

CLAIMING ASYLUM IN FRANCE¹

You intend to seek asylum in France. The right to claim asylum is based on two international conventions:

- 1) The Geneva Convention of 1951 (UN)
- 2) The European Convention on Human Rights (ECHR)

In France, the asylum process and the rights of those granted asylum are defined by the law on the entry and residence of foreigners and asylum (CESEDA) on the basis of these two international documents.

You may be granted one of two statuses:

- 1) Refugee status: this grants a ten year residence permit and the right to work** (automatically renewed)
- 2) Subsidiary protection: this grants a one year permit to stay with the right to work** (renewed on condition that the situation in the country of origin has not substantially improved)

Minors

If you are under 18 years of age, read the entire booklet (especially section 10 below-Page 7) and the guide for unaccompanied minors.

Note: For all the steps that will be explained thereafter, **remember that:**

- You must photocopy every document you submit to the administration whatsoever;
- You must keep the originals yourself and submit only photocopies (except for identity papers and travel documents such as a passport - if you have one you should give it to OFPRA²);
- You must send all documents as recorded delivery letters and keep the evidence that it has been sent (blue) and the receipt (pink).

You can apply for asylum even if you do not have a passport, or a visa and or identity documents.

1 - ADDRESS

If you want to seek asylum in France, you need most of all an address:

- Either the address of an individual who must give you a "certificate of accommodation" to which he must attach a copy of his ID card, a rent receipt (or evidence of ownership) and / or a utility bill (gas, electricity or phone)
- Or the address of an association, recognised for the purpose by the prefecture. The association will give you a document with the address and a registration number.

1- Texte élaboré par le Collectif de soutien des exilés du 10^{ème} arrondissement de Paris d'après le code d'entrée et de séjour des étrangers et du droit d'asile en vigueur. Traduction en anglais est assurée gracieusement par J.M. Centres et Liza Schuster. Octobre 2008.

2- Office Français de Protection des Réfugiés et Apatrides. The Office for Refugees



2 – ADMISSION TO STAY FROM THE PREFECTURE

1) First application

Go to the prefecture of your department with the certificate of residence (address) to obtain permission to remain in France so that you can ask for asylum. In Paris, you will have to go to:

Préfecture de Police de Paris
Centre de réception des étrangers
218, rue d'Aubervilliers
75019 Paris
Métro: Crimée (line n°7)

Go early in the morning and bring 4 photos with you. You will not have to submit any identity document or passport, but if you have one, you can show it to them.

- If the prefecture refuses to register your application or if you are not allowed to enter, the prefecture is behaving illegally and you can apply for a summary judgement³ against the prefecture in the administrative court (for assistance contact the Collectif de soutien des exilés du 10^{ème} arrondissement de Paris or other association).

The prefecture will give you a form called a "notice of asylum⁴" to be filled in, and will give you an appointment to return. You must fill in your name and surname, nationality, date and place of birth, the name of your parents. You should also write the list of countries you've crossed before arriving in France.

Note: if you declare that you have crossed another EU country (e.g., Greece, Italy, Austria, etc.), France might refuse to register your asylum request and return you back to the first Europe Union country in which you arrived (see also chapter on the Dublin Regulation).

When you go to the prefecture, your fingerprints will be taken and entered into the computer.

During your second appointment you will either receive a temporary authorization to remain in France or you will be refused leave to remain.

If you are allowed to stay:

The prefecture will register your asylum application and will give you, within 15 days, a temporary residence permit⁵ (APS, green card) with a validity of one month with the indication "in order to apply to "OFPPRA⁶". It also gives you an application form for demanding asylum that you need to hand over to OFPPRA.

The prefecture will refuse leave to remain:

1. If another European Union country has given you a visa or has registered your fingerprints before your arrival here, France will not accept your asylum application and you may be returned to the country that gave you the visa or took your fingerprints. However, there have been some rare exceptions (see Chapter 12 on the Dublin Regulation). You will receive a document "calling for readmission⁷".

