to share this guide as widely as possible in Prefectures, in waiting zones at the border and with stakeholders working in children's care.

Information on Dublin procedures

The information provided about the Dublin procedure varies greatly from one prefecture to another. In the **Rhône** department, when they go to the prefecture to apply for asylum, all applicants are handed, at the desks, an information leaflet on the Dublin procedure (Leaflet A)[164] 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).[165] Since November 2014, the Prefecture has asked the applicant to sign a letter written in French and

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161 Article R.741-4 Ceseda, as amended by the Decree of 21 September 2015.

162 Ministry of Interior, *Guide du demandeur d'asile en France*, November 2015, available at : http://bit.ly/21jT0xG.

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

164 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.

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

listing all the information they have been given, as requested under Article 4 of the Dublin III Regulation, and the language in which it is given.

The asylum seeker knows when a take charge or a take back procedure has been initiated, due to information provided on the back of their Dublin notice, which is translated into the language of the asylum seeker. There is, however, no information about the country to which a request has been sent, nor on the criteria that have led to this decision.

Information at the border

In the waiting zones at the border, Forum réfugiés-Cosi notes a serious lack of information on the possibility of requesting admission to French territory on asylum grounds (see section on Border Procedure). When a person is arrested at the border, he or she is notified of an entry refusal, in theory with the presence of an interpreter if necessary.[166] However, many stakeholders doubt that the information provided and the rights listed therein are effectively understood. For example, it is very surprising to note that those intercepted nearly all agree to renounce their right to a "clear day" notice period ("*jour franc*") i.e. 24 hours during which the person cannot be returned, and tick the box confirming their request to leave as soon as possible. In 2012, the Controller General of places of freedom deprivation stated that his officers "noticed that the decision to renounce this right is often taken by the agents themselves without the person held even being informed of this in any intelligible way."[167] In reality, according to witness statements collected by ANAFE, information on rights and their effective application differs from one person to another and depends on the goodwill of the Border Police officer, on the difficulties that may arise with interpretation, and also on the ability of the person concerned to understand the situation.[168]

In 2014, the Controller General of places of freedom deprivation recommended that the notification of the "clear day" should be recorded in a distinct official report ("*procès verbal*"), countersigned by the third-country national. Alternatively, the "clear day" period during which no return can be carried out could be implemented automatically, unless the third country national expressly wants to be returned.[169]

In addition, as the telephone in certain waiting zones is not free of charge, contact with NGOs or even UNHCR is not easy. Several decisions by the Courts of Appeal have highlighted the irregularity of the procedure for administrative detention in a waiting zone, due to the restrictions placed on exercising the right to communicate with a lawyer or any person of one's choice.[170] The fact that asylum seekers may have no financial means of purchasing a phone card is therefore a restriction on this fundamental right.

The Controller General of places of freedom deprivation has also highlighted in 2013 some deficiencies with regards to the information provided to asylum seekers while in administrative detention centres (CRA). His recommendations included: to make compulsory the dissemination of explanatory brochures about the asylum procedure (in several languages) addressing persons in detention and staff working in detention centres; to insist on the mandatory nature of the transmission of the asylum claim to OFPRA, even if it is submitted late; and to ensure that an interpreter is at the disposal of asylum seekers assisting them with the procedure.[171] The absence of explanatory brochures is often compensated by the presence of NGOs, however, which provide information and legal assistance to all foreigners held in administrative detention centres.

166 Article L213-2 Ceseda.
167 Controller General of places of freedom deprivation, *2011 Activity report*, April 2012.
168 ANAFE*, Annual Report 2011,* December 2012.
169 General controller of places of freedom deprivation, *Activity Report 2013,* 11 March 2014, available in French at: http://bit.ly/1FXNItl.
170 Article L221-4 Ceseda.
171 General controller of places of freedom deprivation, *Activity Report 2012,* February 2013 (pages 212-213)

The list of NGOs accredited to send representatives to access the waiting zones, initially established by order of the Ministry of the Interior in June 2012 for a 3-year period,[172] was revised in June 2015.[173] It includes 13 organisations:

- Accueil aux médecins et personnels de santé réfugiés en France (APSR);
- Amnesty International France;
- Association nationale d'assistance aux frontières pour les étrangers (ANAFE);
- Cimade;
- French Red Cross;
- France Terre d'asile;
- Forum réfugiés-Cosi;
- Groupe accueil et solidarité (GAS);
- Groupe d'information et de soutien des immigrés (GISTI);
- Ligue des Droits de l'Homme (Human Rights League);
- Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP);
- Médecins du monde (Doctors of the World); and
- Ordre de Malte (Order of Malta).

This authorisation is valid until June 2018. It should be noted that Médecins Sans Frontières (MSF), which was previously authorised under the 2012 order, is no longer included in the list.

D. Subsequent applications

Indicators: Subsequent Applications

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

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

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

Rules and procedures governing the introduction and processing of subsequent applications have been modified thanks to the July 2015 reform of the law on asylum.

A subsequent application can be introduced in the following circumstances:[174]

- After the rejection of an asylum application by the CNDA;
- When the asylum seeker had previously withdrawn his or her asylum claim;
- When OFPRA has closed the case;[175]
- When the asylum seeker has left the French territory, including to go back to his or her country of origin.

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

172 Arrêté du 5 juin 2012 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente, NOR: INTV1222472A, available in French at: http://bit.ly/1NyRmiU.
173 Arrêté du 3 juin 2015 fixant la liste des associations humanitaires habilitées à proposer des représentants en vue d'accéder en zone d'attente, NOR: INTV1511516A, available in French at: http://bit.ly/1FXTpav.
174 Article L.723-15 Ceseda, as amended by the Law of 29 July 2015.
175 Article L.723-13 Ceseda, as amended by the Law of 29 July 2015.

certification.[176] The Prefecture can refuse to grant the asylum seeker with this certification when a first subsequent application has already been rejected by OFPRA.[177] In case of a subsequent application, the authorised period to send the completed asylum claim is shorter than in case of a first application: instead of 21 days, the asylum seeker has 8 days to introduce his or her subsequent claim before OFPRA.[178] In case the claim is incomplete, the asylum seeker has 4 days, instead of 8 in case of a first application, to send missing elements.

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

When OFPRA receives the subsequent application it proceeds to a preliminary examination within 8 days in order to determine whether the subsequent application is admissible or not.[179] In that respect, OFPRA re-examines the application taking into account "new evidence" or facts. To support his or her subsequent application, the asylum seeker must provide in writing "new evidence" or facts subsequent to the date of the CNDA decision, or evidence occurring prior to this date if he or she was informed thereof only subsequently.[180] During the preliminary examination of the subsequent application, OFPRA is not compelled to interview the asylum seeker.

If, after the preliminary examination OFPRA considers that these "new evidence" or facts do not significantly increase the risk of serious threats or of personal fears of persecution in case of return, it can declare the subsequent application is inadmissible. The decision of OFPRA must be notified to the asylum seeker and specify the procedure and deadlines for lodging an appeal.[181] 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 – only 7% of them had been called for an interview at OFPRA in 2014, compared to 6% in 2013.[182] It remains to be seen whether the new law will change the practice in that sense.

Previously, there was no preliminary examination of the admissibility of the subsequent application as such. However, in practice, the discretion given to the Prefectures to decide on the validity of subsequent application was problematic. Indeed, the Prefectures, by deciding whether the new information was relevant or not and by channelling the asylum seekers into accelerated procedures, were acting as a kind of preliminary filter.

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

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

The CNDA will then have 5 weeks to issue a decision on the appeal.[183] Before the reform, negative decisions "by order" ("*ordonnance*") were taken increasingly systematically by the CNDA for subsequent applications.

It might be quite difficult to provide evidence of new information and to prove its authenticity to substantiate subsequent claims. These people often have difficulties in accessing the documents needed to prove new information e.g. difficulty in contacting their country of origin to obtain the evidence.

176 Article R.723-15 Ceseda, as amended by the Decree of 21 September 2015.
177 Article L.741-1 Ceseda, as amended by the Law of 29 July 2015.
178 Article R.723-15 Ceseda, as amended by the Decree of 21 September 2015.
179 Article R. 723-16 Ceseda, as amended by the Decree of 21 September 2015.
180 Article L.723-16 Ceseda, as amended by the Law of 29 July 2015.
181 Article L.723-11(3) Ceseda, as amended, by the Law of 29 July 2015.
182 OFPRA, *2014 Activity report*, 10 April 2015.
183 Article L.731-2 Ceseda, as amended by the Law of 29 July 2015.

OFPRA registered 5,498 subsequent applications in 2014 (a 5% decrease in comparison to 2013).

As from the second subsequent application introduced, the Prefecture can refuse to deliver or renew the asylum claim certification and can issue an order to leave the French territory (OQTF).[184]

E. Guarantees for vulnerable groups of asylum seekers (children, traumatised persons, survivors of torture)

1. Special procedural guarantees

Indicators: Special Procedural Guarantees

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. Are there special procedural arrangements/guarantees for vulnerable people? ☐ Yes ☒ For certain categories ☐ No
   - ❖ If for certain categories, specify which: Unaccompanied children, pregnant women, Elderly

The asylum reform has introduced specific provisions regarding the identification of vulnerable asylum seekers, as well as procedural safeguards to adapt to their special needs.

Identification[185]

OFII is responsible for identifying vulnerabilities and special needs of asylum seekers. 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. 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 is to be taken into account.

The assessment of vulnerability particularly concerned those categories listed in the Qualification Directive, among whom unaccompanied minors, the elderly, pregnant women, victims of trafficking, victims of torture, rape and other forms of psychological, physical or sexual violence can be mentioned. It is carried out by OFII officers having been specifically trained on vulnerability assessment and identification of special needs. However, the publication of the questionnaire designed for the vulnerability assessment,[186] reveals that only objective vulnerability will be assessed during the interview with OFII. At that stage, no vulnerability linked to the asylum claim shall be discussed. Therefore, we might see a very limited impact of the vulnerability assessment on the early identification of vulnerable persons such as victims of torture and of physical, mental or sexual violence as well as victims of human trafficking.

During this interview, the asylum seeker is informed that he or she can benefit from a free medical examination.

Any information collected by OFII on the vulnerability of an applicant is sent to OFPRA.

184 Circular of 2 November 2015 on the implementation of the Law of 29 July 2015.
185 Article L.744-6 Ceseda, as amended by the Law of 29 July 2015.
186 Decree of 23 October 2015 on the questionnaire for vulnerability assessment of asylum seekers.

Procedural safeguards

Throughout the asylum procedure, OFPRA is competent for adopting specific procedural safeguards pertaining to an asylum seeker's specific needs or vulnerability.[187]

In particular, OFPRA can decide to prioritise the processing of a claim from a vulnerable applicant having special reception or procedural needs. Similarly, OFPRA can decide regarding the vulnerability or the specific needs of an applicant, not to process his or her claim under the accelerated procedure.

Other specific procedural safeguards relating to the interview that have been introduced by the reform are for instance:[188]

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

OFPRA can consider that an asylum seeker in a waiting zone requires specific procedural safeguards and thus terminate the detention.[189] However, the law does not completely forbid the examination of vulnerable asylum seekers' claims under border procedures.

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.[190]

The action plan for the reform of OFPRA, adopted on 22 May 2013, had set the path for the creation in September 2013 of 5 thematic groups in order to reinforce the OFPRA's ability to deal with protection needs related to torture, trafficking in human beings, unaccompanied minors, sexual orientation and gender-based violence. These groups have been tasked to work on the identification of specific needs, awareness raising, training and designing specific support tools to examine these claims, in particular during the interviews.[191] These measures are preparing the ground for the new practices which will have to be implemented following the adoption of the July 2015 asylum reform. OFPRA has also recently produced a leaflet which explains the asylum procedure (including the border procedure) and the rights of unaccompanied asylum seeking children (see section on Information to Asylum Seekers).

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

Since October 2013, Forum réfugiés-Cosi and the Belgian NGO Ulysse have conducted several 2-day trainings for OFPRA protection officers with two main objectives: helping them to take into account the

187 Article L.723-3 Ceseda, as amended by the Law of 29 July 2015.
188 Article L.723-6 Ceseda, as amended by the Law of 29 July 2015.
189 Article L.213-9 Ceseda, as amended by the Law of 29 July 2015.
190 Article L.733-1-1 Ceseda, as amended by the Law of 29 July 2015.
191 OFPRA, *2013 Activity report*, 28 April 2014, 54-59.

difficulties asylum seekers may face when they have to share their story after traumatic events and providing tools to protection officers for handling these situations. OFPRA had announced its goal to train all 170 protection officers by the end of 2015.[192] In 2014 and 2015, Forum réfugiés-Cosi has trained each year 80 protection officers on these issues.

2. Use of medical reports

Indicators: Use of medical reports

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

The legal framework does not foresee the use of medical reports when examining asylum applications. However, applicants often present medical certificates from specialised centres. According to some doctors, all too often, their certificates are not taken into account, as OFPRA often dismisses them as evidence, without seeking a second opinion. The medical report is paid for by asylum seekers via the state supported medical insurance: the "*couverture maladie universelle*" (CMU) 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. During the OFPRA interview, she will be asked to demonstrate that she has not been subjected to FGM if this is the reason she fears persecution or serious threats in case of return to her country of origin. Once protection has been granted, the requirement of a medical certificate remains. For the renewal of protection and the right to remain, OFPRA requires that a medical certificate is sent to them each year, proving that the person has still not undergone FGM.[193]

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 ECtHR in September 2013.[194] The applicant, of Tamil ethnic origin, had provided a medical certificate from the doctor of the waiting zone in the Paris CDG airport describing several burn injuries. The Court found that the CNDA had failed to effectively rebut the strong presumption raised by the medical certificate of treatment contrary to Article 3 ECHR and therefore that the forced return of the applicant to Sri Lanka would place him at risk of torture or inhuman or degrading treatment.

On 10 April 2015, the *Conseil d'Etat* applied the position of the ECtHR for the first time ever since its condemnation in September 2013. It cancelled the CNDA decision, considering it should have duly taken into account the medical report presented by the asylum seeker as it was supporting his story and explaining his fears in case he would be deported back to his country of origin. As from this judgment, the CNDA has to take into consideration documents, such as medical reports, presenting elements relating to alleged risks and fears. The Court also has to justify why it would not consider these elements as serious.[195] This significantly strengthens the consideration for psychological and physical wounds of asylum seekers and balances the power of the CNDA compared to the asylum seeker.[196]

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192 *Ibid*, 35.

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

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

195 Conseil d'Etat, Decision n°372864, 10 April 2015, available in French at: http://bit.ly/1hjmyZ2.

196 Nicolas Klausser, "Vers un renforcement du « droit » à une procédure équitable des demandeurs d'asile et une meilleure prise en compte de leurs traumatismes ?" *(Towards the strengthening of the right to a fair*

3. Age assessment and legal representation of unaccompanied children

Indicators: Unaccompanied Children

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

In 2014, 273 asylum claims from unaccompanied minors were registered by OFPRA. This represents a decrease of 25.6% compared to 2013. The number of claims introduced by unaccompanied minors has kept on decreasing since 2011. According to OFPRA, this decrease can be explained by a combination of factors:

- Child protection procedures are favoured over asylum procedures
- Until recently the asylum procedure was extremely long therefore unaccompanied minors were rather oriented towards the child protection system
- There is a lack of understanding and knowledge of the asylum procedure

Unaccompanied minors' countries of origin remain mostly the same while in different order, except DRC that remains the first country of origin of unaccompanied minors seeking asylum (28.9%). Guinea (10.3%), Afghanistan (9.9%), Angola (6.2%) and for the first time ever Syria (4.4%) constituted the main countries of origin of unaccompanied minors seeking asylum in France. The socio-demographic characteristics of these asylum seekers show that 93% of them are 16 or 17 years old and 35% are girls, mainly from African countries. The total admission rate for unaccompanied asylum seekers under 18 was 64.1% (OFPRA and CNDA together) in 2014, compared to 56.7% in 2013.[197]

Within the framework of the action plan for the reform of OFPRA, OFPRA intends to improve the protection of unaccompanied minors seeking asylum. According to the Chair of the working group on unaccompanied minors at OFPRA, a number of actions and objectives have been set up:

- Training 40 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.

Age assessment

A Circular 31 May 2013 aimed at imposing a common age assessment procedure.[198] The assessment should be supported by a body of concordant evidence which include social evaluation (interviews based on a common template), verification of the authenticity of civil status documents, and "if doubts prevail after these steps and only in this case", a medical examination.

Referring to the fact that no method taken alone can scientifically determine precisely and reliably the age of a person, the High Council for Public Health (HCSP) adopted a recommendation on 23 January

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procedure for asylum seekers and better consideration of their trauma?"), La revue des droits de l'homme, May 2015.

