

## FRANCE

France is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First Optional Protocol. The Asylum Act of 11 May 1998 transferred the legal provisions governing the right of asylum in France to the Act of 25 July 1952, which defines the status of the OFPRA (“Office français de protection des réfugiés et apatrides”), the first instance asylum determination body.<sup>1</sup>

In 2000, 38,747 applications for asylum were filed, and by year’s end, there were an estimated 21,000 applications pending decision.<sup>2</sup> 47,290 asylum applications were lodged in 2001.<sup>3</sup> In the first quarter of 2002, 12,629 applications were filed.<sup>4</sup>

Foreigners, including asylum seekers, denied entry into France at the border may be kept in so-called “waiting zones” or remand centers.<sup>5</sup> Holding a person in a “waiting zone” for more than four days requires the approval of a judge and can only last up to 20 days.<sup>6</sup>

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<sup>1</sup> DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN WESTERN EUROPEAN COUNTRIES at 86, *available at* <http://www.english.drc.dk/publications/> (May 2000) [hereinafter DRC W. EUR. REPORT 2000].

<sup>2</sup> U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2001 at 222 *available at* <http://preview.refuges.org/world/worldmain.htm> (Immigration and Refugee Services of America 2001) [hereinafter USCR WORLD REFUGEE SURVEY 2001].

<sup>3</sup> UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, NUMBER OF ASYLUM APPLICATIONS SUBMITTED IN 30 INDUSTRIALIZED COUNTRIES, 1992-2001, (May 31, 2002), *available at* [http://www.unhcr.ch/cgi-bin/texis/vtx/home/+NwwBmem\\_Xx8wwwwqwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqEvXafDm1BGowcoSnmagd1DBGon5Dzmxwwwwww/opendoc.pdf](http://www.unhcr.ch/cgi-bin/texis/vtx/home/+NwwBmem_Xx8wwwwqwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqEvXafDm1BGowcoSnmagd1DBGon5Dzmxwwwwww/opendoc.pdf) (last accessed Aug. 29, 2002) [hereinafter *Asylum Applications Lodged in 1992-2001*].

<sup>4</sup> UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, ASYLUM TRENDS IN 28 INDUSTRIAL COUNTRIES: JANUARY TO MARCH 2001—JANUARY TO MARCH 2002, *available at* <http://www.unhcr.ch/cgi-bin/texis/vtx/home/+2wwBmelFXx8wwwwnwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqF+8afDm15BGowcoSnmagd1DBGon5Dzmxwwwwww/opendoc.pdf> (June 13, 2002) (last accessed Aug. 29, 2002) [hereinafter *Asylum Trends in 28 Industrialized Countries*].

<sup>5</sup> U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 196, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

<sup>6</sup> *Id.*

According to NGOs, the French border police reportedly often fail to provide insufficiently documented foreigners with asylum forms or information on their rights, interpretation facilities in the “waiting zones” are poor and asylum applicants have no access to their own files.<sup>7</sup> At Charles de Gaulle Airport, asylum seekers are held in a nearby airport hotel in conditions that have been criticized by Amnesty International.<sup>8</sup>

Further, asylum seekers whose applications are filed in country and are subject to accelerated procedures may be detained. The accelerated procedure may be used where the asylum seeker’s presence is a threat to public order, the asylum application is considered to be fraudulent, the Dublin procedure applies or the asylum seeker is from a country that the French government has decided is “safe.”<sup>9</sup>

According to a 2000 report, there are 63 open reception centers in France, with a total capacity of 3,779 beds, that provide shelter to asylum seekers and young workers.<sup>10</sup> Reception centers are commonly at full capacity with a six-month wait list for asylum seekers. If an asylum seeker is granted a place in a reception center, she is also eligible for substantial financial assistance, which is, to a lesser extent, available to asylum seekers who live outside the accommodation centers. Asylum seekers who are not granted a place in a reception center may be housed in homeless shelters, which the UNHCR has declared unsuitable as a source of accommodation.<sup>11</sup>

*Is there independent review of the detention decision? Yes.*

The border police have the authority to detain asylum seekers in administrative detention for 4 days. Further detention must be ordered by the Tribunal de Grande Instance, a civil

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<sup>7</sup> *Id.*

<sup>8</sup> AMNESTY INTERNATIONAL, DETENTION OF ASYLUM SEEKERS IN THE EUROPEAN UNION at 6 (December 2000) [hereinafter AMNESTY EU REPORT 2000]. Amnesty International has reported that asylum seekers have been harassed and mistreated in the airport holding areas and nearby hotels. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, RECEPTION STANDARDS FOR ASYLUM SEEKERS IN THE EUROPEAN UNION at 73 (July 2000) [hereinafter UNHCR EU REPORT 2000]. Asylum seekers may be detained in ports, train stations, or airports. When the hotel at Charles de Gaulle is at capacity, asylum seekers have been forced to sleep in the police station located inside the airport terminal.