3- Référé liberté

4- Notice asile

5- Autorisation Provisoire de Séjour

6- En vue de démarches auprès de l'OFPPRA

7- Convocation en vue de la réadmission



2. In three other cases, unlike the first, you can seek asylum in France, but in a "priority procedure"⁸, i.e. you will not be given an APS (green card) or a receipt (yellow card) or housing (neither allowance nor temporary allocations (financial aid)).

a) First case: you have the nationality of a country whose situation is considered "safe" by France or the European Union (evolution towards peace and democracy, for example);

b) Second case: France considers that your presence is a threat to public order or security of the State;

c) Third case: your request for asylum is based on fraud (false identity, several asylum applications, etc.) or is submitted after a removal order (APRF- decision of expulsion) issued by police after an arrest.

In these three cases, OFPRA take the decision within 15 days whether or not to give you asylum. If you're in a retention centre, OFPRA has only 4 days to decide and you have only 5 days after your arrival in the retention centre to send your asylum request.

2) From the residence permit of one month (green) to the three months récépissé and its renewal

a) This section does not apply to you if the prefecture has put you in a "priority procedure" and therefore not provided an APS (green card), because you will not be given a residence permit, or financial aid or accommodation in a specialized centre.

b) If you have got an APS and you live in a private home or in a specialized centre for asylum seekers (CADA⁹ or AUDA¹⁰), you will have no problem getting a "récépissé" (yellow card) of three months validity as soon as OFPRA has sent a letter indicating that it has registered your file (see below "Filing your asylum application to the OFPRA"). The renewal of this receipt every three months is relatively unproblematic.

c) If you have only the address of an association (i.e. you have just one address where you receive your mail, but you do not live there), you may face some difficulties. There is no difficulty getting the first three months récépissé as soon as OFPRA has sent a letter indicating that it has registered your file (see below), but it may be more difficult to renew it. The prefecture can ask you for the address of your "real residence" (personal home and not address of an association). Many prefectures require evidence of actual residence (a Certificate proving that you stay with someone) and, if you don't have one they refuse the renewal of your récépissé, although this is not legal. If you are in this situation, contact a competent association and ask them to help you to write an "action for interim liberty"¹¹ to the administrative court against the prefecture for the implementation of the decision of the Council of State¹² no. 273202 dated 12 October 2005 on Article 4

3 - REGISTRATION OF YOUR ASYLUM REQUEST BY OFPRA

OFPRA should receive your asylum application form no later than 21 days from the date you were given it by the prefecture, filled in French, signed, accompanied by a copy of the APS and two photos. You must include all information including your surname, first name, date of birth, nationality and current address.

8- Procédure prioritaire

9- Centre d'Accueil pour Demandeurs d'Asile. Reception center for Asylum seekers.

10- Accueil d'Urgence des Demandeurs d'Asile. Emergency reception of the Asylum seekers.

11- Recours en référé liberté.

12- Conseil d'Etat. The first body of the State, the legal organ supreme of France.



- If you are hosted by an individual, do not forget to mention his name so that the letters sent by OFPRA can actually reach you.

For example: if you live at Mr T. Martin's and your name is Mr P. Dupont:

Mr. P. Dupont
C/O Mr. T. Martin
23 rue
75010 Paris

Monsieur P. Dupont
Chez Monsieur T. Martin
23 rue....
75010 Paris

Throughout the process, any change of address must quickly and urgently be reported to all authorities by recorded delivery letters and you must keep the receipts of these deliveries.

You should also indicate your family situation, your profession, your date of departure from the country of origin and of arrival in France, the route and means of transport used, as well as the detailed reasons regarding your request.