197 OFPRA, 2014 *Activity Report*, 10 April 2015.

198 Circulaire du 31 mai 2013 relative aux modalités de prise en charge des jeunes isolés étrangers: dispositif national de mise à l'abri, d'évaluation et d'orientation (Circular of 31 May 2013 on the assistance provided to foreign unaccompanied minors: national shielding, evaluating and referral scheme) NOR: JUSF1314192C, available in French at: http://bit.ly/1GUI4sG. This circular was completed by a Protocol signed by three ministries (Interior, Social affairs and Health, and Justice) and the president of the Association of the French *départements*. This protocol foresees the geographical distribution of the foreign unaccompanied children on the territory according to demographical data.

2014 stating that "the medical examination must take place only at last resort and after a social evaluation and an examination of civil status documents."[199]

In practice, in its opinion adopted in June 2014,[200] the National Consultative Commission on Human Rights (CNCDH) regrets that 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. It also happens that a person declared as minor (and therefore at risk) in his or her *département* of origin be subjected to another bone examination in the *département* where he or she is finally assigned under the geographical distribution scheme (see section on Freedom of Movement) and be declared as major and therefore not assisted. Furthermore, other physical examinations (hair system, teeth or genitals) are sometimes undertaken in addition to bone examination. During a seminar on unaccompanied minors, the Children's Ombudsman (*Défenseur des enfants*) has introduced the recommendations that will be addressed to France in the context of its hearing on the application of the Convention on the Rights of the Child in 2016. Among others, it is recommended that bone examination shall not constitute the only age determination process and that unaccompanied minors shall benefit from all procedural safeguards when the authenticity of the documents proving their minority is questioned.[201]

Notwithstanding the Circular of 31 May 2013, the use of age assessment procedures still varies between *départements*. Some *départements* place emphasis on civil status documentation, others conduct first a social evaluation and some also proceed to a bone examination. Procedures for bone examination are highly controversial, even more so when existing civil status documentation is disregarded without a thorough examination of the documents.

These young people should get the benefit of the doubt in the event that an evaluation cannot establish their exact age, not least as recalled by Article 25(5) of the recast Asylum Procedures Directive. Once again, practice is not uniform across the country. Young people are rarely given the benefit of the doubt in practice, and this happens less and less frequently. The State Prosecutor is the authority that decides on an age assessment procedure. In fact, the Prosecutor is responsible for issuing the order to place the child in care (temporarily or not) and may therefore request additional tests if there is a doubt about their age.

In any case, having been determined to be above 18 as a result of an age assessment procedure has a dramatic impact on the young asylum seeker's ability to benefit from fundamental rights. 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. The Prefecture, for instance, may refuse to grant a residence permit with a view to lodging the asylum application, arguing that the young asylum seeker needs to have a legal representative; OFPRA refers to the declaration of the person in the asylum procedure. However, such legal representative will most likely not be appointed, as the Prosecutor relies on the result of the age assessment procedure.[202]

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199 HCSP, *Recommendation*: Evaluation de la minorité d'un jeune étranger isolé (Age assessment of a unaccompanied foreign young person), 23 January 2014, available in French at: http://bit.ly/1NBOwK1.

200 CNCDH, *Avis sur la situation des mineurs isolés étrangers présents sur le territoire national. Etat des lieux un an après la circulaire du 31 mai 2013 relative aux modalités de prise en charge des jeunes isolés étrangers (dispositif national de mise à l'abri, d'évaluation et d'orientation,* 26 June 2014, available in French at: http://bit.ly/1Uhu9XE. See also a decision taken on 29 August 2014 concerning the care provided to unaccompanied children in Paris, the Rights Defender (*Défenseur des droits*) highlighted problems in the evaluation and care provided by the *département* of Paris and a NGO, Decision of the Rights Defender MDE-2014-127, available at in French: http://bit.ly/1WGi5j4.

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

202 France terre d'asile, Newsletter n°61, November 2013.

There have been some local initiatives for many years to set up assessment centres for unaccompanied children. For example, in Paris, a Reception and Advice Platform for Unaccompanied Children (*Permanence d'accueil et d'orientation des mineurs isolés étrangers*) (PAOMIE) has been carrying out an initial evaluation of the age of the child since 2011.

Legal representation and guardianship

As unaccompanied children do not have any legal capacity, they must be represented for any act under all asylum procedures (including Dublin). When they are deprived of legal representation (i.e. if no guardian has been appointed by the guardianship judge before placement in care), the Public Prosecutor, notified by the Prefecture, should appoint an *ad hoc* administrator (legal representative) who will represent them throughout the asylum procedure.[203] The appointment of an *ad hoc* administrator was ruled only by regulatory acts while it has been moved to the legal field with the July 2015 reform of the law on asylum. It consolidates the legal status of *ad hoc* administrator. This legal representative is appointed to represent the child only in administrative and judicial procedures related to the asylum claim. This person is not tasked to ensure the child's welfare the way a guardian would be. Every 4 years, within the jurisdiction of each Appeal Court, a list of *ad hoc* administrators is drawn up. They represent children held in waiting zones at the border or children who have applied for asylum; there are two lists: one list for asylum and one list for the border procedure.[204] 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.[205]

As soon as possible after the unaccompanied minor has introduced his or her asylum claim, the Prefecture shall engage in investigating to find the minor's family members, while protecting his or her best interests.[206]

At the border, an *ad hoc* administrator should be appointed "without delay" for any unaccompanied child held in a waiting zone.[207] However, according to the 2014 Human Rights Watch (HRW) report on unaccompanied children detained at the French border,[208] covering all unaccompanied minors, not only asylum seekers, the system "still lacks sufficient government funding to meet the requirements of guardianship laid out by the Committee on the Rights of the Child. When large numbers of children arrive, or when children arrive on weekends or holidays, there can be delays in assigning guardians". In practice, delays in the appointment of the legal representative can lead to unaccompanied children going through the procedure by themselves.[209] It is important to note that at the time of the notification of the possibility offered to them to benefit from a "clear day", unaccompanied children are not yet assisted by a legal representative. There is a risk that unaccompanied children do not understand the usefulness nor the importance of this possibility and therefore are deprived of this right.

In practice, 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, their insufficient number does not enable the

203 As provided by Article 17 Law of 4 March 2002 on parental authority and by Article L.741-3 Ceseda, as amended by the law of 29 July 2015.

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

205 Article R111-14 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.

206 Article L.741-4 Ceseda, as amended by the Law of 29 July 2015.

207 Article L221-5 Ceseda.

208 HRW, 'France: Unaccompanied Children Detained at Borders', 8 April 2014.

209 See statistics in Roissy where 370 on a total of 518 unaccompanied had met a legal representative in 2010 (ANAFE, *Theoretical and practical Guide, Procedure in waiting areas*, January 2013).

prosecutor to appoint any. These children are therefore forced to wait until they turn 18 to be able to lodge their asylum application at OFPRA.[210]

More generally, in its June 2014 opinion, the National Commission on Human Rights considered that the right of the child to be heard and to be assisted by a specially trained lawyer should be implemented. It also regrets that the circular of 31 May 2013 is totally silent on the right of unaccompanied children to be informed. According to some stakeholders, in certain *départements* or towns, unaccompanied children do not receive any information on their rights or, when they do, documents are short and written in French only.

At OFPRA level, the *ad hoc* administrator is the only person authorised to sign the asylum application form. However, a March 2014 decision from the Council of State is of great interest in this context.[211] In that case, the appeal of an unaccompanied child before the administrative court (to obtain the implementation of his reception rights) had been considered inadmissible as the child was not represented by a legal representative or a guardian. The Council of State cancelled this decision and recognised the right of a minor to engage directly in a procedure when his or her "fundamental freedoms" are at stake.

F. The safe country concepts

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

Safe country of origin

Definition and procedural consequences

The notion of safe countries of origin was introduced in French legislation by the Law of 10 December 2003.[212] 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".[213] The definition is completed by the reference to the definition provided in Annex 1 of the recast Asylum Procedures Directive that provides that:

> "A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no

210 France terre d'asile, Newsletter n°62, December 2013.
211 Council of State, Decision n° 375956, 12 March, available at: http://bit.ly/1HB43JJ. According to the CNCDH, the interpretation of this decision does not however enable to be sure whether all foreign unaccompanied children are concerned or only those who are particularly vulnerable and for whom a decision from the juvenile judge has not been enforced.
212 Law n° 2003-1176 of 10 December 2003 on the right to asylum.
213 Article R111-14 Ceseda.

threat by reason of indiscriminate violence in situations of international or internal armed conflict.".[214]

Their application is to be systematically processed by OFPRA within an accelerated procedure (see section on Accelerated Procedure),[215] except under special circumstances relating to vulnerability and specific needs of the asylum seeker or if the asylum seeker calls upon serious reasons to believe that his or her country is not be safe given his or her personal situation and the grounds of his or her claim.[216] In terms of numbers of claims processed under accelerated procedures on the safe country of origin ground, this should not dramatically increase as 90% of asylum applications from safe countries of origins' nationals were already processed under the accelerated procedure in 2014. They constituted almost 50% of all accelerated procedures in 2014.[217] Considering the new provisions set out in the law, these asylum seekers will not be excluded from the regular reception scheme.

In 2014, there were 7,799 applications from asylum seekers originating from a safe country of origin, which is more than twice their number in 2013 (3,455). This can be explained by Albania, Georgia and Kosovo having been added to the list of safe countries of origin in December 2013,[218] although Kosovo had been removed from the list following the Council of State's ruling of 10 October 2014. These countries were the top four "safe countries of origin" along with Armenia among applicants from safe countries of origin. There has also been an increase of 18% of the claims introduced by Senegalese nationals. The total share of safe country of origin applicants among all registered asylum seekers was 15% in 2014 (7% in 2013, 14% in 2012). In terms of protection rates, seekers from a safe country of origin were granted a protection status in 9.3% of cases in 2014, compared to 7.8% in 2013. It should be noted that Senegalese applicants are granted a refugee or subsidiary protection status in 30% of cases. This is explained by the fear of FGM of a number of women seekers originating from Senegal.[219]

An information report of Senators Leconte and Frassa from November 2012 highlighted that "the inclusion of a country on the list of safe countries of origin is rather motivated by the desire to reduce the influx of asylum requests, than by the objectively safe nature of the political and social situation of any given country."[220] In that respect, the compilation of the list of safe countries of origin as well as procedural safeguards are important.

List of safe countries of origin

The first list of safe countries of origin was established in June 2005 by the OFPRA Management Board. Every time a country is removed from or added to the list, the deliberations of the Management Board are published in the Official Journal. This list can be reviewed in OFPRA Board meetings. However, the composition of the Management Board has been modified, partly to strengthen the amending procedure of the list. In addition, qualified personalities ("*personnalités qualifiées*") can vote on the constitution of the list of safe countries of origin.
The board is constituted by 16 members:[221]

- 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;

214 Article L.722-1 2° Ceseda, as amended by the Law of 29 July 2015.
215 Article L723-2 I. 1° Ceseda, as amended by the Law of 29 July 2015.
216 Article L.723-2 V Ceseda, as amended by the Law of 29 July 2015.
217 OFPRA, *2014 Activity Report*, 10 April 2015.
218 *Ibid.*
219 *Ibid*.
220 Senate, *Information Report n°130*, prepared by Senators Jean-Yves Leconte and Christophe-André Frassa, 14 November 2012.
221 Article L.722-1 Ceseda, as amended by the Law of 29 July 2015.

- 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.[222]

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

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

The list of countries considered to be safe countries of origin is public, at the end of 2015, it included the following 16 countries:[223]

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

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

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

222 Artcle L.722-1(2) Ceseda, as amended by the Law of 29 July 2015.

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

On 5 March 2014, UNHCR called states to remove **Ukraine** from their safe countries of origin list. Shortly after and prior to the official withdrawal of Ukraine from the French list, the French Ministry of Interior had asked prefects to treat Ukrainian asylum applications through the regular procedure, and no longer through the accelerated one.[224]

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

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

In a decision of 16 December 2013, the Management Board of OFPRA added **Albania**, **Georgia** and **Kosovo**.[225] In a decision of 10 October 2014,[226] the Council of State removed Kosovo from the list of safe countries of origin but maintained Albania and Georgia. The Ministry of Interior sent an instruction to the Prefects on 17 October 2014 calling them to generally channel the asylum seekers from Kosovo into the regular procedure and to deliver them a temporary residence permit enabling them to be accommodated in reception centres for asylum seekers.[227] However, on 9 October 2015, the Management Board of OFPRA met to update the list of safe countries of origin and has decided to reintroduce Kosovo to the list.

G. Treatment of specific nationalities

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
   - ❖ If yes, specify which: Syria, Iraq

2. Are applications from specific nationalities considered manifestly unfounded?[228] ☒ Yes ☐ No
   - ❖ If yes, specify which: Albania, Armenia, Benin, Bosnia-Herzegovina, Cape Verde, Georgia, Ghana, India, FYROM, Kosovo, Mauritius, Moldova, Mongolia, Montenegro, Senegal, Serbia

Asylum seekers that are nationals of countries considered to be safe are dealt with most of the time under an accelerated procedure (in 90% of the cases) (see section on Safe Country Concepts).

224 Forum réfugiés-Cosi, Press release, *Liste des « pays d'origine sûrs » : Forum Réfugiés – Cosi prend acte avec satisfaction du retrait de l'Ukraine* (List of "safe countries of origin": Forum Réfugiés – Cosi expresses satisfaction at the removal of Ukraine), 28 March 2014, available at: http://bit.ly/1geOY6y.

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

226 Council of State, *Forum réfugiés-Cosi and Others v OFPRA*, Decision n° 375474 and 375920, 10 October 2014, available at: http://bit.ly/1JCEIS5.

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

228 Whether under the "safe country of origin" concept or otherwise.

Moreover, according to OFPRA, following the withdrawal of **Bangladesh** from the list of safe countries of origin, these asylum applications have been treated under the "last in, first out" principle which meant that the average period for their examination was of 91 days after May 2013.

Furthermore, according to the practical observations of many actors in the field of asylum in France, the processing of asylum claims for people of **Rwandan** nationality can take a particularly long time.

Until 2014, **Syrian** asylum seekers did not get any specific treatment in France. However, since 2014, with their number increasing throughout the EU, including in France where they were the 5th country of origin of asylum seekers in 2014, and the specific attention they get from EU institutions and Member States, their claims tend to be processed quicker. OFPRA's objective is to process Syrian asylum claims within 3 months. In order to achieve this goal, claims from Syrian nationals are prioritised. The average time for their examination was 93 days at the end of 2014 (against an average of 204 days for all nationalities). Protection was granted by OFPRA to asylum seekers from Syria in 1,404 instances in 2014, which amounts to a recognition rate of 96%. This rate is to be compared to the average recognition rate of 16.9% for all OFPRA decisions.[229] According to OFPRA's annual report for 2014,[230] 63% of Syrian nationals who were granted protection benefitted from refugee status under the Geneva Convention while 37% of them obtained subsidiary protection.

It is worth noting that France did not see a very high level of arrivals of Syrian asylum seekers[231] in 2015 and 2014 in comparison to other European countries. There is nevertheless a striking increase of twice the number of applicants from Syria in 2014 compared to 2012 as only 637 and 119 asylum claims had been lodged by Syrian nationals in 2012 and 2011 respectively. The French authorities have not designed any special status for Syrian applicants whose asylum applications are rejected. There is no official position with regards to returns to Syria (no moratorium) but there have been no return of Syrian nationals to Syria from France in recent years.[232]

In addition, at its first 2015 ministerial meeting, the government declared that, in 2014, 500 Syrian refugees in a situation of extreme vulnerability coming from neighbouring countries of Syria had benefitted from a special resettlement programme.[233] The *ad hoc* programme for the resettlement of Syrian refugees has been renewed for 2015 and France should receive 500 more Syrian this year.[234]

As far as **Iraqi** nationals are concerned, on 14 August 2014, the Ministry of the Interior sent an Information Note to the Prefects regarding a specific reception scheme for Iraqis belonging to religious minorities.[235] The selection criteria were that those persons should be personally persecuted or threatened for religious reasons, be in a situation of extreme vulnerability and have strong links with France. According to this Note, two types of long term visas could be granted by the French consular and diplomatic services in Bagdad and Erbil, including long term visas enabling the persons concerned to apply to asylum in France if they wish so. Once on French territory, their asylum application is examined with a short delay and they are allowed to work and receive social benefits. At its first 2015

229 OFPRA, *2014 Activity report*, 10 April 2015.

230 *Ibid*.

