

## Country factsheet France

Based on its 2010 Work Programme, the European Union Agency for Fundamental Rights (FRA) carried out a study on access to justice for asylum seekers. This study illustrates the perspective of asylum seekers on two specific issues relating to the asylum procedure, namely information on the procedure itself and access to remedies against a negative decision.

The FRA interviewed almost 900 asylum seekers throughout the European Union. The information received has been analysed taking into account the relevant national legal provisions and the responses to a questionnaire on information received from national asylum authorities. The research has resulted in two comparative reports, the first on the duty to inform and the second on access to effective remedies.

This factsheet complements these two comparative studies by providing some basic background information, including statistics and relevant domestic legal provisions relating to the issues covered in the two reports.

## 1. Statistics

Statistics on asylum applications (Total and top 10 nationalities)

2009 Top 10 Nationalities		2008 Top 10 Nationalities	
Total	47,625	Total	41,845
Kosovo	4,580	Russian Federation	3,730
Sri Lanka	3,900	Serbia (including Kosovo)	3,425
Russian Federation	3,785	Mali	3,365
Armenia	3,605	Sri Lanka	3,215
Congo, the Democratic Republic of the	3,165	Turkey	2,935
Turkey	2,610	Congo, the Democratic Republic of the	2,730
Bangladesh	1,910	Armenia	2,440
Guinea	1,890	Bangladesh	1,825
Haiti	1,830	Guinea	1,605
China (including Hong Kong)	1,630	Haiti	1,400

Statistics on first instance asylum decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	3,910	1,145	n.a.	30,240	35,295	5,050	14.3
Sri Lanka	630	5	n.a.	2,000	2,635	635	24.1
Mali	30	545	n.a.	305	880	575	65.3
Iraq	420	20	n.a.	95	535	440	82.2
Congo	340	5	n.a.	2,075	2,420	345	14.3
Russian Federation	305	10	n.a.	1,720	2,030	310	15.3

Statistics on final decisions (Total positive decisions - top five nationalities)

2009							
	Geneva Convention Status	Subsidiary protection status	Humanitarian <sup>1</sup>	Rejected	Total number of decisions	Total positive decisions	Recognition rate <sup>2</sup> %
Total	4,040	1,320	n.a.	14,200	19,565	5,365	27.4
Sri Lanka	590	620	n.a.	800	2,015	1,215	60.3
Russian Federation	715	50	n.a.	830	1,595	765	48.0
Armenia	320	80	n.a.	1,395	1,795	395	22.0
Turkey	325	10	n.a.	1,470	1,800	330	18.3
Bangladesh	290	5	n.a.	1,085	1,385	300	21.7

*Notes: These tables are based on categories used by Eurostat. The way Eurostat presents its data may not necessarily correspond to categories used at national level. This can particularly be the case with statistics provided under 'humanitarian status'. For more detailed understanding of the data, the reader is invited to consult national statistics at: [http://www.ofpra.gouv.fr/index.html?xml\\_id=110&dtd\\_id=10](http://www.ofpra.gouv.fr/index.html?xml_id=110&dtd_id=10).*

*Data has been rounded to the nearest 5. Due to the rounding, the sum of individuals may not necessarily match the given total. 0 means less than 3; n.a. = not available. Kosovo (under United Nations Security Council Regulation 1244); the Democratic Republic of the Congo.*

<sup>1</sup> *Covering persons granted authorisation to stay for humanitarian reasons under national law by administrative or judicial bodies. It includes persons who are not eligible for international protection as currently defined in the first stage legal instruments but are nonetheless protected against removal under the obligations that are imposed on all Member States by international refugee or human rights instruments or on the basis of principles flowing from such instruments.*

<sup>2</sup> *The recognition rate corresponds to the proportion of positive first instance or final on appeal decisions out of the total number of decisions in 2009. Positive decisions include the provision of refugee status, subsidiary protection and humanitarian protection (where data is available). For calculation purposes, the exact number of decisions was used instead of the rounded numbers presented in the table.*

Source: [Eurostat](#), Data extracted on 01 September 2010.

## 2. Background Information

### Asylum act<sup>1</sup>

[Code de l'entrée et du séjour des étrangers et du droit d'asile – Livre VII \(2003\)](#)

### Asylum authorities

#### First instance authority

[The French Office for the Protection of Refugees and Stateless Persons](#) (Office français de protection des réfugiés et apatrides - OFPRA)

#### Second instance authority

[The National Court of the Right of Asylum](#) (Cour nationale du droit d'asile - CNDA)

Administrative Court (for appeals against decisions on a refusal to allow entry to the territory from the border procedure)

## 3. Duty to inform asylum seekers

An asylum seeker who requests permission for a temporary stay following a request for asylum, shall be provided with information on the procedure to follow. Article R.741-2 states that when informing asylum seekers of the additional documents required to apply for admission for asylum, officers in the *Préfecture* have to provide asylum seekers with a detailed document informing them of the rights and obligations they need to comply with, and inform them about NGOs offering specific legal assistance, shelter and other reception services, including health services.