- All applications that are poorly explained may be rejected without interview.
- A good asylum application is one based on persecution or fear of persecution that you personally faced. When writing the details of your case it is important to include as much information as possible (dates, places, names of people involved), even if it does not seem obviously relevant. If you speak only of the general political situation in your country, you do not have much chance of success. If necessary, you can add pages to those of the " OFPRA file" and attach documents (evidence various newspaper articles, etc.).

Once completed, send the form by recorded delivery letter to OFPRA or take it the office yourself. If you drop it in to OFPRA the reception desk will issue a receipt of your request.

If your request is not received by OFPRA within the period of 21 days, it will not be processed and you will not be allowed to stay on French territory.

OFPRA acknowledge receipt of your application by mail. Keep the original acknowledgement of your application. With this letter you will get the prefecture to replace your one month APS (green card) by a three months récépissé (yellow card).

- If you later receive other information or documents relevant to your asylum application, you can always supplement your original record, including after the hearing, right up until the notification of the decision. All additional information must be sent by recorded delivery letter and must include the case number indicated by OFPRA in the letter acknowledging receipt (example: 2005-08-00522).
- All documents attached to the file and sent to OFPRA must be translated into French by a professional translator. OFPRA retain the passport of the applicant if he or she has one.
- **Important - you may not leave French territory with the green card or yellow card.**

4 - DECISION OF OFPRA

OFPRA takes its decision on your asylum application after you have been invited for an interview or sometimes without an interview.

During this interview, you should not be afraid to express yourself freely. OFPRA staff are subject to professional secrecy and the OFPRA files are confidential.

During the interview the protection officer will ask you questions to verify if your story is true and if you really are at risk in your country. You can have an interpreter in the language you have indicated in your file.



In all cases, when OFPRA has taken its decision, it sends it to you by recorded delivery letter that you must collect at the post office.

- If your request is rejected, **you have one month after reception of the decision to appeal before the National Court of asylum¹³ (CNDA)**. In this case, the decision should be substantiated, i.e. OFPRA **must** state the reasons for which asylum is not granted.
- If your application is accepted, **you must report to the police prefecture with evidence of the decision and the address of an individual with whom you say you are living, as well as 4 photos**. The prefecture will give you within 8 days a récépissé of application for a residence permit, renewable for a period of 3 months with the indication «recognized refugee». **This permit allows you to work**.

You should then provide to the prefecture the civil status documents provided by OFPRA, the result of the medical check that will be arranged for you by the ANAEM¹⁴, in order to obtain the refugee card (10 years) or the "private and family life"¹⁵ card (1 year) if you have been given subsidiary protection.

The Prefecture will also give you, if you ask, a travel document that allows you to travel to all countries except your country of origin (though you will still need a visa for some countries).

5 - YOUR APPLICATION TO THE COURT OF NATIONAL RIGHT TO ASYLUM (CNDA) AGAINST THE REJECTION OF YOUR REQUEST BY OFPRA

Your appeal against a negative OFPRA decision must be written in French and sent by recorded delivery letter, to the National Court of Asylum. It must reach the CNDA **no later than 30 days after the date you received the rejection of OFPRA**. In this appeal you should include:

- If you have a written answer, a copy of the negative decision from OFPRA;
- If you have not received a response from OFPRA after 2 months, you may continue to wait for a response which will eventually arrive. But if, for personal reasons, you want things to go faster, you can immediately appeal to the CNDA. It is indeed possible to argue that 2 months of silence from OFPRA implies an "implicit" refusal. If you choose to do this, **you must explain in French the reasons for your asylum request to the CNDA**, indicate that you consider the 2 months of silence from OFPRA as a refusal and **include in your letter a copy of the " OFPRA file" and proof of deposit of your initial asylum request to OFPRA** (ie the receipt from the Post Office, or from OFPRA if you gave in your file in person). All of this must be sent by recorded delivery letters. In this case, the 1 month deadline to appeal to the CNDA does not apply to you: You can appeal wherever you want.