231 In this regard, it should be noted that a requirement for a specific transit airport visa (*visa de transit aéroportuaire*) (VTA) is applied to Syrians. In a decision of 18 June 2014, the Council of State, seized by NGOs GISTI and ANAFE, confirmed the obligation for Syrians, to possess a VTA in order to transit through French airports. The Council of State recalled that this obligation, which applies to certain third country nationals, was "linked to public order requirements aimed at avoiding, at a stop over or at a connecting flight, the abuse of transit for the sole purpose of entering France". The Council of State considered that this obligation applied to Syrians "did not constitute in itself a breach of the right of asylum nor a breach of the right to life or of the protection against inhuman or degrading treatment". See Council of State, Decision n° 366307, 18 June 2014, available at: http://bit.ly/1eptYsB.

232 However, there have been returns to Italy for instance under readmission procedures or Dublin procedures.

233 La Croix, 'L'an dernier, la France a donné refuge à plus de 1 200 Irakiens', 6 January 2015.

234 Forum réfugiés-Cosi and France terre d'asile, *Report on resettlement in France*, SHARE Project, August 2015, available in France at: http://bit.ly/1Q2BIjc.

235 Ministry of Interior, *Note d'information,* 14 août 2014, NOR: INTV1419824N, available in French at: http://bit.ly/1VyM89X.

ministerial meeting, the government declared that, since 1 August 2014, French authorities had admitted 1,277 such persons under this programme, among which 800 had reached French territory by the end of January 2015.[236]

In April 2015, OFPRA protection officers conducted two missions in Lebanon and Jordan, to process asylum claims from 400 Syrian refugees before they were resettled to France.[237] Moreover, an OFPRA mission to Calais in May 2015 targeted Eritrean nationals (see section on Regular Procedure: Fast-Track Processing).

236 La Croix, "*L'an dernier, la France a donné refuge à plus de 1 200 Irakiens*", 6 January 2015, available in French at: http://bit.ly/1Z12EE3.

237 OFPRA, *Mission humanitaire pour les réfugiés syriens,* April 2015, available in French at: http://bit.ly/1YYcSoV.

Reception Conditions

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

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

❖ Regular procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Dublin procedure	☐ Yes	☒ Reduced material conditions	☐ No
❖ Border procedure	☐ Yes	☐ Reduced material conditions	☒ No
❖ Accelerated procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Subsequent application	☒ Yes	☐ Reduced material conditions	☐ No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

The reform of the law on asylum has profoundly modified the reception scheme in France by fully transposing the recast Reception Conditions Directive. As of 1 November 2015, the national reception scheme has been experimented in several pilot Prefectures in France. It shall be implemented throughout France as of January 2016.

The main changes adopted are as follows:[238]

- **All asylum seekers shall be offered material reception conditions (Article L.744-1)**
  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).

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

- **A specific needs assessment is included as part of the reception scheme (Article L. 744-6)**
  The aim of this needs assessment is to strengthen the identification of vulnerable asylum seekers and to facilitate the assessment of specific reception needs. An individual interview is conducted by OFII with the asylum seeker within a "reasonable period of time".

- **One single allowance: the allowance for asylum seekers (ADA) (Article L.744-9)**
  The ADA replaces the temporary waiting allowance (ATA) and the monthly subsistence allowance (AMS). All asylum seekers, even if they are under the accelerated or Dublin procedure, can benefit from this allowance.

After having registered their claim at the Prefecture, asylum seekers receive the asylum claim certification that allows them to remain legally on the French territory until the end of the asylum procedure or their transfer to another Member State. Meanwhile, they are entitled to material reception conditions, adapted if needed to their specific needs. In order to better articulate the registration of

238 Articles L.744-1 to L.744-10 Ceseda, as amended by the Law of 29 July 2015.

asylum claims and provision of reception conditions, the reform of the law on asylum has designed a new framework: a "single desk" (*guichet unique*).

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

The Prefecture shall fingerprint all asylum seekers above 14 years old and provide relevant documentation and information to all, in a language they understand or it is likely to assume they understand. After asylum claims have been registered and the asylum claim certification provided, asylum seekers shall move on to OFII desks for the vulnerability and special needs assessment interview. Then, accommodation shall be proposed to the asylum seeker.

Asylum seekers' financial participation to accommodation

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

However, accommodated asylum seekers whose monthly resources are above the monthly rate of the Active Solidarity Income ("*Revenu de Solidarité Active*") (**RSA**) (€524.16 for a single adult) pay a financial contribution for their accommodation.

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

In case of a subsequent application or if the asylum claim has not been introduced within 120 days, ADA can be refused.[239]

Finally, French legislation excludes asylum seekers from the granting of all family-related welfare benefits as the residence permits provided to asylum seekers are not listed in the permits that give eligibility to these benefits.[240] Asylum seekers are also not eligible for receiving the social welfare allowance, the so-called Active Solidarity Income (RSA), an allowance granted to individuals over 25 years old who do not have resources or have very low incomes.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 1 November 2015: €204 (for a single person)

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

The reform of the law on asylum has introduced a single allowance, the allowance for asylum seekers (ADA).[241] It replaces the monthly subsistence allowance (AMS) and the temporary waiting allowance (ATA).

239 Article D.744-37 Ceseda, as added by the Decree of 21 October 2015.
240 Article 512-2 Social Security Code.
241 Article L.744-9 Ceseda, as amended by the Law of 29 July 2015.

ADA is granted to asylum seekers above 18 years old,[242] who accept material conditions proposed by OFII until their asylum claim has been processed or until their transfer to another responsible State is effective. Only one allowance per household is allowed.[243] The payment of the allocation ends at the end of the month following the notification of a final decision on the claim.

The amount of ADA is calculated on the basis of resources, type of accommodation provided and age criteria. Family composition, in particular the number of children, is taken into account in the calculation of ADA.[244] The total amount of ADA is re-evaluated once a year, if needed, to take into account the inflation rate.

The daily amount of ADA is defined upon application of the following scale:[245]

Composition of the household	ADA daily rate
1 person	6.80 €
2 persons	10.20 €
3 persons	13.60 €
4 persons	17 €
5 persons	20.40 €
6 persons	23.80 €
7 persons	27.20 €
8 persons	30.60 €
9 persons	34 €
10 persons	37.40 €

An additional daily rate of 4.20€ is payed to adult asylum seekers who have accepted to be accommodated but who cannot be accommodated through the national reception scheme.

ADA is payed to asylum seekers on a monthly basis directly by OFII on a card, similar to a credit card that can be used by asylum seekers. It is not necessary for asylum seekers to open a bank account to benefit from ADA (except in some cases where asylum seekers are overseas) and use the card.[246]

3. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres:[247] 261
2. Total number of places in the reception centres: 48,100
   - ❖ CADA 25,300
   - ❖ Transit centres 300
   - ❖ Emergency accommodation 22,500
3. Total number of places in private accommodation: Not available

4. Type of accommodation most frequently used in a regular procedure:
   ☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other

5. Type of accommodation most frequently used in an accelerated procedure, as of 1 November 2015 (before the implementation of the reform):
   ☐ Reception centre ☐ Hotel or hostel ☒ Emergency shelter ☐ Private housing ☐ Other

242 Article D.740-18 Ceseda, as inserted by the Decree of 21 October 2015.
243 Article D.744-25 Ceseda, as inserted by the Decree of 21 October 2015.
244 *Ibid*.
245 Annex 7-1 Ceseda, as inserted by the Decree of 21 October 2015.
246 Article D.744-33 Ceseda, as inserted by the Decree of 21 October 2015.
247 This refers to the number of centres under the national reception scheme, thereby excluding emergency accommodation.

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

Accommodation facilities for asylum seekers are:

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

Asylum seekers accommodated in these facilities receive a certification of address (*attestation de domiciliation*).[248] This certification is valid for one year and can be renewed if necessary. It allows the asylum seeker to open a bank account and to receive mail.

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

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

In March 2015, the national reception scheme (*dispositif national d'accueil*) (**DNA**) includes:

- 258 regular reception centres (both collective and private housing) for asylum seekers (CADA);[249]
- 1 centre especially suited to unaccompanied children asylum seekers;[250] and
- 2 "transit" centres (in Villeurbanne and in Créteil).

In addition, there are around 22,500 emergency scheme places managed both at national and decentralised level.[251]

Reception centres for asylum seekers (CADA)

Asylum seekers having registered a claim are eligible to stay in reception centres. Asylum seekers under a Dublin procedure are excluded for now from accessing these centres. Reception centres can be either collective or individualised housing, within the same building or scattered in several locations. A place in the centres for asylum seekers is offered by OFII once the application has been made. The average length of stay in CADA reception centres in 2014 was 543 days – that is to say one year and six months.[252] If asylum seekers do not accept the offered accommodation, they will be excluded as a consequence from the benefit of the asylum seeker's allowance (ADA). If there is no place in a reception centre, the asylum seeker is placed on a waiting list, in the meantime, they will be directed to other provisional accommodation solutions.[253] However, if the asylum seeker has not succeeded in getting access to a reception centre before lodging his or her appeal, the chances to benefit from one at

248 Article R. 744-1 to R.744-4 Ceseda, as amended by the Decree of 21 September 2015.
249 OFII, *OFII missions in 2014*, March 2015.
250 See section on Addressing special reception needs of vulnerable persons for details on the reception modalities of unaccompanied children.
251 Information meeting with Mayors, Ministry of Interior, 12 September 2015.
252 OFII, *OFII missions in 2014*, March 2015.
253 Ministry of Interior, *Reception and Accommodation of Asylum Seekers*.

the appeal stage are very slim.[254] 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 new national reception scheme intends to avoid as much as possible cases where asylum seekers are homeless or have to resort to emergency accommodation on the long run. In 2015, 4,200 additional places were planned.[255]

In France, there are also two 'transit' centres which house asylum seekers temporarily and refer them to the national reception scheme (220 places in **Villeurbanne** and 80 in **Créteil**). Under special circumstances, some asylum seekers under Dublin or accelerated procedures can also be accommodated there for a while.

Insufficient capacity in regular reception centres

As of 31 December 2014, there were 24,418 places in regular reception centres (CADA) while France had registered 64,811 asylum applications (adults and children, including subsequent applicants).[256] The number of reception centres' places is therefore clearly not sufficient to provide access to housing to all the asylum seekers who should benefit from it in accordance with the recast Reception Conditions Directive. No phenomenon of overcrowding in each of the centres is observed but the overall reception capacities are stretched: in 2014 the number of people admitted in CADA was higher than the number of people getting out of the reception centres (14,958 against 13,993).

This is partly explained by the fact that rejected asylum seekers and beneficiaries of international protection can, upon request, stay in asylum seekers' reception centres. Refugees and beneficiaries of subsidiary protection can stay until an offer of accommodation is available, within a strict timeframe of three months from the final decision (renewable once in special cases). Upon request, those whose claims have been rejected are also able to stay in a centre for up to one month from the notification of the negative decision. Afterwards, they might access emergency accommodation through emergency aid (if a place is available). However, due to a stretched housing market in general some tend to overstay in CADA. In 2014, 74.7% of accommodated people in CADA were asylum seekers, 11.6% were beneficiaries of international protection (including 2.4% overstaying) and 13.7% were rejected asylum seekers (including 7% overstaying). Overall 23,809 persons were accommodated in CADA as of 31 December 2014, including 16,504 asylum seekers, or 26.8% of asylum seekers in France.[257]

Recognising that asylum seekers housed in regular reception centres benefit from a better support and – in equal situations – have more chances to obtain protection, the General Controller's report argued in 2013 that housing in dedicated reception centres must become again the norm and cover $^{2}/_{3}$ of the asylum seekers, meaning a total of 35,000 places.[258] An appendix to the 2015 Finance law gives a target of 50% of asylum seekers to be housed in regular reception centres by 2015 and 55% by 2017.[259] Therefore, 3,500 and 2,000 additional places shall be opened respectively in 2016 and 2017 according to the 2015 Finance law.

A number of additional places have already been made available during the first two semesters of 2015 to reach around 25,500 available accommodation places in regular reception centres. The objective of the Ministry of Interior is that "by 2017, accommodation in regular reception centres shall [...] be the

254 European Migration Network – French contact point, *The organisation of reception structures for asylum seekers in France*, September 2013.
255 Circular NOR INTK1517235J relating to the action plan to answer migration challenges, 22 July 2015, available in French at : http://bit.ly/1UAYMXm.
256 *Ibid,* citing source OFII.
257 OFII, *OFII missions in 2014*, March 2015.
258 General Controller of Finance, General Controller of Social Affairs and General Controller of Administration, *Report on housing and financial assistance to asylum seekers*, 12 September 2013, available in French at: http://bit.ly/1HzpRrc.
259 2015 Finance draft law – Appendix « Immigration, Asylum, Integration », 17.

norm and the accommodation in emergency centres this exception".[260] However, as of 31 December 2014, 10,317 persons, including 62.8% families were accommodated in emergency reception facilities, awaiting their entry into a regular reception centre.[261] In his visit report, released in February 2015, Nils Muiznieks, Commissioner for Human Rights from the Council of Europe notes "that reception capacities are in practice very clearly inadequate: there is no CADA overseas, while in metropolitan France only 33% of asylum seekers were admitted to a CADA in 2014".[262]

In addition, France has committed to receiving 33,158 asylum seekers and refugees in the context of the different relocation (30, 783) and resettlement (2,375) schemes the opening of new reception places has been announced, but they will probably not be sufficient.

Emergency reception scheme

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

(1) An emergency reception scheme managed at national level: temporary reception – asylum office (*accueil temporaire – service de l'asile*) (**AT-SA**). 2,800 emergency accommodation places exist within this scheme. By the end of 2015, 4,000 additional places are to be opened.

(2) A decentralised emergency reception scheme: emergency accommodation for asylum seekers (*hébergement d'urgence dédié aux demandeurs d'asile*) (**HUDA**). 19,600 emergency accommodation places exist within this scheme. Capacities provided by this scheme evolve quickly depending on the number of asylum claims and capacities of regular reception centres.

In total, 20,637 places were funded in 2012, almost 22,000 places were financed in 2014[263] and slightly more in 2015 (22,500). They can either be hotel rooms or collective emergency facilities.[264] These facilities can house asylum seekers prior to their entry into a reception centre as well as asylum seekers who are not eligible for accommodation in a reception centre (for instance asylum seekers subject to the Dublin procedure).[265]

However, in the **Rhône** *Département* for instance, these emergency schemes are also saturated. At the end of 2014 in Lyon, 196 people were accommodated in hostel rooms. At the end of December 2014, 41 vulnerable persons whose case should have been prioritised (families with minor children, pregnant women for instance) had no housing in the Rhône *Département*.

In September 2013, the emergency scheme attracted a lot of media attention through the situation in **Clermont-Ferrand**. The NGO handling the emergency housing for asylum seekers had to stop paying for the nights in hotels due to budget constraints and 200 to 300 asylum seekers, including many children, were forced to sleep on the streets for several nights. The NGO explained that the funding they received from the State authority could cover 30 hotel rooms per night for a year when in reality they have to house 362 persons.[266]

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260 National Assembly, Ministry of Interior Bernard Cazeneuve's Introductory Speech of the draft law on asylum's public hearing, 9 December 2014.

261 OFII, *OFII missions in 2014*, March 2015.

262 Council of Europe, *Report by Nils Muiznieks after his visit to France from 22 to 26 September 2014*, 17 February 2015, available in English at: http://bit.ly/1Vxrooq.

263 2015 Finance draft law – Appendix « Immigration, Asylum, Integration », 31. In the 2015 Finance Law, the government planned to finance 500 supplementary places in the emergency reception scheme for asylum seekers in the region of **Calais** (Northern France).

264 Draft financial law 2015, (*Bleu budgétaire 2015*), "Immigration, asylum and integration".

265 Circular n° IOCL1113932C of 24 May 2011 on the management of the emergency scheme for asylum seekers, confirmed by the Law of 29 July 2015.

266 Le Monde, 'La crise du 115, à Clermont, illustre la difficulté de l'Etat à financer l'hébergement d'urgence' (The cris of the 115 in Clermont demonstrates the difficulty of the State to finance emergency housing), 4 September 2013, available in French at: http://bit.ly/1S8LEpj.

As another example, on 18 November 2013, prior to the imminent evacuation of a camp under a bridge in **Lyon**, Forum réfugiés-Cosi organised, in consultation with the prefecture, the temporary housing of 315 asylum seekers in eight municipalities of the departments of Rhône, Ardèche and Isère, in partnership with Adoma which organised the housing of 105 people. These asylum seekers benefited from these emergency housing facilities until 31 March 2014.[267]

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

Asylum seekers under Dublin procedure

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

Asylum seekers left without accommodation solution

A number of regions have experienced an important increase in the number of asylum seekers received, thus leading to severe difficulties in terms of housing.