<sup>9</sup> UNHCR EU REPORT 2000, *supra* note 8, at 74-5 and 83. A negative decision under the accelerated procedure may be appealed to the Appeals Board for Refugees.

<sup>10</sup> DRC W. EUR. REPORT 2000, *supra* note 1, at 94.

<sup>11</sup> UNHCR EU REPORT 2000, *supra* note 8, at 79-80.

court, which may extend detention in eight day increments for a total of 20 days. The decisions of the Tribunal to extend detention can be appealed to the Court of Appeal.<sup>12</sup>

*Are there limits on the period of detention?* Yes; 12-20 days.

An individual who applies for asylum at a border may be detained for a maximum of twenty days in order to determine whether or not the application is manifestly unfounded.<sup>13</sup> After twenty days, she should either be granted entry or, if the application is deemed ‘manifestly unfounded’, returned to either a third country or the country of origin.<sup>14</sup>

An asylum seeker may also be detained, for a maximum of twelve days, if another Dublin Convention state is responsible for examining her application, if she is deemed a threat to public order, if she comes from certain “safe countries” or if her application is considered abusive or fraudulent.<sup>15</sup>

Asylum seekers whose claims have been denied may be detained for a total of twelve days (one two-day period and two five-day periods) for removal. If removal is not accomplished, the asylum seeker must be released without any residency permits.<sup>16</sup> Amnesty International has reported, however, that in at least one case, a refugee has been held in administrative detention (“*assignation à résidence*”) since 1993.<sup>17</sup>

*Is there periodic review of detention?* Yes; automatic.

After 4 days, the Civil Court will review the decision to detain. Extensions of detention periods thereafter are by judicial order only.<sup>18</sup>

*Is there access to government-funded legal aid?* Limited.

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<sup>12</sup> DRC W. EUR. REPORT 2000, *supra* note 1, at 85; UNHCR EU REPORT 2000, *supra* note 8, at 73.

<sup>13</sup> Decree of 27 May 1982 on the conditions of entry into France and the Ordinance of 2 November 1945 on the conditions of entry and residence of foreigners; DRC W. EUR. REPORT 2000, *supra* note 1, at 85.

<sup>14</sup> UNHCR EU REPORT 2000, *supra* note 8, at 73.

<sup>15</sup> DRC W. EUR. REPORT 2000, *supra* note 1, at 91.

<sup>16</sup> DRC W. EUR. REPORT 2000, *supra* note 1, at 91-92.

<sup>17</sup> AMNESTY EU REPORT 2000, *supra* note 8, at 6.

<sup>18</sup> UNHCR EU REPORT 2000, *supra* note 8, at 73.

Asylum seekers who appeal the legality of their detention before the Civil Court are provided with a court-appointed lawyer.<sup>19</sup>

Cimade, a French NGO provides legal assistance to asylum seekers in fourteen detention centers (less than half of the centers in France). This legal aid is based on an agreement with the Ministry of Social Affairs, and Cimade reports to the government on a regular basis about their activities. Cimade visits the detention centers on a regular basis, assists with urgent cases and provides a telephonic advice line.<sup>20</sup>

The government decreed in March 2001 that it must set up an agreement with an NGO to be present at each detention center to protect the rights of detainees. However, the UNHCR does not have access to all of the detention facilities.<sup>21</sup>

*Alternatives to detention:* None.

*Vulnerable groups:* Unaccompanied minors who do not have family to stay with in France are placed under the guardianship of the French authorities, and typically housed in a special reception center for children. UNHCR reports that NGOs find the arrangements made for unaccompanied minors to be insufficient.

Female asylum seekers are assigned female interpreters at interviews before OFRA when circumstances warrant it, but it is not common for female interpreters to be provided before the Commission des Recours. Female asylum seekers may request that their hearing be conducted in private, but the right to make this request may not be widely known.<sup>22</sup>

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<sup>19</sup> EUROPEAN COUNCIL ON REFUGEES AND EXILES, STUDY ON THE AVAILABILITY OF FREE AND LOW-COST LEGAL ASSISTANCE FOR ASYLUM SEEKERS IN EUROPEAN STATES at 117, *available at* <http://www.ecre.org/research/legalassistance/index.shtml> (November 2001) [hereinafter ECRE EUR. STUDY 2001].

<sup>20</sup> ECRE EUR. STUDY 2001, *supra* note 19, at 117.

<sup>21</sup> ECRE EUR. STUDY 2001, *supra* note 19, at 117.

<sup>22</sup> UNHCR EU REPORT 2000, *supra* note 8, at 82.