In both cases, your application must explain exactly why you are appealing against the OFPRA decision, i.e. the precise and personal reasons why you left your country, and persecutions or serious threats you faced or you fear you would suffer if you were returned there. In addition - and it's better at the beginning of your appeal - you must explain why you disagree with the negative OFPRA decision. This means that you must explain the reasons why OFPRA rejected your application (they are written in its decision) and put forward your own arguments explaining why they are wrong. To be more precise, you can ask the CNDA - by recorded delivery letter - for the right to read and photocopy the personal file set up by OFPRA (including the notes of the interview, if you have got one). If you do not make this request, the CNDA will invite you to come and consult the file on the spot. If you have a lawyer, ask him to apply for you to consult your file.

13- Cours national du Droit d'Asile. New name of the Commission de recours.

14- Agence Nationale d'Accueil des Etrangers et des Migrations. National Agency of Reception of the Foreigners and the Migrations.

15- Vie privée et familiale.



6 - PROCESSING OF APPEAL AND COURT (CNDA) HEARING

This advice is especially important as your appeal might be dismissed without a hearing by the CNDA if it thinks that your appeal is vague, especially relating to the reasons for the OFPRA rejection. Except in cases of "priority" procedure your *récépissé* authorizing you to stay in France will be renewed by the prefecture until you have been given a decision by the CNDA. For this you need to give to the prefecture a copy of the letter from the CNDA acknowledging receipt of your appeal and including a new file number.

Thereafter, you can send comments or supplementary documents to the CNDA (by recorded delivery including always your file number) and all documents relevant to your defence. The CNDA will consider new information only **if it receives them no later than three days before the hearing date**. The comments of the applicant and the documents added to the file must be in French or, if the original are in foreign languages, with translations certified by an accredited translator.

You can apply for legal aid (to obtain a lawyer for free) if you have a visa or safe-conduct for your entry into France. From 2009 you can claim this legal aid even if you entered illegally. The assistance of a lawyer is important and it is better to have one, even if you have to pay.

You must be notified at least fifteen days in advance by recorded delivery letter of the hearing. The CNDA usually takes its decision four weeks after the public hearing during which you explain your case. You can get legal counsel (either a lawyer or a person representing an association) and an interpreter (it is better to ask the CNDA at the end of your written appeal). You can also bring people to support your application (members of associations or witnesses for example). Your presence at the hearing is very important in practice: to make sure the notification (convocation) will reach you, you must communicate to the CNDA any change of address by recorded delivery letter including your file number.

7 - NATIONAL ASYLUM COURT DECISION

If your application is accepted, you must report to the prefecture with the decision that the CNDA has sent to you and proof of the address at which you are living, as well as 4 photos. If you are recognized as refugee, the prefecture will give you within 8 days a *récépissé* of application for a residence permit, renewable, for a period of 3 months with the indication "recognized refugee". This permit allows you to work.

A refugee recognized by OFPRA or by the CNDA obtains a residence permit valid for ten years and automatically renewable. Anyone who received the subsidiary protection will have a one year renewable "private and family life" card.

If the CNDA rejects your appeal, the prefecture will withdraw the *récépissé* for asylum demand, and you must leave French territory within one month. Failure to do so will lead to a decision to expel or prosecution. You will then receive from the prefecture a "notice to quit French territory"¹⁶. You must appeal within one month with the help of an association or a lawyer against this obligation to leave French territory.

16- Obligation à quitter le territoire français.



8 - IN CASE OF A REFUSAL BY CNDA, IT IS POSSIBLE TO REQUEST A RE-CONSIDERATION OF YOUR CASE

To do this it is essential that you produce new evidence of the dangers that you face in your country. It is important that this evidence relates to new developments, i.e. not mentioned in the initial application for asylum, and whose date is later than the rejection of the CNDA. New evidence relating to a fact you have already disclosed to the CNDA will not be enough.