In **Paris**, several informal camps have been set up, for instance in the 18th and 13th *arrondissement,* as well as in Seine Saint Denis (Saint Ouen). Amongst foreign nationals living in these camps there were irregular migrants but also asylum seekers: in Saint Ouen there were 165 Syrians sleeping in a square, in the 18th arrondissement there were hundreds of Eritreans and Sudanese, living under the aerial subway since the summer of 2014. After several field visits of OFPRA aiming to inform people on the asylum procedure, the municipality of Paris, together with the Ministry of Interior, have conducted seven protection missions in order to accommodate more 2,200 persons in emergency centres and provide them with legal, material and medical support. These missions were conducted between 2 June 2015 and 17 September 2015. As of September 2015, the two camp sites in the 18th and 13th *arrondissement* have completely disappeared.[268]

In **Bordeaux**, the number of asylum seekers has increased of 16.2% in 2014 in the Gironde Department. Asylum seekers from Western Sahara, single men, did not get any accommodation and have been living along the Garonne River for several months before representatives from the Prefecture visited their camp site in February 2015 to prevent possible floods that regularly occur in March. The situation of these asylum seekers living in shameful and degrading conditions for months got mediatised. Around 90 people had registered an asylum claim and had a temporary residence permit allowing them in theory to have access to reception conditions. The Prefecture proposed emergency accommodation solutions, mainly in hotel rooms, but no lasting solution was found and they were still living on the streets at the time of writing.

In **Calais**, up to 2,000 persons have been living in slums while waiting to cross the Channel tunnel to the United Kingdom in 2014 and these figures rose up to 6,000 people in September 2015. Most of them are potential asylum seekers but they do not want to apply for asylum in France and therefore have no access to the national reception framework for asylum seekers. Considering the growing

267 See Le Monde, 'Lyon: expulsion d'un campement de 300 demandeurs d'asile albanais' (Lyon: eviction from a camp of 300 Albanian asylum seekers), 23 October 2013, available in French at: http://bit.ly/1HfK7L2.

268 Ministry of Interior, '801 additionnal migrants accommodated in Paris' (*801 migrants supplémentaires mis à l'abri à Paris*), Press Release, 17 September 2015.

number of migrants living in what is called “the jungle”.[269] The French government has taken some steps: a reception facility opened during the day has been set up and is managed by the organisation « La Vie active ». The Jules Ferry centre can provide around 2,000 meals per day and allows access to sanitations. In addition, the growing number of women and children among the people living in the “jungle” was particularly worrying and an emergency reception centre of around 100 places has been opened. A mission to assess sanitary conditions in the camp has been conducted and a report released on 30 October 2015.[270]

On the basis of this report’s conclusions and following a seizing from *Médecins du Monde* and *Secours Catholique*, the Administrative Court of Lille,[271] has issued a decision in which it urges the State and the city of Calais to improve the sanitary conditions in which migrants live in Calais. In particular, it has asked authorities to create additional water supply and toilets as well as to set up a waste collection system, to clean up the camp and to facilitate access to the camp to emergency services. In parallel, the authorities intended to reduce the number of people living in the camp. Consequently, several groups of people have been offered the possibility to be transferred to emergency centres in other regions in France to introduce an asylum claim while, in parallel, the number of migrants arrested and placed in detention centres has suddenly rose up. In this context, Forum réfugiés-Cosi has accompanied 133 migrants from **Calais** (out of around 1,000) in emergency centres in the **Rhône** and **Auvergne** and 1,122 migrants have been detained in **Marseille, Toulouse, Rouen, Metz, le Mesnil-Amelot, Paris-Vincennes** and **Nimes** detention centres.

These situations are only examples but that can be found on a small scale in other cities or regions in France. They illustrate the lack of accommodations places, be it in regular reception centres or emergency centres.

Accommodation in waiting zones

Finally, in the context of the border procedure, asylum seekers are held in “waiting zones” while awaiting a decision on their application for an authorisation to enter the territory on asylum grounds.[272] This zone may include accommodation "providing hotel type services" as is currently the case for the waiting zone of the Paris Roissy CDG airport (in the ZAPI 3 - *zone d’attente pour personnes en instance*), which can receive up to 160 people. In other waiting zones, the material accommodation conditions vary: third country nationals are sometimes held in a nearby hotel (like in Orly airport at night) or in rooms within police stations. Not all are equipped with hotel type services.[273]

In these accommodation areas, there should be an area for lawyers to hold confidential meetings with the foreign nationals.[274] In practice, those are only established in the **Roissy CDG airport** (ZAPI 3) and can accommodate up to 160 persons. In the other waiting zones, the material conditions for accommodation can vary greatly: foreign nationals are sometimes accommodated in a nearby hotel (like in **Orly** at night time), or in rooms within police stations. They do not all have access to "hotel-type" services.[275]

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269 See also AIDA, *Common asylum system at a turning point: Refugees caught in Europe’s solidarity crisis*, Annual Report 2014/2015, 61-63.

270 Ministry of Health, Final report, *Mission d’évaluation du dispositif de prise en charge des migrants à Calais*, October 2015, available in French at: http://bit.ly/1QL2iz4.

271 Administrative Court of Lille, Decision n° 1508747, *Association Médecins du Monde et autres*, 2 November 2015.

272 These are not 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.

273 ANAFE, *2011 Annual Report*, December 2012.

274 *Ibid*.

275 ANAFE, *Annual Report 2011*, December 2012.

4. 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?	543 days
3. Are unaccompanied children ever accommodated with adults in practice?	☐ Yes ☒ No

Reception conditions in CADA

Reception centres (CADA) are the main form of accommodation provided to asylum seekers. They include both collective and private accommodations that are located either within the same building or in scattered apartments. There are 258 of them spread across the French territory,[276] therefore the following description is a general assessment that cannot cover the specific situation to be found in all CADA.

Living conditions in regular reception centres for asylum seekers are deemed adequate, and there are no official reports of overcrowding in reception centres. The available surface area per applicant can vary but has to respect a minimum of 7m^2 per bedroom. A bedroom is usually shared by a couple. More than 2 children can be accommodated in the same room. Centres are usually clean and have sufficient sanitary facilities. Asylum seekers in these centres are usually able to cook for themselves in shared kitchens. The 2011 Circular relating to the missions of reception centres for asylum seekers also foresees that the sharing of flats has to be considered to preserve a sufficient amount of individual living space.[277]

None of these centres are closed centres. Asylum seekers can go outside whenever they want. The 2011 Circular encourages staff working in CADA centres to organise cultural activities to mitigate the inactivity of the persons accommodated there. Leisure activities such as sport activities or excursions are sometimes organised. However, as per their newly defined missions,[278] CADAs are only supposed to facilitate contacts with local organisations providing cultural and social activities. It remains to be seen how this will be implemented by CADAs in practice.

As per the 19 August 2011 Circular, the staff working in reception centres also has the obligation to organise a medical check-up upon arrival in the reception centre. In the context of the application of the reform of the law on asylum,[279] this medical check-up has to be done at the latest 15 days after arrival while it was8 days before.

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

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

Reception conditions in emergency centres

276 2015 Finance draft law – Appendix “Immigration, Asylum, Integration”, 30.
277 See section I.1.2 of the Circular NOR IOCL1114301C of 19 August 2011 on the missions of reception centres for asylum seekers.
278 Decree of 29 October 2015 on missions’ statement of CADAs.
279 Decree of 29 October 2015 on the general rules of functioning of CADAs.

Collective emergency facilities, unlike the housing of asylum seekers in hotels, 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.

5. 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 reform of the law on asylum describes the procedure to be followed by the management of reception centres and by the Prefect once a final decision on the asylum claim has been taken.[280] OFII informs the management of the reception centre where the asylum seeker is accommodated that a final decision has been taken and that the provision of accommodation will be terminated upon a specific date, unless the beneficiary of international protection or the rejected asylum seeker formulates a demand to remain respectively 3 or 1 month in order to have time to plan the exit of the CADA.

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

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

According to Article L.744-8 Ceseda, as amended by the Law of 29 July 2015, material reception conditions can be:

1. Suspended if, without legitimate reason, the asylum seeker has abandoned the reception centre where he or she is accommodated during more than a week;[281] has not presented him or herself to relevant authorities when required to, has not answered to information claim or has not attended interviews related to his or her asylum claim;
2. Withdrawn in case of false statements concerning the identity or personal situation of the asylum seekers accommodated, in particular his or her financial situation. Reception conditions can also be withdrawn in case of violent behaviour or serious disrespect of the community life's rules;
3. Refused when the asylum seeker introduces a subsequent claim or if, without legitimate reason, he or she has not introduced his or her asylum claim within 120 days after he or she has entered the French territory.

The management of reception centres has to inform OFII and the Prefect of the *Département* in case of a prolonged and not motivated absence from the reception centre of an asylum seeker, as well as any violent behaviour or serious disrespect of the community life rules.[282] OFII is competent to decide on the suspension, withdrawal or refusal of material reception conditions. All these decisions have to be communicated in written and duly motivated and take into account the asylum seeker's vulnerability. They can only be definitive and applied after the asylum seeker concerned by a suspension, withdrawal or refusal of material reception condition has been able to formulate his or her observations and

280 Article R.744-12 Ceseda, as amended by the Decree of 21 September 2015.
281 Article R.744-9(II) Ceseda, as amended by the Decree of 21 September 2015.
282 Article R.744-11 Ceseda, as amended by the Decree of 21 September 2015.

comment, in written. When material reception conditions have been suspended, the asylum seeker can ask OFII to re-establish them.

Specifically as regards ADA, the allowance can be suspended when the asylum seeker:[283]

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

ADA can be withdrawn in the situation where the asylum seeker has:[284]

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

When ADA is suspended, withdrawn or refused, OFII has to notify its decision to the asylum seeker who has 15 days to formulate his or her observation. OFII decision has to be motivated and to take into account the vulnerability of the asylum seeker.[285]

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

6. Access to reception centres by third parties

Indicators: Access to Reception Centres

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

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

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

7. Addressing special reception needs of vulnerable persons

Indicators: Special Reception Needs

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

The reform of the law on asylum has introduced a specific procedure for the identification and orientation of asylum seekers with special reception needs. This procedure consists in an interview conducted by OFII officers. These officers shall be specifically trained on identification of vulnerability.[286]

283 Article D.744-35 Ceseda, as inserted by the Decree of 21 October 2015.
284 Article D.744-36 Ceseda, as inserted by the Decree of 21 October 2015.
285 Article D.744-38 Ceseda, as inserted by the Decree of 21 October 2015.
286 Article L.744-6 Ceseda, as amended by the Law of 29 July 2015.

So far, places in regular reception centres are mostly allocated to vulnerable asylum seekers but whose vulnerability is "obvious" (families with young children, pregnant women and elderly asylum seekers). It was expected that the vulnerability assessment inserted in the Law of July 2015 would facilitate identification of vulnerable asylum seekers having less visible specific needs. However, the questionnaire that is used by OFII officers only focuses on "objective" elements of vulnerability.

In 2014, 83.8% of the new arrivals in CADA reception centres were families.[287] This however has the side effect of marginalising isolated asylum seekers as young males are not considered as a priority.[288]

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, social workers in reception centres have however regular exchanges with the asylum seekers and may be able to identify these special vulnerabilities, should they appear during the reception phase. The main difficulty for the staff will however be the identification of solutions to respond to this need (see section on Health Care on the limited access to mental health care for instance). Therefore, the modification of the law that states that OFPRA and OFII must 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 a new functioning. The vulnerability assessment's conclusions as well as all information related to asylum seekers are to be computerised. Consequently, it should be easier to approach vulnerability in a more comprehensive way and to facilitate exchange of information. However, this is far from being effective in practice and many legal and practical measures are still lacking to allow this system to be implemented.

In addition, specific reception conditions for victims of trafficking for instance are not foreseen yet. It is interesting to note that out of the 324 third-country nationals who received a residence permit as a victim of trafficking in human beings in 2008-2012, nearly a quarter (76), had made an initial application for asylum which had been rejected.[289]

Addressing special reception needs of unaccompanied children

The term unaccompanied child has no explicit definition in French law.[290] The protection of these young people is therefore based on the notion of children at risk, as outlined in French legal provisions on child protection, which is applicable regardless of nationality or the status of an asylum seeker. Local authorities *(Départements / Conseils généraux)* are in charge of children at risk so they have to protect unaccompanied children in France. It is therefore difficult to obtain an overview of the situation for unaccompanied children at the national level. The Ministry of Justice has been in charge of the coordination of this issue at national level since 2010, but its role under the 2013 Circular is limited in practice to the distribution of children between local authorities.[291]

Protection measures are usually initiated by children who turn to NGOs or judges for help. There is no specific procedure in place for identifying unaccompanied children. When they go to the Prefecture in order to lodge an asylum application, the authorities verify only whether a legal guardian is present or

287 OFII, *OFII missions in 2014*, March 2015.

288 EMN, *The organisation of reception structures for asylum seekers in France*, September 2013.

289 *Ibid.*

290 Foreign unaccompanied children do not constitute any specific category in the Ceseda, except for two articles which mention them in relation to the ad hoc administrator (Articles L221-5 and L751-1), or in the CASF.

291 In total, 4,042 youngsters were recognised as unaccompanied foreign minors in order to benefit from special care between 1 June 2013 and 31 May 2014. 23% of them are concentrated in three ***départements***, and 72 % are distributed over 25 ***départements***. See General Controllers for Judicial Services, Social Affairs and Administration, *Assessment of the scheme for unaccompanied foreign children established under the protocol and the circular of 31 May 2013* (*Evaluation du dispositif relatif aux mineurs isolés étrangers mis en place par le protocole et la circulaire du 31 mai 2013*), July 2014, available in French at: http://bit.ly/1LWesCw.

not. If not, a legal representative to support and represent the child in asylum procedures (*ad hoc* administrator) should be appointed (see section on Age Assessment).

The French authorities have attempted to improve and harmonise the functioning of the reception and assistance provided to unaccompanied children (including asylum-seeking children) through a Circular adopted on 31 May 2013. The Circular is aimed at limiting the disparities between the *départements* in terms of arrivals of unaccompanied children and at harmonising the practices throughout the country.[292] Some funding is provided by the national authorities, thereby acknowledging the involvement of the State in an issue which generally falls under the jurisdiction of the *départements.*[293] State funding covers the emergency reception costs of the children during the first 5 days after arrival while the evaluation the referral is carried out.

If it is established that the young person is a minor within these 5 days, the State prosecutor should contact a national cell of the ministry of Justice dedicated to that which will indicate the *département* where the child could be placed on the basis of demographic criteria.[294] However, in practice, some *départements* refuse to accept these children and the State prosecutors hardly resort to binding measures even though the circular enables them to do so.[295] The National Commission on Human Rights, in a recent opinion adopted in June 2014,[296] regrets that the circular from 31 May 2013 focuses on the management of the geographical distribution of foreign unaccompanied children over the territory without taking sufficiently into account the principle of the best interests of the child.

On the other hand, a recent report from several national inspection bodies considers that the referral scheme and the geographical distribution provided by this circular constitute progress as they foster harmonisation of practices at national level and solidarity between *départements*.[297] The same report however also highlights many shortfalls and recommends some adjustments and improvements as well as the reinforcement of State funding and involvement.

As 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.[298] They also may be accommodated in foster families. The national reception scheme used to include 1 centre especially suited to unaccompanied children asylum seekers, called Caomida (Reception and Orientation Centre for Asylum-seeking Unaccompanied Children), which had national coverage and was managed by the NGO France terre d'asile. However, the Caomida is not anymore dedicated to unaccompanied asylum seeking children and can host unaccompanied children in any administrative situation.

There is also a specialised centre at the department level managed by Coallia in Côtes-d'Armor (Samida).[299] In some *départements,* children are hosted in centres with all children in need of social protection, but another service helps them in their specific procedures. As an example, since 2005, Forum réfugiés-Cosi has carried out missions to provide information, legal support and assist in the

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

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

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

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

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

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

298 Information on the various schemes for unaccompanied minors is available at: http://bit.ly/1JP5kiG.

299 *Ibid*.

referral of hundreds of asylum seeking unaccompanied minors arriving in the **Rhône** *département*. The OFPRA leaflet targeted to unaccompanied asylum seeking children lists a number of specialised NGOs providing support.[300]

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

In its opinion from June 2014, the CNCDH regrets the lack of investment by French authorities in specialised reception facilities for unaccompanied minors. The Circular and Protocol of 31 May 2013 do not provide anything in terms of reception.

According to a study published by UNHCR and the Council of Europe,[301] insufficient and inappropriate reception conditions for unaccompanied asylum seeking children in France affects the effective access of these persons to a fair asylum procedure as it hinders the possibility to prepare and lodge an asylum application. While the overall reception system for asylum seekers is currently being revised, these persons, to date, often have to stay in hotel rooms, as the child specific facilities are overcrowded.[302] This situation is aggravated when these children turn 18 since they have to leave their hotel rooms or reception centres. The only way for them to stay in facilities dedicated to children is to have a temporary contract with the *département* ("*Contrat Jeune Majeur*") but it is established upon discretion of the *département* and most of them do not facilitate the conclusion of such contracts.

After his visit to France in September 2014,[303] Nils Muižnieks, Council of Europe Commissioner for Human Rights, also expressed his concerns that many asylum seekers and unaccompanied migrant minors do not have access to basic reception facilities and find themselves in emergency accommodation centres which are not suited to their situation, if not on the street, like a number of homeless Afghan asylum seekers.

8. Provision of information

The provision of information for asylum seekers accommodated in reception centres (CADA) about the modalities of their reception is governed by the Circular on the missions of CADA centres of 3 November 2015.[304] Upon admission in the CADAs, the manager has to deliver to the asylum seeker any useful information on the conditions of his or her stay in the centre, in a language that he or she understands and in the form of a welcome booklet. These modalities can vary in practice from one centre to the other. In any case, core information about procedural rights during the asylum procedure is shared with accommodated asylum seekers on a regular basis and upon request if necessary. Each centre also has its own information procedures. Generally, in a CADA managed by Forum réfugiés-Cosi, for instance, the asylum seeker is informed about these legal reception provisions through the residence contract and operating rules he or she signs upon entry in the reception centre. On this occasion, an information booklet on the right to health is handed over to the asylum seeker. As some

300 OFPRA, *Guide de l'asile pour les mineurs isolés étrangers en France*, 30 April 2014. This list includes: Centre enfants du monde (Cem – Croix-rouge française); COaLLia - Service d'accompagnement des mineurs isolés étrangers (SAMIE) ; Ftda (France terre d'asile) permanence d'accueil et d'orientation des mineurs isolés étrangers ; association infomie ; pôle d'évaluation des mineurs isolés étrangers (pemie – Croix-rouge française).

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

302 For example, in Strasbourg, at the time of the visit (November 2013), 132 unaccompanied and separated asylum-seeking children were staying in hotels; some of them had been there for over 18 months.

303 Council of Europe, *Report by Nils Muiznieks after his visit to France from 22 to 26 September 2014, 17 February 2015*, available at: http://bit.ly/1Vxrooq.

304 Decree N° INTV1525114A of 3 November 2015 on missions' statement of CADAs.

asylum seekers do not have easy access to written information, collective information sessions through activities are also organised in reception centres managed by Forum réfugiés-Cosi.

9. 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 introduced an asylum application in an administrative detention centre or who are under house arrest, for instance asylum seekers under Dublin procedure (see Chapter on Detention of Asylum Seekers).

The introduction of the national reception scheme with the reform of the law on asylum of 29 July 2015 will command a reception centre to asylum seekers, taking into account as much as possible the vulnerability assessment made by OFII. The Prefecture where asylum seekers apply for asylum will not determine the area where reception will be offered. Moreover, if the asylum seeker refuses the OFII accommodation proposal, he or she will not be entitled to material reception conditions.

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

B. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market		
1. Does the law allow for access to the labour market for asylum seekers?	☒ Yes	☐ No
❖ If yes, when do asylum seekers have access the labour market?	9 months	
2. Does the law allow access to employment only following a labour market test?	☐ Yes	☒ No
3. Does the law only allow asylum seekers to work in specific sectors?	☐ Yes	☒ No
❖ If yes, specify which sectors:		
4. Does the law limit asylum seekers' employment to a maximum working time?	☐ Yes	☒ No
❖ If yes, specify the number of days per year		
5. Are there restrictions to accessing employment in practice?	☒ Yes	☐ No

Access to the labour market is allowed only if OFPRA has not ruled on the asylum application within 9 months after the registration of the application and only if this delay cannot be attributed to the applicant.[305] In this case, the asylum seeker is subject to the rules of law applicable to third-country national workers for the issuance of a temporary work permit.[306] This is also the case where an appeal is brought before the CNDA, without any waiting period, and where the asylum seeker has obtained the renewal of his or her temporary residence permit.[307]

305 Article L.744-11 Ceseda, as amended by the Law of 29 July 2015.
306 Article R-742-2 Ceseda.
307 Article R-742-3 Ceseda.

In reality, asylum seekers have very limited access to the labour market, due to a number of constraints. Prior to being able to work, the applicant must have sought and obtained a temporary work permit. To obtain this work permit, the asylum seeker has to provide proof of a job offer or an employment contract. The duration of the work permit cannot exceed the duration of the residence permit linked to the asylum application (3 months). It may possibly be renewed.

The competent unit for these matters is the Regional Direction for companies, competition, consumption, work and employment (DIRECCTE) at the Ministry of Labour. In any case, the employment situation also puts constraints on this right. In accordance with Article R341-4 labour Code, the Prefect may take into account some elements of assessment such as "the current and future employment situation in the profession required by the foreign worker and the geographical area where he or she intends to exercise this profession", to grant or deny a work permit. In France, since a decree from January 2008, 30 fields of work are experiencing recruitment difficulties which justifies allowing third country nationals to work in these without imposing restrictions. These professions are listed by region – only 6 professions are common to the whole country.[308]

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,[309] this permit is delivered without conditions to all unaccompanied children, except when they are in asylum procedure due to limitations applied to all asylum seekers.[310] It means that it is more difficult to obtain a permit for a child who is an asylum seeker; that is why some children do not want to ask for asylum.

2. Access to education

Indicators: Access to Education		
1.	Does the law provide for access to education for asylum-seeking children?	☒ Yes ☐ No
2.	Are children able to access education in practice?	☒ Yes ☐ No

While no provision of the Education Code covers the particular case of children of asylum seekers, the law provides that they are subject to compulsory education as long as they are between 6 and 16 years old,[311] on the same conditions as any child. Primary school enrolment can be done at the local town hall. Enrolment in a secondary school (high schools) is made directly to the institution closest to the place of residence of the child. If the children seem to have a sufficient command of the French language, the evaluation process will be supervised by a Counselling and Information Centre ("*Centres d'information et d'orientation*") (CIO). This State structure is dedicated to the educational guidance of all students.

When the children are not French-speaking or do not have a sufficient command of writing the language, their evaluations fall under the competency of the Academic Centre for Education of Newcomers and Travellers Children (CASNAV).[312] The test results will enable teachers to integrate the child within the dedicated schemes e.g. training in French adapted to non-native speakers ("*français langue étrangère*") (FLE) or initiation classes.

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

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308 Ministerial Order of 18 January 2008 on the issuance of work permits to third-country national workers, NOR IMID0800328A, available in French at: http://bit.ly/1LWfeQd.
309 Article L.5221-5 Ctrav.
310 They do not have the right to work except if the length of the procedure is more than 9 months.
311 Article L131-1 Education Code.
312 See Circular n° 2012-143, 2 October 2012.

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

Finally, asylum seeking children with special needs are faced with the same difficulties as children with special needs in general. Access to trained and specialised staff ("*auxiliaires de vie scolaire*") tasked with supporting these children during their education in regular schools is very limited. For example, on 10 March 2014, the Committee of Ministers of the Council of Europe adopted a resolution tackling the issue of the difficult schooling of children with autism in France.[313]

According to a March 2014 report from the CNCDH, access to education remains a concern for unaccompanied children, in particular those who are not taken charge by the competent public service and have to care for themselves. In a recent study,[314] the Council of Europe and UNHCR indicated that unaccompanied and separated children arriving after the age of 16 are only given access to education if places are available. Some of them arrive without ever having been to school, so they often cannot read or write. In this case it is extremely difficult to integrate them into the mainstream education system. There is no access to free language classes, as in some other countries, either. Sometimes, social workers in the facilities manage to make appropriate arrangements on an ad hoc basis.

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

C. 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

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

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

Asylum seekers under the regular procedure, like any other third-country nationals below a certain income level, have access to healthcare thanks to the universal healthcare insurance (CMU) system.[315] Asylum seekers are exempted from the 3 month residence requirement applied to other third-country nationals. The request to benefit from the CMU is made to the social security services (CPAM) of the place of residence or domiciliation. The asylum seeker must submit documentary evidence of the regularity of their stay in France, marital status and the level of their resources.

Access to the CMU insurance is provided for free if the annual resources of the claimant do not exceed €9,534 per household.[316] In the absence of an official document attesting the level of resources, the claimant may make a sworn statement on the level of his or her resources.

Before the reform, asylum seekers under an accelerated procedure or Dublin procedure were not eligible to the CMU because they did not have a temporary residence permit. They could benefit from State medical aid (AME).[317] However, as both asylum seekers under accelerated procedure and Dublin procedure are granted an asylum claim certification they could in theory benefit from the CMU. At the time of writing, no legal provision has been provided on this issue. It remains to be seen in practice whether the CMU will be granted to these asylum seekers or not. This medical aid is a social benefit for migrants who are not granted leave to remain on the territory, which enables the beneficiaries to receive free treatments in hospitals as well as in any doctors' offices.[318]

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

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

In 2006, the Comité médical pour les exiles (Comede) a specialised NGO, the Health Ministry and the National Institute for Prevention and Health Education (INPES) published a handbook to help migrants understand the French public health care system. This handbook is available in 22 languages (through bi-lingual presentation) and includes a lot of practical information on access to health care in France.[319]

As a general rule, difficulties and delays for an effective access to healthcare vary from one city to the other in France. Access to the CMU is going well in the **Rhône** Department (effective within a month), while there are long waiting periods to obtain access to the CMU in **Nice** (3 months in early 2014). The NGO Doctors of the World has reported that among the 2,226 asylum seekers they had received in their health centres (Caso) in 2012, only 11% of them were benefiting from the coverage of health insurance.[320] The main obstacles mentioned were administrative difficulties, a lack of awareness of their rights and the language barrier. 28% of them had declared having renounced to treatment during the past 12 months.

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315 Article L-380-1 of the Social security code. This applies also to Dublin returnees if they are treated under the regular procedure.

316 Upper limit set for the period between 1 October 2013 and 30 September 2014.

317 Decree of 28 July 2005 on the modalities of admission of requests for state medical aid (Décret n°2005-860 du 28 juillet 2005 relatif aux modalités d'admission des demandes d'aide médicale de l'Etat).

318 Ministry of Interior, *Social Rights of Asylum Seekers*, available at: http://bit.ly/1EvEcCF.

319 An update of these handbooks was provided on 27 August 2013 but is available only in French at the moment. See: http://bit.ly/1D2wZoP.

320 Observatory of access to health care – report 2012, French mission – Doctors of the world, October 2013.

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 CMU and tend to refuse booking appointments with them even though these refusals of care can in theory be punished.[321]

The Observatory for the right to health of foreigners ("*Observatoire du droit à la santé pour les étrangers*") (ODSE) sent a letter to the Health Minister Marisol Touraine on 21 February 2014 to alert her on a worrying situation in the **Seine Saint Denis** *Département*. The NGO has obtained an oral confirmation that an internal note of the health insurance services (CPAM) instructed its services not to work on the state medical aid (AME) requests lodged and not yet processed on 6 December 2013. The NGO strongly denounced this destocking technique that constitutes a serious denial of the rights of persons in precarious situations.[322]

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

In 2012, 84% of asylum seekers followed by the Comede declared having been victims of violence (30% of acts of torture and 17% of gender-related violence).[323]

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

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

The "regular" health system cannot currently cope with this adapted care for victims of torture and political violence. These regular structures lack time for consultations, funds for interpreters and training for professionals. The White Paper published by the association Primo Levi in June 2012 highlights the disparity between care supply and the demand from this population which is off-track for regular health priorities. Centres managed by NGOs are also often over-subscribed. According to the white paper, only 6,000 people were receiving appropriate support out of a total of 50,000 persons estimated to have been affected by torture (minimum estimation among the number of refugees living in France: 160,500 in 2010).[324]

To make up for this deficiency, Forum réfugiés-Cosi set up the first mental health centre (called ESSOR) in 2007 in the **Rhône** area specialising in the treatment of and support to victims of torture and trauma resulting from the conditions of their exile. In 2014, 4,717 appointments have been conducted in this centre that provides a multidisciplinary approach where a doctor, psychologists, a physiotherapist and an art-therapist offer a comprehensive and multifaceted care to patients. An important feature of the proposed treatment is to allow the patient to express themselves in their own language, through interpretation.

321 Circular DSS n° 2001-81, 12 February 2001 on the care refusal for beneficiaries of the CMU.
322 ODSE, *Open Letter to Marisol Touraine*, 21 February 2014, available in French at: http://bit.ly/1HhnvtJ.
323 Doctors of the World, *Observatory of access to health care – Report 2012, French mission*, October 2013.
324 Primo Levi Association, *Livre blanc* (White Paper), June 2012, available in French at: http://bit.ly/1gpDRaR.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention	
1. Asylum seekers lodging a claim in detention in 2014:[325]	1,252
2. Number of asylum seekers in detention at the end of 2015:	Not available
3. Number of detention centres:	42
❖ Administrative detention centres (CRA):	25
❖ Administrative detention places (LRA):[326]	17
4. Total capacity of detention centres in 2014 :	2,003

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

In 2014, 1,252 third-country nationals lodged an asylum application while in administrative detention, a 16% increase compared to 2013 (1,078).[327] Among the 10 first nationalities represented among the 21,971 third country nationals being detained, 3 of them are also top nationalities of asylum seekers: Albanians (2,134, 8.9%), Afghans (594, 2.5%) and Eritreans (520, 2.2%).[328] Most asylum seekers present in administrative detention centres are either third-country nationals who lodged a claim while being detained or rejected asylum seekers who ask for a subsequent examination of their asylum claim. The latter represented 31% of the total number of claims introduced in detention centres (391), a 27% increase compared to 2013. However, newly arrived asylum seekers can be arrested and placed in administrative detention, in particular in the Paris region and in border regions. This can happen when they have started the registration process of their asylum claim and then have gotten arrested pending the official confirmation of this registration. Indeed, in the Paris region, these procedures can take several weeks through waiting for a registered address through an association or for the appointment at the Prefecture, before a temporary residence permit is issued (see section on Registration). These asylum seekers do not always have the necessary documents proving their pending registration with them when they get arrested. As a result, a removal decision can be taken and the person is placed in administrative detention and his or her claim may be processed from there. In practice, certain administrative courts order the release of such asylum seekers upon presentation of proof of steps taken on the territory to have their claim registered,[329] but this is far from being automatic.[330]

Overall, France is one of the EU countries that detain foreign nationals the most, far more than other Member States. Indeed, according to a study from the European Network on Migration (EMN), in 2013 45,377 foreign nationals were detained in France, compared to 9,020 in Spain, 4,309 in Germany and 2,571 in the UK.[331] However, compared to some other EU countries, the common practice is not to detain asylum seekers.

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325 Source; OFPRA, *2014 Activity Report*, 10 April 2015.

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

327 OFPRA, *Activity report 2014*, 101.

328 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014 (Administrative detention centres and facilities, Report 2014)*, 19 June 2015.

329 Administrative Court of Versailles, Decisions of 8 April 2015 and 31 August 2015.

330 See more detailed information on page 27-28 of the report: Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2012 (Administrative detention centres and facilities, Report 2012),* 4 December 2013.

331 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014 (Administrative detention centres and facilities, Report 2014),* 19 June 2015.

There are 25 CRA and 17 administrative detention places (LRA)[332] on French territory (including in overseas departments). This amounts to a total of 2,003 places.[333] Article R553-3 Ceseda foresees that each centre's capacity should not exceed 140 places. The maximum capacities for these centres are not reached in mainland France at one point in time but the turnover is very high. However, even if the capacities are not exceeded, when the centres are almost full, this causes a lack of privacy which can create tensions.

However, there is a very serious situation of overcrowding in **Mayotte**, an overseas island close to Madagascar. Initially planned for 60 people, this centre has been used to detain around 140 persons for several years following orders from the local authorities. Through an order of 19 April 2012, the Prefecture has made this capacity official, thereby legitimising a chronic over-population of the CRA. A new prefectural order dated on 20 December 2012 has set the capacity to 100 persons (1,37m^2 per person).[334] This situation is to evolve with the opening of a new detention centre in Mayotte, meant to replace the old one. Its capacity is of 136 persons.