With the new evidence you need to return to the prefecture which will decide whether to receive your request for review or not, and whether or not to give you an APS (green card). However, in some cases the prefecture will decide to put you in priority procedure and not to give you APS.

9 - SUBSIDIARY PROTECTION

If you do not meet the conditions for refugee status, OFPRA may consider your request under the "subsidiary protection"¹⁷. For this you need proof of individual, direct and serious threats against your life or your freedoms, such as the risk of the death penalty, torture or inhuman or degrading treatment or punishment. But you do not choose to apply for "refugee" or "subsidiary protection". You just apply for asylum in general. It is up to OFPRA and the CNDA to choose which status they will grant you.

If OFPRA grants you this "subsidiary protection", you get a one year residence card marked "private and family life." Its renewal depends on the continuation in your country of origin of the conditions that have warranted such protection.

If you feel that your situation justifies refugee status, you can appeal against the OFPRA decision before the CNDA.

10 - PROCEDURE FOR MINORS (Age less than 18 years)

1) Asylum process

The conditions for examining asylum applications of minors are roughly the same as those of adults. So minors should read this entire document. The minor must go to the prefecture nearest his home with proof of this address (see p. 1). If he is less than 14 years old, the prefecture has no right to take his fingerprints. If he is more than 14 years, they will take them. In principle, prefectures do not issue permits (APS or *récépissé*) to minors.

Either the prefecture will inform the state prosecutor that a minor is seeking asylum or OFPRA will do it when it receives the asylum application from the minor (OFPRA file completed).

As long as the prosecutor has not appointed a responsible adult to help the child (he is called "administrateur ad hoc"), his application for asylum will not be considered by OFPRA. Once the ad hoc administrator has been appointed, he co-signs the application of the minor, and the processing of his application by OFPRA can start. The ad hoc administrator can help to complete the record, attend the hearing of the minor by OFPRA or ... do nothing. In case of rejection by OFPRA, the rules of appeal to the CNDA are the same as for adults with one difference: the agreement and therefore the signature of the ad hoc administrator is needed, who as before with OFPRA, may or may not help the minor.

17- Protection subsidiaire.



2) Protection by the juvenile judge

Asylum is not the only protection for foreign minors when they are "unaccompanied" (without adult family members in France). These children also have the opportunity to address - preferably in writing and by recorded delivery letter (keeping a copy of their letter) - to the Juvenile Court a request for protection that can enable them to be taken into care (including accommodation) and enrolled in school.

Address in Paris:

Monsieur le Président
Tribunal pour enfants
TGI de Paris
4 Boulevard du Palais
75001 Paris

It is possible and even advisable to ask on the one hand asylum from OFPRA and, on the other hand, the protection of the judge of children. If problems arise with the judge (rejection of your application or no response from the judge after your written request for protection, which is increasingly common), inform the "defender of children" of the situation, giving an address where he can answer you:

Défenseur des enfants
104 Boulevard Blanqui
75013 Paris

For more information read the guide for unaccompanied minors.

11 - THE RIGHTS OF ASYLUM SEEKERS

Work

If you want to work, this will be possible only if:

- After a year of waiting you have not received a definitive answer to your asylum application from OFPRA;
- After the rejection of your asylum application by OFPRA, you have appealed to the CNDA. But even in these two situations, access to employment is difficult. Ask for advice to the Collectif de soutien des exilés du 10^{ème} arrondissement de Paris.

Accommodation

When you go to the prefecture, you must sign a document saying that you will accept the offer of accommodation that will eventually be proposed. If you sign, it is possible but not certain, that they will offer accommodation. But if you do not sign you will definitely not be accommodated.

When you received the letter from OFPRA acknowledging receipt of your application, you can be accommodated in a reception centre for asylum seekers (CADA or AUDA) throughout the procedure. This centre can be located anywhere in France.