The reform of the law on asylum provides that a foreign national who applies for asylum from detention can only be maintained in detention if the Prefecture states in a written and motivated decision that the asylum claim has only be introduced to prevent a notified or imminent order of removal.[335] The decision to maintain a seeker in administrative detention can be challenged before administrative courts within 48 hours. It has suspensive effect. Foreign nationals who introduced a claim from administrative detention and are released are given an asylum claim certification and their claim will be normally processed. Consequently, while most of the foreigners who apply for asylum while in administrative detention were channelled into the accelerated procedure, the practice is expected to change with the entry into force of the new provision as of 1 November 2015.[336]

This constitutes a real improvement, as for people seeking asylum in administrative detention, it is difficult to prepare such an application in a place of confinement. There is very limited time to develop the reasons for the claim, stressful conditions prior to the interview with OFPRA, difficulties to locate and gather the necessary evidence etc. In addition, for claims channelled into the accelerated procedure, OFPRA has 96 hours to examine the application.[337] This extremely brief period of time drastically reduces the chances of benefiting from an in-depth examination of the claim. Moreover, there have been several cases demonstrating that the 96 hours delay is not always respected by OFPRA,[338] thus unlawfully extending the detention period. Therefore, only the CNDA could provide an in-depth examination of the claim. However, when the asylum seeker's detention is confirmed by the administrative court, he or she will not benefit from a suspensive effect of his or her appeal of a negative decision given by OFPRA before the CNDA. He or she can be removed to his or her country of origin even though the CNDA has not given its final decision on the case. Consequently, the asylum seeker in detention does not benefit from an effective remedy nor from an in-depth examination of his or her claim. France has been condemned by the European Court for Human Rights in 2012 for violation of Article 13 on the right to an effective remedy in these particular circumstances.

In a December 2014 information note, the Minister of Interior already called for an individual assessment of each case by the Prefects in order to decide precisely whether the asylum seeker in

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

333 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014 (Administrative detention centres and facilities, Report 2014),* 19 June 2015.

334 Arrêté préfectoral du 20 décembre 2012 modifiant l'arrêté du 22 janvier 2004 portant création d'un CRA à Pamandzi (Prefectoral Order of 20 December 2012 amending the order of 22 January 2004 on the creation of a detention centre in Pamandzi –Mayotte), available in French at: http://bit.ly/1TlfCsA.

335 Article L.556-1 Ceseda, as amended by the Law of 29 July 2015.

336 Decree n°1166 of 21 September 2015.

337 Article L.556-1 Ceseda, as amended by the Law of 29 July 2015.

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

administrative detention should be delivered a temporary residence permit and therefore released from detention and channelled into the regular procedure, or not – and therefore channelled into the accelerated procedure.[339]

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

Third-country nationals are placed in administrative detention centres only for the purpose of removal.[340] While persons who claim asylum during their administrative detention were previously not automatically released as a result of the asylum application, the reform of the law on asylum states that they have to, except if, based on a motivated and written decision, the Prefect considers that the claim aims solely to avoid an imminent removal.[341] Remaining cases of detained asylum seekers should be examined through an accelerated procedure which implies that OFPRA has to issue a decision within 96 hours. If this is not possible to OFPRA, detained asylum seekers have to be released.[342]

In an information note prior to the reform,[343] the Minister of Interior has called for an individual assessment of each case by the Prefects in order to decide precisely whether the asylum seeker in administrative detention should be delivered a temporary residence permit or not (and therefore released from detention in case of issuance). Even in the case where the asylum seeker is refused a temporary residence permit (and as a consequence he or she is channelled into the accelerated procedure), continued placement in administrative detention should not be automatic and a proportionality and necessity test should be applied with due consideration given to alternatives to detention such as house arrest. The provisions introduced by the reform are expected to limit the number of detained asylum seekers.

Now that the appeal before the CNDA has a suspensive effect for asylum seekers channelled into the accelerated procedure, it shall not be legally possible to place such asylum seekers in administrative detention from the moment they receive a negative decision from OFPRA and a return decision has consequently been issued.[344] In practice, it has not been the case that asylum seekers were detained pending a decision from the CNDA.

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

340 Article L554-1 Ceseda.

341 Article L556-1 Ceseda, as amended by the Law of 29 July 2015.

342 *Ibid*.

343 Note d'information du 23 décembre 2014 relative aux demandes d'asile présentées par des étrangers placés en rétention administrative en vue de leur éloignement. Suites à donner à la décision n°375430 du Conseil d'Etat du 30 juillet 2014, NOR : *INTV1430936N*.

344 Article L551-1(6) Ceseda.

Asylum seekers under the Dublin procedure can also be placed in administrative detention with a view to the enforcement of their transfer once the readmission decision has been notified. However, in practice, they are placed less and less frequently in administrative detention and Prefectures resort increasingly frequently to house arrest for asylum seekers under the Dublin procedure. In 2014, 399 asylum seekers were detained in view of their removal to another EU country under the Dublin III procedure.[345]

Their number shall increase in the coming months and years as the Law on asylum of July 2015 allows Prefectures to put asylum seekers under the Dublin procedure under house arrest during the duration of the procedure for the determination of the responsible Member State.[346] The house arrest decision can last 6 months and can be renewed once for the same period. It has to be motivated. The Prefecture is also allowed to keep the passport or identity document of the asylum seeker.

Even though the Council of State has given some interpretation of the notion of the risk of absconding in the context of Dublin III Regulation, criteria are not provided by law. The Council of State ruled in April 2014 that an asylum seeker who had been sent only one summons and had appeared before the Prefecture to explain that he did not have stable housing, could not be considered as "absconding" for the purposes of extending the transfer period to 18 months as per Article 29(2) of the Dublin III Regulation.[347]

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

2. Alternatives to detention

Indicators: Alternatives to Detention	
1. Which alternatives to detention have been laid down in the law?	☐ Reporting duties ☐ Surrendering documents ☐ Financial guarantee ☒ Residence restrictions
2. Are alternatives to detention used in practice?	☒ Yes ☐ No

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

(a) House arrest in the case of an absence of reasonable prospects of removal:[348] The law foresees house arrest for a maximum period of six months (renewable once or several times, up to a total limit of one year) when "the foreigner can justify being unable to leave the French territory or can neither go back to his country of origin, nor travel to any other country" and that as a result, the execution of the removal measure is compromised on the medium or long term.

(b) House arrest as an alternative to administrative detention:[349] The Prefect can put those people who can produce representation guarantees and whose removal is postponed only for technical reasons (absence of identification, of travel documents, or of means of transport) under house arrest for a period of 45 days, renewable once. When foreigners subjected to a return decision

345 This data is provided by Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte.
346 Article L.742-2 Ceseda, as amended by the Law of 29 July 2015.
347 Council of State, *Ministry of Interior v M.*, Decision n°377738, 24 April 2014.
348 Article L561-1 Ceseda.
349 Article L561-2 Ceseda.

and who are accompanied by their minor children, do not have a stable address (decent housing within legal conditions), it is possible to envisage house arrest in hotel-like facilities.

(c) House arrest with electronic monitoring for parents of minor children residing in France for 45 days (this measure is not implemented as far as we know).[350]

The law does not foresee any obligation to prove the impossibility to set up alternative measures before deciding to detain third-country nationals. If the person can present guarantees of representation and unless proved to the contrary, house arrest should be given priority but a necessity and proportionality test is not really implemented. This is only a possibility left to the discretion of the administration. According to a July 2014 information report from the Senate,[351] this possibility is rarely used (1,595 house arrests in 2013 against 24,173 placements in administrative detention centres). The draft immigration law currently under review in France suggests strengthening conditions of surveillance and control for foreign nationals under house arrest. For instance, the draft law proposes that foreign nationals under house arrest could be accompanied by the police to the *Consulat* in order to get the necessary travel documents for their removal.

While calling for an increased use of alternatives to administrative detention, many NGOs as well as the July 2014 report from the Senate have raised some concerns with regard to the (lack of) access to legal and social support for people placed under house arrest.

Finally, regarding more specifically asylum seekers, in the July 2014 information note mentioned above, the Minister of Interior instructs the Prefects that even when they refuse to deliver a temporary residence permit to asylum seekers (and therefore channel them into the accelerated procedure), their continued placement in administrative detention should not be automatic and a proportionality and necessity test should be applied with due consideration given to alternatives to detention such as house arrest.[352]

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?	☐ Frequently ☒ Rarely ☐ Never
❖ If frequently or rarely, are they only detained in border/transit zones?	☒ Yes ☐ No
2. Are asylum seeking children in families detained in practice?	☐ Frequently ☒ Rarely ☐ Never

OFPRA is competent to define specific modalities for processing asylum claims when required to guarantee the asylum seeker's rights considering his or her particular situation or vulnerability.[353] OFPRA can also decide not to process a claim under accelerated procedure if the asylum seeker needs specific procedural guarantees to be applied.[354] These provisions apply to asylum seekers in detention. Their vulnerability has to be taken into account.

350 Article L562-2 Ceseda.

351 Senate, *Rapport d'information n°773 du Sénat sur les centres de rétention administrative par Mme Assassi et M. Buffet*, 23 July 2014.

352 Note d'information du 23 décembre 2014 relative aux demandes d'asile présentées par des étrangers placés en rétention administrative en vue de leur éloignement. Suites à donner à la décision n°375430 du Conseil d'Etat du 30 juillet 2014, NOR : *INTV1430936N*.

353 Article 723-3 Ceseda, as amended by the Law of 29 July 2015.

354 *Ibid*.

In theory, unaccompanied children cannot be returned and therefore cannot be detained as a consequence; although they may be transferred under the Dublin Regulation. Nevertheless, it is important to stress that in 2014, the five NGOs working in administrative detention centres met 97 detained persons who declared themselves to be children. 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.[355]

Moreover, it appears that the Prefectures are more and more prone to resort to these alternative measures for families, Since the 6 July 2012 Circular on the removal of families accompanied by children,[356] enacted following the ECtHR's ruling in *Popov v France*,[357] Prefects are encouraged to make house arrest the rule, and limit (but not prohibit) the placement of children with their families in administrative detention to a last resort measure; it is important to note that the circular is not applicable to Mayotte. This principle was already foreseen in the Ceseda following the 2011 reform of the law.

An important drop in numbers of placements of families with children in administrative detention has been noticed since 2011, and was confirmed in 2013.[358] However, there has been a new increase of detained families with children in 2014.[359] The five NGOs working in the administrative detention centres recorded a total of 24 families, not necessarily asylum seekers, detained in these centres in 2014 (for an average length of stay of 2.6 days). Overall in 2014, 16 out of 24 families have been released or put under house arrest, 6 families were expelled to a third country and 2 asylum seeking families were transferred to another EU country.[360] The number of families detained in **Mayotte** in unknown. However, neither the CRA nor the LRA of Mayotte are entitled to receive families even though they do and have a separate room to detain them.[361] Moreover, in Mayotte, children are often detained with adults who are not their parents. After the Administrative Court of Mamoudzou had approved this practice, the *Conseil d'Etat* has twice condemned the *Prefet* of Mayotte, reminding him that it is compulsory to verify the parenthood link between a child and the adult he or she is linked to.[362]

The placement of children in administrative detention has also increased in 2014.[363] In 2014, 5,692 children have been detained compared to 3,608 in 2013, which constitutes an increase of 57%. This increase is mainly due to a 59% increase of detained children in **Mayotte** (from 3,512 to 5,582) while the increase was of 16% in mainland France (from 95 to 110 children detained). In mainland France, 3 babies aged 1 month to 1 year have been detained in CRA with their families.[364]

The Rights' Defender, Jacques Toubon, has released an opinion on the draft legislative proposal on the reform of the immigration law in which he recommended that the law strictly forbid the detention of children, be they accompanied or not.[365]

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355 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade et Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014 (Administrative detention centres and facilities, Report 2014)*.

356 Circulaire INTK1207283C of 6 July 2012 sur la mise en œuvre de l'assignation à résidence prévue à l'article en alternative au placement des familles en rétention administrative (Circular on the implementation of house arrest as an alternative to the administrative retention of families).

357 *Popov v France*, Application Nos 39472/07 and 39474/07, Judgment of 19 January 2012.

358 Except for Mayotte where 3,512 children have been held in administrative detention in 2013.

359 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade, Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014* (Administrative detention centres and facilities, Report 2014).

360 *Ibid.*

361 *Ibid*.

362 Ordonnance of 5 Octobre 2014 and 9 January 2015. See Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade, Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014* (Administrative detention centres and facilities, Report 2014).

363 Since the status of children held in administrative detention is not regulated by law, they are in a legal vacuum.

364 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade, Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014* (Administrative detention centres and facilities, Report 2014).

365 Opinion of the Rights' Defender, n° 15-20, 2 September 2015, available in French at: http://bit.ly/1VysW1k.

Furthermore, a worrying trend of the administration is to opt for the administrative detention of one family member (usually the father) in the hope that this will put pressure on the rest of the family to depart. In March 2015, the Administrative Court of **Marseille** cancelled the administrative detention of an Armenian rejected asylum seeker whose two children were enrolled in school and who was suffering from severe psychological disorders following his experiences in his country of origin.[366]

A similar situation occurred in **Lyon** where a Serbian national from Albanian origin was placed in administrative detention while being in France for more than 5 years with his spouse and children. His two older children were successfully attending school and his third child was born in France in 2014. The Administrative Court of Lyon ruled in favour of the father and ordered his release from detention as well as the invalidation of his removal.[367]

4. Duration of detention

Indicators: Duration of Detention	
1. What is the maximum detention period set in the law (incl. extensions):	45 days
2. In practice, how long in average are asylum seekers detained?	12.3 days

As of 2011, foreign person can remain in administrative detention for a maximum of 45 days.[368]

The decision of placement in administrative detention taken by the administration is valid for 5 days. Beyond this period, a request before the Judge of Freedoms and Detention (JLD) has to be lodged by the Prefect to prolong the duration of the administrative detention.[369] This judge can order an extension of the administrative detention for an extra 20 days after the initial placement. A second prolongation for 20 days can only be granted under certain conditions, in particular if the persons deliberately obstruct their return by withholding their identity, the loss or destruction of travel documents[370] or the fact that despite the goodwill of the executing administration, the removal measure has not yet been finalised. Beyond this period of 45 days, any foreigner who has not been removed must be released. The reform of the immigration law currently discussed could modify the division of prolongation periods.

The length of stay of asylum seekers (those who have claimed asylum while in administrative detention centres) is difficult to assess but on average, third-country nationals remained 12.3 days in administrative detention centres in 2014.It even reached 18 days on average in the CRA of **Metz** and **Toulouse**.[371] There are no cases of persons detained beyond a period of 45 days but, in 2014, 323 third-country nationals have been detained until the 45th day.

However, 45.2% of expelled persons are expelled within the first 5 days of detention, so before the intervention of JLD. In the mainland, 83.1% of the persons expelled are expelled within the first 20 days, so 9 223 persons out of 11 093 expelled persons in total. Actually only 6% of intended removals have taken place between the 32nd day and the 45th day in 2014, which concerns only 2.8% of detained

366 Administrative Court of Marseille, Decision n°1502153, 23 March 2015.
367 Administrative Court of Lyon, Decision n°1506850 and 1506854, 3 August 2015.
368 Originally set at a maximum of 7 days, the length of administrative detention has been extended to 32 days in 2003 and to 45 days in 2011.
369 Article L552-1 Ceseda. The Judge of Freedoms and Detention (JLD) who, prior to the 2011 reform, used to intervene after 48 hours has seen its role greatly reduced since it now intervenes only at the end of the 5th day of detention. This makes possible the return of a person before the judicial court has had time to exert its control.
370 The person can also be prosecuted for obstruction to his or her removal on the grounds of non-communication of the document enabling the return.
371 Against 1.94 days overseas. The duration varies a lot according to the Prefectures. See Assfam et al, *Centres et locaux de rétention administrative, Rapport 2014* (Administrative detention centres and facilities, Report 2014).

persons.[372] Therefore, many stakeholders argue that prolonging the detention after 30 days does not significantly increase the chances of return being effectively carried out.[373] The General Controller of places of freedom deprivation, together with many French NGOs, has repeatedly called for a return to a maximum length of detention of 32 days.[374]

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

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

There are 25 CRA and 17 administrative detention place (LRA)[375] on French territory (including in overseas departments). This amounts to a total of 2,003 places.[376]

Administrative detention centres (CRA)[377]

CRA	Capacity	Persons detained in 2014
	Mainland France	
Bordeaux	20 (only for men)	256
Coquelles	79	2 098 (only men)
Hendaye	30 places, including 24 for men and 6 for women and families	324, including 46 women
Lille-Lesquin	86	1,597, including 127 women
Lyon-Saint Exupéry	112	1,900, including 5 children and 144 women
Marseille	136	1,831, including 40 women
Mesnil-Amelot	2 x 120, including 40 places for women and families (2 facilities)	3,870, including 390 women
Metz-Queuleu	98	875, including 80 women
Nice	38 (only for men)	1,252
Nimes	126, reduced to 66 since April	908, including 52 women

372 Assfam et al, *Centres et locaux de rétention administrative, Rapport 2014* (Administrative detention centres and facilities, Report 2014).

373 The "Fekl report" recommends to reduce the length of administrative detention to 30 days. Matthias Fekl *Report to the Prime minister*, "*Sécuriser les parcours des ressortissants étrangers en France*", 14 May 2013, 43 and 54; The CGLPL Annual Activity Report 2014 reminds the recommendation already expressed to reduce the length of administrative detention to 32 days, *"Le Controleur général des lieux de privations de liberté, Rapport annuel 2014"*, 5 February 2015.

374 General Controller of places of freedom deprivation, *Activity Report 2013,* 11 March 2014, available in French at: http://bit.ly/1FXNItl.

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

376 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014 (Administrative detention centres and facilities, Report 2014),* 19 June 2015.

377 *Ibid*.

	2014	(between April and December 2014)
Palaiseau	40 (only for men)	689
Paris-Palais de Justice	40 (only for women)	593
Paris-Vincennes	60 + 58 + 58 (three facilities)	3,677 (only men)
Perpignan	46	709 (between April and December 2014)
Plaisir	26	285
Rennes	70, including 12 places for women and families	795, including 36 women
Rouen-Oissel	72, including 19 places for women families	867, including 57 women
Sète	30	210 (between April and December 2014)
Strasbourg-Geispolsheim	35 (reduced to 31 since May 2014)	495, including 15 women
Toulouse-Cornebarrieu	126	948, including 190 women
	Overseas	
Guadeloupe	40	336, including 80 women
Guyane	38, including 26 places for men and 12 for women	2,308, including 230 women
Mayotte[378]	100	18,429
La Réunion	6	0[379]
Total	**1,810**	**49,537**

Places of administrative detention (LRA)[380]

LRA	Capacity	Persons detained in 2014
	Mainland France	
Val-d'Oise – Cergy-Pontoise	12	537
Val-De-Marne – Choisy-le-Roi	12	445
Savoie-Modane	8	433
Haut-Rhin – Saint-Louis	9	217
Corse-du-Sud - Ajaccio	6	163
Haute-Corse - Bastia	8	139
Doubs- Pontarlier	2	90
Indre-et-Loire - Tours	6	71
Finistère - Brest	4	62
Manche-Cherboug	7	45
Aisne - Soissons	4	39
Aube - Troyes	4	25
Indre - Châteauroux	2	12
Maine-et-Loire (temporary)	Not communicated	12
Eure-et-Loire - Dreux	1	9
Sarthe - Allonnes	8	0
	Overseas	
Mayotte – Pamandzi and Dzaoudzi (temporary)	40+60	1,381
Martinique (airport and Lamentin)	Not communicated	330
Saint-Martin	Not communicated	133
Total	**193**	**4,143**

[378] The new detention centre of Mayotte opened in September 2015 to replace the old one has a capacity for 136 persons.

[379] Even though no placements in the detention centre have been reported, 70 removals after arrest have occurred according to La Cimade. See Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014 (Administrative detention centres and facilities, Report 2014),* 19 June 2015.

[380] *Ibid.*

2. Conditions in detention facilities[381]

Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice? ☒ Yes ☐ No
   - ❖ If yes, is it limited to emergency health care? ☐ Yes ☒ No

2. Is access to detention centres allowed to
   - ❖ Lawyers: ☒ Yes ☐ Limited ☐ No
   - ❖ NGOs: ☒ Yes ☐ Limited ☐ No
   - ❖ UNHCR: ☐ Yes ☐ Limited ☒ No
   - ❖ Family members: ☐ Yes ☒ Limited ☐ No

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

Article R553-3 Ceseda frames the conditions of administrative detention. They must meet the following standards:

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

Men and women held in detention centres have separated living spaces ("*zones de vie*"). The set-up of the rooms varies from one detention centre to the other, ranging from 2 to 6 persons per room. Rooms are in any case never private and in some centres, the General Controller of places of freedom deprivation has found that the shared rooms did not have a distinct sanitary facility.[382]

Overall, the administrative detention conditions are deemed adequate in France (on the mainland) but there are quite important variations between centres. According to the General Controller of places of freedom deprivation, the sites' visits conducted in 2014 have shown really diverse conditions of detention.[383] The annual report produced by the 5 NGOs working in the administrative detention centres gives a specific description of the detention conditions in each of them.

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381 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014 (Administrative detention centres and facilities, Report 2014)*, 19 June 2015.

382 General controller of places of freedom deprivation, *Activity Report 2013,* 11 March 2014.

383 General controller of places of freedom deprivation, *Activity Report 2014*.

Administrative detention centres (CRA)[384]

CRA	General conditions of detention or specific elements to notice	Sanitation and food	Collective spaces
Mainland France			
Bordeaux	CRA completely renewed in 2011 after a fire has damaged the detention centre in 2009	• 2 showers and 2 toilets • 3 nurses on site everyday, 2 doctors part time	• Canteen with 2 TVs • One TV room • 20m² secured outdoor patio with table-soccer game, free access
Coquelles	The detention centre in divided into 3 zones. It has been opened 15 years ago and is dilapidated. Numerous technical problems have been reported. The detention centre is the closest one to Calais	• 3 to 4 showers per zone and 1 toilet per room • Toilets regularly clogged • 1 nurse on site everyday + 4 nurses and 2 doctors part time • Rats and cockroach found in collective areas • Poor qualitative and quantitative food provided	• 2 to 5 beds per room (25 rooms + one confinement room) • 1 TV per zone • 1 collective space with table-soccer game and a phone box • Outdoor courtyard, free access
Hendaye	The detention centre is located within the police premises. It has the particularity to be located at the border with Spain	• 2 nurses 6/7 days, 1 doctor part time • Access to hygiene products • Perishable products such as fruits are forbidden	• 15 rooms of 20m² with 2 beds in each • TV room and board games • Outdoor courtyard with a table-soccer game and basketball field, free access
Lille-Lesquin	Many transfers from the Coquelle detention centre have been observed, thus increasing the number of persons detained in Lille-Lesquin. No family has been detained in this centre for 3 years now	• 45 showers and toilets • 2 nurses, 4 doctors • Poor qualitative food, no halal food	• 42 rooms with 2 to 4 beds • 180m² hallway with a bench and a fountain • Outdoor courtyard with a table tennis and a playground slide
Lyon-Saint Exupéry	The detention centre is located in a former low cost hotel. Isolation and humidity problems are regularly encountered. Works are regularly done to improve conditions. Video conferencing for interviews with OFPRA is available and used as well for detainees from Nîmes detention centre.	• 1 shower and 1 toilet per room • 3 nurses and 1 doctor but no permanent access to the medical unit	• 28 rooms with 4 beds and 1 TV each and 1 confinement room • 2 collective rooms with 3 tables tennis • 2 outdoor courtyards (1 big, 1 smaller) partly planted with grass, free access
Marseille	The detention centre has been designed as a prison, there is no free circulation (police escort). A	• 1 shower and 1 toilet per room • 4 nurses and 3	• 69 rooms with 2 beds per room • TV room, canteen

384 *Ibid*.

	"free circulation zone with controlled access" is being constructed. Detention conditions are degraded: leakage (sometimes floods of common areas), bad isolation, dirtiness, etc. Video conferencing for interviews with OFPRA is available and used as well for detainees from Nice detention centre.	doctors • Regular self-aggressive situations have been reported to protest against detention conditions (especially food) and ill-treatment from police officers : self-injury and hunger strikes • Detainees often complain about difficulties to shave properly and keep themselves clean	and walking zone, free access during the day • Outdoor courtyard covered by wires, free access during the day
Mesnil-Amelot	The detention centre is geographically close to 3 prisons. Therefore a number 10% of detainees are ex-prisoners. Detention conditions are precarious: poor hygienic conditions, deteriorating infrastructures, limited equipment (not replaced when not functioning any more), dirtiness, no activity proposed etc.	• 2 showers and 4 toilets for 20 people • 6 nurses, 5 doctors and 1 psychiatrist twice a week • Sheets are changed once a month • No food or hygienic products for babies and children are provided to families	• 120 rooms with two beds in each of the 2 buildings + 1 confinement room per building • 2 collective spaces of 16.5m² per building with 1 TV • 1 80m² courtyard per building, free access • Playground for children
Metz-Queuleu	Since the beginning of 2014, asylum seekers (including detained asylum seekers from Strasbourg Geispolsheim) can have their interview with OFPRA conducted through videoconferencing.	• 4 showers and 4 toilets per building • 3 nurses and 2 doctors consulting on demand • Several cases of suicide attemps reported	• 7 buildings of 14 rooms each in which there are 2 beds • Canteen and TV room in each building • Large outdoor courtyard separated in two zones (men and women/families) with a playground for children and football and basketball fields
Nice	The detention centre is dilapidated and deteriorated. Shared areas are dirty and problems with the air conditioning and the heating have created difficult conditions of living. Several cases of personal belongings having been stolen have been reported.	• 8 showers and 9 toilets • 1 nurse every day and 1 doctor part time during the week • Insufficient quantity of food, no halal food : issue of many tensions between the detainees and the police	• 7 rooms with 7 beds in each • 1 shared room with a TV, free access during the day • 1 outdoor secured courtyard. Nothing in there. Ongoing works to put wires above.
Nimes	The detention centre is a recent building, built on two floors. The	• 1 shower and 1 toilet per room	• 64 rooms with 2 beds each

	detention conditions are similar to those in prison and detainees report that dirtiness, boredom, lack of intimacy, stress and tensions prevail. The heating is not functioning well therefore temperatures are quite low in winter.	• 1 nurse everyday and 1 doctor everyday during the week • Detainees often complain about difficulties to shave properly	• 2 TV rooms and 2 rooms with a table-soccer game • 1 fenced courtyard built in concrete with a tennis table
Palaiseau	The detention centre is closed to a prison. 32% of the detainees in 2014 were former prisoners. In addition a lot of detainees are under the Dublin procedure. The detention centre is never full.	• 1 shower and 1 toilet per room • 1 nurse everyday, 1 doctor 2 half-days a week	• 20 rooms with 2 beds each + 1 confinement room • 1 TV room and 1 collective room with a TV and a table-soccer game • 1 outdoor courtyard
Paris-Palais de Justice	Most detainees are women from Roumania and Bulgaria arrested for soliciting (*racolage*). No specific procedure is in place for victims of trafficking. No alternative to detention are proposed.	• 6 showers and 6 toilets • 3 doctors and 8 nurses	• 14 rooms with 2 to 4 beds in each • 1 collective room with a TV and 1 console • 1 tiny courtyard
Paris-Vincennes		• 10 showers and 10 toilets per building (3 buildings) • 3 doctors, 8 nurses everyday	• 2 to 4 beds per room • 1 collective room with a TV and 1 console • 1 fenced courtyard with a tennis table
Perpignan	Recent building, clean and well maintained facilities.	• 3 showers and 3 toilets per building (5 buildings) • Nurses everyday and 1 doctor 3 times a week	• 23 rooms with 2 beds in each • 1 TV room • 2 outdoor courtyards built in concrete wth a football field and a tennis table
Plaisir	The detention centre was supposed to close in 2013 but in December 2014 it was announced that it was not a plan anymore. The detention centre is located within the premises of the police station. The direction to the CRA is indicated nowhere. In June 2014, violent acts against two detainees have been reported. Video conferencing for interviews with OFPRA is available.	• 1 shower and 1 toilet per room • 1 nurse everyday and 1 doctor 2 half-day in the week • Detainees are not allowed to bring food nor plastic bottle in their room • Meals are taken under the surveillance of a police officer	• 14 rooms with 2 beds per room • 1 canteen with a TV and a table-soccer game • 1 108m² fenced outdoor courtyard (also covered with wires)
Rennes	The detention centre is composed of 7 buildings.	• 16 showers and 18 toilets • 1 nurse everyday and 1 doctor 3 half-days a week	• 29 rooms with 2 beds per room + 2 family rooms for 4 to 8 people • 1 confinement room (set up in 2014) • 1 collective room with TV and a table-soccer game • 1 collective room per

			building with TV • 1 fenced and opaque outdoor courtyard with a basketball field and greenery areas.
Rouen-Oissel	The detention centre is located in the Londe-Rouvray forest, within the premises of the police station. No direct public transportation lead to the detention centre. The building is old but is globally well maintained even though there are regular water leaks (certain rooms are particularly moist). The heating is not functioning well in collective areas.	• 1 shower and 1 toilet per room • 3 nurses	• 14 rooms with between 2 and 6 beds + 2 confinement rooms • In the "men area" there are 1 table-soccer game, 1 table-tennis game and 2 rooms with TV • In the "women and family area" there is a 40 m² room for children with toys and a tennis-table game. There is also a TV room • In each area there is a small fenced outdoor courtyard
Sète	The detention centre is dilapidated. Works have been done in 2014 to improve insulation and plumbing (there was not all the time hot water) in particular. There are cockroaches in detainees' rooms.	• 1 shower and 1 toilet per room • 2 nurses and 1 doctor on demand • Meals are tensed and detainees complain that food is insufficient. No halal food.	• 13 rooms with 2 beds and 1 room for 4 people • 1 collective room of 50 m² with TV and a table-soccer game • 1 fenced, covered and opaque courtyard of 47m²
Strasbourg-Geispolsheim	Since 2014 the detention centre only hosts men.	• 12 showers and toilets • 3 nurses and 2 visits of a doctor per week	• 4 areas (3 for men and 1 for women closed on 21 May 2014) • 15 rooms with 2 beds + 1 room for disabled persons • 1 collective room with TV • Large outdoor courtyard with 1 table-soccer game and 2 table-tennis games, free access all the time
Toulouse-Cornebarrieu	The detention centre has been built in 2006. The buildings dilapidate quickly: problem with the heating, insulation and breaks in the walls. It is 15° in winter in the rooms. Video conferencing for interviews with OFPRA is available and used as well for detainees from Hendaye, Bordeaux, Sète and Perpignan detention centre.	• 1 shower and 1 toiler per room • 2 doctors and 3 nurses part time • Perishable products are forbidden • Several severe cases of psychological distress have been reported leading in some cases to suicide attempts	• 5 areas (3 for men, 1 for women and 1 for families • 61 rooms of 12m² (up to 20m² for family rooms) • 1 TV room • 1 200m² fenced and covered outdoor courtyard per area

Overseas			
Guadeloupe	Detention in degraded conditions and particularly poor medical follow-up.	• 5 showers + 3 toilets • 1 medic two hours everyday	• Canteen with TV, free access for men, on demand for women • Secure outdoor courtyard, accessible only on demand and in presence of the police
Guyane	In December 2014, works have been started to improve detention conditions in the centre	• 9 showers + 16 toilets • 1 medic on site everyday in the morning until 3 pm • The medical unit is separated and not easily accessible for persons detained, only with a police escort	• 12 rooms with no proper beds (concrete platforms with wood planks and tatami) • 2 secured outdoor courtyards closed during the night
Mayotte[385]	Overcrowded centre with poor, but improved, detention conditions. Forced removals before the intervention of the JLD occurred on a daily basis	• 1 sanitation area for families and 1 for men and women • 1 medic presents on site	• 3 shared rooms (1 for men, 1 for women and 1 for families) • 1 canteen • 1 outdoor courtyard for all with a playground for children, free access
La Réunion	The detention centre is located next to the airport in the premises of the police station. Foreign national being deported are rarely detained (0 in 2014, 3 in 2013) because they are being deported immediately after they have been arrested	• 2 showers and 2 toilers • Nurse or doctor on demand	• 2 rooms with 3 beds, TV and air conditioning in each • 1 kitchen with free access • 1 outdoor courtyard of 40 m² with 1 tennis table game

The state of the administrative detention centre in **Mayotte** is dramatically more concerning. On 20 February 2012, the Administrative Court of Mamoudzou found[386] that the conditions at the CRA in Mayotte were so bad that they represented inhuman and degrading treatment for the detainees. Conditions of detention have slightly improved in 2014 with the creation of a separated room for families, more sanitation facilities separated for men, women and families, while walls have been freshly painted, an outdoor courtyard has been opened up with toys for children and there are sufficient numbers of mattresses for all.[387] However, these mattresses are simply put on the floor in the three big rooms (one for men, one for women and one for families with children) that accommodate all persons detained in the CRA. This is not compatible with the French legislation according to which people in detention should be accommodated in collective room of maximum 6 persons. In order to put an end to this situation, the construction of a new detention centre in Mayotte has started in 2013. The new centre

385 In September 2015, a new detention centre has opened in Mayotte to replace the previous one (which living conditions are detailed in this table) which has been criticised and denounced on several occasions.