Before you get this récépissé or if, after having obtained it, you are not accommodated, you can if you live in Paris go to:



• **Families with children** (it is advisable to families wanting to apply for asylum to go as soon as they arrive at the CAFDA¹⁸ which will provide immediate accommodation):

CAFDA
44 rue Planchat
75020 Paris
Métro: Alexandre Dumas (line n° 2)

• **Single people or couples without children**

France terre d'Asile (FTDA)
4 rue Doudeauville
75018 Paris
Métro: Marx Dormoy (line n°12)

In an emergency or failure of all other hosting solutions, you can also call by telephone on 115 (SAMU Social) for a Home Emergency.

Allocation

Those who sign the document and accept the offer of accommodation and to whom no accommodation is proposed receive a "temporary allocation" (340 € per month for a single person). Those who are accommodated do not receive this benefit. They receive about 100 € per month.

Note: that if you refuse the offer of accommodation or, if you have been assigned accommodation and you leave it, you will no longer be hosted and you receive no benefit.

If, when you have got the APS (green card), you refuse the proposed accommodation in CADA given by the prefecture, you will not qualify for this allowance. It will be cancelled when you leave or are evicted from CADA.

To get the allowance, you must open a bank account at the post office or in another bank using your receipt (APS) and your OFPRA receipt letter, and you must go to ASSEDIC¹⁹, 25, passage Dubail, 75010 Paris.

Health

You can get free treatment with the Medical Universal Coverage (CMU²⁰).

12 - THE DUBLIN REGULATION²¹

The Dublin Regulation is part European Union law. It provides that you must seek asylum in the first country in Europe where you arrived or who gave you a visa. In reality you are forced to seek asylum in the first country in Europe where the police took your fingerprints. If you apply for asylum in another country, or if you are arrested, you may therefore be deported to that first country.

Proof of your stay in this first country can be made:

- If you have entered Europe with a visa of this country

18- Coordination de l'Accueil des Familles Demandeuses d'Asile. Coordination of the Reception of Families Applicants of Asylum.

19- Insurance of unemployment, managed by the labor unions (syndicates) of the employers and the employees and the representatives of the State.

20 - La Couverture Maladie Universelle.

21 - EC regulation No 343/2003 dated 18/02/2003 & 1560/2003 dated 02/09/2003



- If your fingerprints were taken for an asylum application (they are kept 10 years in the computer Eurodac)
- If your fingerprints were taken after an arrest while crossing a border (they are retained 2 years in the computer Eurodac)
- If your fingerprints have been taken after an arrest by police (they are kept up to 10 years in the SIS database - the Schengen Information System - if they are transmitted by the police of that country, which is generally the case)

Proof of your stay in this first country may also be provided by other elements. For example, if you yourself indicate that you came through Greece or Italy, this is an indication of your presence in those countries. Similarly if the police find on you a ticket, an appointment letter for a doctor, dentist, a bus ticket or cash, etc. This is an indication of your stay in another country.

These rules are Implemented by all European Union countries: Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden and the United Kingdom (England). But also by Iceland, Norway and Switzerland.

Please note that minors in France are not affected: France does not expel foreign unaccompanied minors under any circumstances.

In Paris if your fingerprints have been found by the prefecture, it gives you a sheet with your photo, called "convocation en vue de la readmission" – this paper announces that you are subject to readmission to a 3rd country. On this sheet there is a table. Upon delivery of the sheet prefecture puts a first stamp with a date. That is date when the request to the country where your fingerprints have been found has been made for your readmission.

When this country has given its approval a second stamp will be placed on your sheet. When that happens, once you return to the prefecture the police will arrest you and send you to a retention centre in order to deport you. The answer from the 1st country should normally come within two months after the request (the first stamp).

If during 6 months the government has been unable for one reason or another to deport you back to the first country, you'll be able to seek asylum in France.

CAUTION: If you do not go to the prefecture after the positive response of the country (second stamp) you can only apply for asylum in France after 18 months.