386 Administartive Court of Mamoudzou, Decision n° 1200106, 1200107, 1200108, 20 February 2012.

387 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade and Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014 (Administrative detention centres and facilities, Report 2014),* 19 June 2015.

has opened in September 2015 and the NGO Solidarités Mayottte will provide information and support to people in detention.

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

Sanitary and social support is provided by medical and nursing staff. Their availability varies from one centre to the other (from 2 days to 7 days a week). The care is given by doctors and nurses who belong to an independent hospital staff. They are grouped in medical administrative detention centres (UMCRA).[388] In principle, each person placed in administrative detention is seen by the nurse upon arrival. The person is seen by the doctor upon request or on the request of the nurses, in principle within 2 days of arrival. According to the 2014 report of the five NGOs working in CRA centres, some people suffering from serious psychological problems are held in detention centres.[389] The threshold to determine that a health status is incompatible with administrative detention seems to vary a lot depending on the doctors and the detention centres. In case of high-risk pregnancy, doctors of the UMCRA may provide a certificate stating the incompatibility of the health of the person with placement in administrative detention – but this is not automatic and this recommendation is not always followed by the Prefect. The same is true for the possibility of the doctors to consider that the health status of the person is incompatible with his or her removal if no appropriate treatment exists in the country of origin.

The practical problems observed regarding access to healthcare relate to a lack of consideration for psychological or psychiatric problems of the detainees. Dozens of suicide attempts are reported each year in these centres. Noting the weakness and the variations in the availability of psychiatric care in the French administrative detention centres, the General Controller of places of freedom deprivation has recommended in 2014 that these centres and the relevant hospitals set up agreements through which mental health care would be accessible. He added that the regular presence of psychiatrists (be they independent or from hospitals) within detention centres should be systematic.[390]

The lack of medical confidentiality is another concern.

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

Access to open-air areas depends on the facilities. Facilities built after 2006, such as in **Marseille**, have become prison-like. In the majority of the centres, no activity is provided. As revealed in the above table, depending on the CRAs, there may be a TV room (sometimes out of order or only broadcasting programmes in French language), a few board games, a table football or even several ping pong tables but, in any event, this proves to be insufficient when administrative detention can last up to 45 days.[391] Lack of activity and boredom are the day to day reality for persons held in these centres. The detainees can in principle keep their mobile phones if they do not include camera equipment. Most people are therefore not authorised to keep their phones and the police refuses to authorise them even if the detainees offer to break the camera tool. Detainees may have access to reading material, depending on the centre but computers are never made available. In the 2014 Activity report, the Controller General recommended that all detained persons, including foreign nationals in detention centres, have access to

388 Ministry of Interior, *The Centres of Administrative Detention*, available in French at: http://bit.ly/1dM8BkC.
389 Assfam et al, *Centres et locaux de rétention administrative, Rapport 2014* (Administrative detention centres and facilities, Report 2014).
390 General controller of places of freedom deprivation, *Activity Report 2014,* 11 March 2014.
391 Assfam, Forum réfugiés-Cosi, France Terre d'asile, la Cimade, Ordre de Malte, *Centres et locaux de rétention administrative, Rapport 2014* (Administrative detention centres and facilities, Report 2014).

computers and to the Internet with controlled use.[392] 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).

A number of recommendations have been made by the Senate in an information report published in July 2014 in order to improve detention conditions in administrative detention centres, including improving freedom of movement within the centre, providing a legal framework for the use of video-surveillance, reinforcing the presence of lawyers and interpreters, improving the confidentiality of the transmission of asylum applications to the OFPRA, providing psychological and psychiatric care and improving general medical care, improving recreational activities including access to the Internet, deploying more experienced police staff and so forth.[393]

Access to detention centres

Five NGOs are present quasi-permanently (5 to 6 days a week) in the centres as a result of their mission of information for foreigners and assistance in exercising their rights (see section on Legal Assistance). The following NGOs have access to CRAs:

- Lot 1 (Bordeaux, Nantes, Rennes, Toulouse, Hendaye): **La Cimade**;
- Lot 2 (Lille 1 and 2, Metz, Geispolsheim): **Ordre de Malte**;
- Lot 3 (Lyon, Marseille and Nice): **Forum réfugiés-Cosi**;
- Lot 4 (Nîmes, Perpignan and Sète): **Forum réfugiés-Cosi**;
- Lot 5 (Overseas): **La Cimade**;
- Lot 6 (Le Mesnil-Amelot 1, 2 andt 3): **La Cimade**;
- Lot 7 (Palaiseau, Plaisir, Coquelles and Rouen-Oissel): **France Terre d'Asile**;
- Lot 8 (Bobigny and Paris): **Assfam**.

Some accredited NGOs can have access to all CRAs. A Decree, adopted in June 2014,[394] regulates the access of NGOs to CRAs. The list of accredited NGOs whose representatives (national and local) are able to access the administrative detention places will be valid for 5 years. The exhaustive list of accessible rooms and facilities is described; this excludes the police offices, the registry, the video surveillance room, the kitchen, the technical premises. A maximum of 5 persons can make a visit within 24 hours. The time of the visits should not hinder the proper functioning of the centre, preferably during the day and the week. The head of the centre will be informed of the visit 24 hours in advance and can report the visit by giving reasons and for a limited period.

In addition, some people enjoy free access to the CRAs:
- The Council of Europe Commissioner for Human;
- The members of the European Committee for the Prevention of Torture;
- The French and European Members of Parliament;
- The General Controller of places of freedom deprivation;
- The Prefects;
- Public prosecutors; and
- JLDs.

392 *"Le Controleur général des lieux de privations de liberté, Rapport annuel 2014"*, (General controller of place of freedom depravation, Activity Report 2014) 5 February 2015.

393 Senate, *Rapport d'information n°773 du Sénat sur les centres de rétention administrative par Mme Assassi et M. Buffet*, 23 July 2014.

394 Décret du 24 juin 2014 modifiant les articles R.553-14-4 à R.553-14-8 du Ceseda complété par une note d'information du 28 octobre 2014 du ministre de l'intérieur relative aux modalités d'accès des associations humanitaires aux lieux de rétention.

Some others have more limited access: consulate staff; lawyers; families of persons held.[395] Only families (or friends) are subject to restricted hours. An instruction from 1 December 2009 foresees that visits have to be authorised for a minimum duration of 30 minutes. In Marseille, however, the frequent lack of police staff in the detention centre leads the police to decide to focus on surveillance rather than providing the opportunity for the visits to take place. Family visits are therefore sometimes simply cancelled for the morning. Since the reform of the law on asylum, representatives from UNHCR have access to the administrative detention centres in France under the same conditions as for waiting zones, meaning they have to get an individual agreement whose validity is of 3 months renewable. They are authorised to conduct confidential interview with detainees who have applied to asylum in France.[396]

It should be noted that in October 2012, the association Reporters without Borders challenged the rejection of their request to access CRAs made to the Ministry of the Interior on 27 February, as part of the Open Access campaign. The association, like all French journalists who have made such a request in France, was denied access to the centres, without any reason being given.[397] In July 2013, however, two journalists (from Rue89 and AFP) were able to visit the administrative detention centre in Lyon together with two French MEPs in the framework of the "Open Access Now" project on access to detention centres.[398] Other visits took place later in the year, such as in the administrative detention centre of Nice on 30 October 2013. The draft reform on the immigration law refers to access for journalists to waiting zones and administrative detention centres. If these amendments to the Ceseda are voted, a decree of the Council of State (*Conseil d'Etat*) shall detail conditions of access to ensure compatibility with detainees' dignity, security measures and the functioning of waiting zones and administrative detention centres.

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.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention		
1. Is there an automatic review of the lawfulness of detention?	☒ Yes	☐ No
2. If yes, at what interval is the detention order reviewed?		
❖ First review	5 days	
❖ Second review (if person not removed)	25 days	

Foreigners held in administrative detention centres are informed about the reasons for their placement in these centres through the notification of the administrative decision to detain them with a view to their removal. This notification must state clearly which removal ground serves as a basis for the detention and why the removal cannot be implemented immediately. This document also mentions the legal remedies available to challenge this decision. Foreigners also receive a notification of all their rights

395 Ministry of Interior, *Persons having access to centres and locations of administrative detention*, available in French at: http://bit.ly/1SanmeE.

396 Article R.556-11 Ceseda, as amended by the Decree of 21 September 2015.

397 Reporters sans frontières, *RSF conteste le rejet de sa demande d'accès en centre de rétention (RSF contests the rejection of its request to access detention centres, Press Release)*, 3 October 2012, available in French at: http://bit.ly/1LsngkK.

398 See more at: http://bit.ly/1Tnbfxj. See also: Le Nouvel Observateur, 'Centres de rétention: deux députées européennes en visite à Lyon', 17 July 2013, available in French at: http://bit.ly/1MgZUdV; Rue 89 Lyon, 'Journaliste, je suis entré au centre de rétention de Lyon', 17 July 2013, available in French at: http://bit.ly/1JQUitp.

including the right to apply for asylum. According to the law,[399] this notification should be made (orally) to the foreigner in a language he or she understands. In practice, this is done in most of the cases but not always.

The Controller General of places of freedom deprivation highlighted in 2013 and 2014[400] some deficiencies with regards to the information provided to asylum seekers while in administrative detention. His recommendations included: to make compulsory the dissemination of explanatory brochures about the asylum procedure (in several languages) addressing persons in detention and staff working in detention centres; to insist on the mandatory nature of the transmission of the asylum claim to OFPRA, even if it is submitted late; and to ensure that an interpreter is available to assist asylum seekers with the procedure.[401] The absence of explanatory brochures is however compensated by the presence of NGOs which provide information and legal assistance to all foreigners held in administrative detention centres. The reform of July 2015 adds a specific provision which makes it possible for asylum seekers to benefit from legal and linguistic support.[402]

French law foresees a judicial review of the lawfulness of the administrative detention for all foreigners. The legality of detention falls under the dual control of the administrative court and the civil court. Each court examines specific and complementary aspects of the procedures:

Administrative court: Legality of administrative decisions of detention and removal

The administrative court is seized by the foreigner (the asylum seeker if relevant) who challenges the legality of the decisions taken by the Prefect, i.e. the measures of removal and/or administrative detention placement.[403] Measures of placement in administrative detention can be challenged within a period of 48 hours. This period starts from the notification of the measure (and not from the arrival at the administrative detention centre). The administrative judge can, for example, verify that the Prefect has not committed a gross error of appreciation by choosing administrative detention rather than house arrest. The administrative judge must make a decision within 72 hours.

Judge of Freedoms and Detention (JLD): Conformity of deprivation of liberty

The JLD i.e. the civil court, whose competences are set out in Article 66 of the Constitution, is seized by the Prefect at the end of the 5 days of administrative detention in order to authorise a prolongation after having examined the lawfulness of the administrative detention. For example, the JLD will check whether the police have respected the procedure and the rights of the person during the arrest, the legality of the police custody and the placement into administrative detention. The judge will also check whether the custody is compatible with the personal situation of the detainee.[404] The JLD intervenes a second time after 25 days of detention if the person is still detained and has not been removed. This judge can also be seized at any moment by the person detained in administrative detention centres but these requests have to be very solidly argued (serious health problems for instance) and are hardly considered admissible.[405]

Presentation in front of these two judges is not systematic. Appeals lodged solely against the measure of placement in administrative detention do not suspend the execution of the removal. It happens that persons are returned even though a hearing in front of the judge had been set. The law only provides for a suspensive effect for appeals against a removal decision. Challenging decisions of placement in

399 Articles L551-2, L111-7 and L111-8 Ceseda.
400 *"Le Controleur général des lieux de privations de liberté, Rapport annuel 2014"*, (Controller General of place of freedom depravation, Annual report 2014), 5 February 2015.
401 General Controller of places of freedom deprivation, *Activity Report 2012,* February 2013, 212-213.
402 Article L551-3 Ceseda, as amended by the Law of 29 July 2015.
403 Article L512-1 Ceseda.
404 Article L552-1 Ceseda.
405 Article R552-17 Ceseda.

administrative detention and of all other measures linked to a removal decision does not guarantee a possibility to be heard by an administrative judge.

These two remedies are independent from each other and have to be made under extremely short delays. Before 2011, the JLD used to rule before the administrative court. Since the 2011 reform, there is absolutely no control regarding the legality of administrative detention for persons removed before the hearing with the JLD, as the administrative judge only looks at the legality of the decisions taken by the Prefect.

In practice, this means that the 5,015 persons who have been removed during the first 5 days (45.2% of the 11,093 removals carried out in 2014) were not able to see the JLD and therefore did not benefit from judicial review.[406] This lack of judicial control can also involve families. For example, in August 2014 a family (including an 8-month old child) was arrested and removed to Armenia within 24 hours without any legal control.[407]

This figure is even more impressive in French overseas departments where 99% of the removals are carried out during these first 5 days.[408]

In the context of the immigration reform, currently being discussed by Parliamentarians, many NGOs and other stakeholders have pleaded for an earlier and more effective access to judicial review. However, after the first reading of the draft and votes on proposed amendments by the Parliament, one can be pessimistic on the evolution of the legal framework regarding judicial review.

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, 5 NGOs which assist foreigners are authorised, by agreement (public procurement) with the Ministry of Interior, to provide “on duty” legal advice in CRAs. They inform the detainees and help them to exercise their rights during the detention procedure (hearings in front of the judge, the filing of an appeal, request for legal aid etc).[409] 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.

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406 This is also criticised in details in a recent report from the Observatoire de l’enfermement des étrangers OEE), *Rapport d’observation « Une procédure en trompe l'oeil » Les entraves à l'accès au recours effectif pour les étrangers privés de liberté en France*, May 2014, based on field research made between September 2013 and May 2014 in several detention places and on interviews with many stakeholders. This report makes a concerning overview of the numerous elements that thwart access to effective remedy and a fair trial which often results in the judicially unfair, if not illegal, deportation of detained migrants. The report calls for urgent reforms and makes a set of recommendations to this end.

407 Press release from La Cimade, 7 August 2014. Other examples are documented in a report from Avocats pour la Défense des Droits des Etrangers (ADDE), *Le respect des droits de l’homme en matière d’immigration et d’asile en France*, 20 September 2014, prepared in advance of the visit of the Commissioner for Human Rights of the Council of Europe in France.

408 Assfam et al, *Centres et locaux de rétention administrative, Rapport 2013* (Administrative detention centres and facilities, Report 2013).

409 French Public Administration, *Rights of Foreigners Placed in Detention*, available in French at: http://bit.ly/1Mh1exu.

As for the assistance given by lawyers, the law foresees that foreigners held in administrative detention can be assisted by a lawyer for their appeals (during the hearing) in front of the administrative court or for their presentation in front of the JLD. Therefore, for the prolongation of administrative detention by the JLD, Article R552-6 Ceseda foresees that "the foreigner is informed of their right to choose a lawyer. The judge can appoint one automatically if the foreigner so requests". Within the context of the procedure in front of the administrative court, "the foreigner can, at the latest at the start of the hearing, ask for a lawyer to be appointed automatically. They are informed by the Clerk of the Court at the time of the beginning of their request."[410]

With regard to the confidentiality granted to the discussions between lawyers and their clients when they meet within the detention centres, the situation can vary from one centre to the other. An office with frosted windows is usually provided. It is however very rare that lawyers agree to go to the detention centres, as detention centres are usually located quite far from the city centre. Lawyers can easily contact their clients by calling a public phone or by calling the NGO present in the centre that will make sure the call is forwarded to the detainee.

410 Article R776-22 CJA.

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	20 July 2015	Law n. 2015-925 of 29 July 2015 on the reform of asylum law	<http://bit.ly/1Vwt38q> (FR)

The amended law on asylum was published in the Official Journal on 29 July 2015 after more than a year of legislative procedure. The law has been changed mainly to take into account the recast Asylum Procedures Directive and Reception Conditions Directives. Therefore, as these two Directives were applicable as of 20 July 2015, a number of provisions were applicable before the publication of the law and before implementing decrees had been released. For instance, this was the case for the presence of a third person during the interview at OFPRA which concerned all claims introduced after 20 July 2015. Apart from this provision, few others concerning subsequent applications and vulnerability assessment and consideration in OFPRA procedures were applicable as of 20 July 2015. All other provisions have come into force no later than 1 November 2015. The amended law on asylum and the implementing decrees that resulted from it have profoundly changed the French asylum system. The impact on the practice is still to be seen and the coming year will bring much insight on the positive as well as negative changes resulting from the reform.