Furthermore, asylum seekers are provided with information sheets at different stages of the procedure. Information on the asylum procedure is also available on the [Ministry of Immigration](#) website (where the guide for asylum seekers can be found) as well as on the website of OFPRA (asylum section) and the [CNDA](#) website.

In August 2010, the OFPRA provided the following information to the FRA as regards written information materials.

<b>Written information materials</b>	Information leaflet translated into 5 languages.
<b>Provided when?</b>	Written information materials are provided once the provisional stay authorisation has been granted to the person who is then entitled to pursue his/her asylum claim before the OFPRA. Oral information is given to asylum seekers during the first instance interview at OFPRA.
<b>Provided by whom?</b>	Written information materials – by the prefectures; oral information – by Protection Officers during the first instance interview. Welcome platforms also serves as information tool for asylum seekers.
<b>Has an evaluation of information tools been carried out?</b>	No.

<sup>1</sup> The legal information in this factsheets has been updated to reflect the situation on 1 September 2010.

## 4. Effective Remedy (Art. 39 APD)

### Type of procedures

Asylum applications lodged in transit zones can be processed through a border procedure. The asylum seeker is required to stay in a 'waiting zone' for the time period required to determine whether the asylum application shall be considered as manifestly unfounded (Article L. 221-2). The initial waiting period of four days may further be extended up to a maximum of 20 days.

The applicant may not be admitted to the territory when another country is responsible for examining the asylum application according to Dublin II Regulation (Article L. 741-4).

Applications can be examined under an accelerated procedure and refused admission in other three cases, including when (i) the asylum seeker is a national of a safe country of origin, or (ii) s/he constitutes a threat to the national security, (iii) s/he is considered to make an abusive use of asylum procedures, or to have committed a deliberate fraud concerning his/her claim. If an asylum-seeker is refused admission (in practice, in these cases the *Préfectures* do it almost systematically) under an accelerated procedure, he or she has 15 days to lodge a complete application (Articles L.741-4 and R. 723-1) to OFPRA which has to decide on the denial of admission within 15 days after reception of the application. .

Claims of asylum seekers, introducing new elements to support a new consideration of their claim after a definitive rejection by the CNDA (subsequent application), need to be submitted as a new application to OFPRA. Applicants have first to request an authorisation for provisional stay at the *Préfecture* and must submit their application within eight days from the moment such authorisation is received.

The regular procedure should be concluded within 6 months. Otherwise the asylum seeker must be notified of the delay 15 days before the lapse of the time period (Article R. 723-2). Asylum seekers in the regular procedure have 21 days to lodge their complete asylum application.

### Duty to state reasons for rejection and procedure to appeal

Article L. 723-3-1 states that the asylum seeker shall be notified of the decision taken by the OFPRA. Negative decisions have to state the reasons in fact and in law of the rejection and contain information on the procedure to appeal the decision. Decisions refusing the asylum seeker's entry to the territory have to be motivated and shall contain information on the right to judicial review (on the basis of Article L. 213-9), and the procedure and time limits for lodging an appeal. The decision and the notification of the rights shall be communicated to the asylum seeker in a language which s/he understands (Article L. 213-9).

## Time limits for appeal

As a general rule, an appeal shall be lodged within one month from the notification of the first instance decision (Article L. 731-2). However, an appeal against a decision taken in the border procedure refusing leave to enter the territory has to be lodged before the administrative court within 48 hours of the notification of the decision (Article L. 213-9). In Dublin cases, an appeal against the decision can be submitted to an administrative court within two months. An urgent appeal can be lodged against the decision on detention of the asylum seeker before proceeding with his/her transfer. The judge gives a decision within 48 hours exclusively on the legality of the placement in detention of the claimant (Article L. 521-2 Code de justice administrative).

Type of procedure	Time limits	Right to remain
General rule	1 month	Automatic suspensive effect.
Border procedure	48 hours	Automatic suspensive effect.
Dublin procedure	2 months (appeal to the Administrative Court) 48 hours (decision on the execution of transfer)	No suspensive effect.
Accelerated procedure	1 month	No suspensive effect on the refusal of admission and on an eventual decision of removal.

## Right to remain in the country during appeal

The asylum seeker admitted to the territory has the right to remain there until he/she receives notification of the appeal decision by the CNDA (Article L. 742-3). By contrast, those asylum seekers who were initially refused admission to the territory (e.g. safe country of origin or fraudulent applications) shall have the right to remain in the territory until the notification by OFPRA of the first-instance decision on their application (Article L. 742-6).

Appeals against decisions taken in the regular procedure have a suspensive effect. This is however not the case for an appeal lodged against a decision taken in the accelerated procedure. Asylum seekers in the Dublin procedure are not admitted and do not have the right to remain in the territory (Article L. 741-4). Appeals against their transfer to the responsible state have no suspensive effect.

## Legal Aid

Free legal assistance is granted for proceedings before the CNDA (Article L. 733-1). After the appeal is registered, the CNDA, informs the asylum seeker of the right to consult his/her file, and to be assisted by an advocate or to request the court to benefit from free legal aid.

## Language assistance

The asylum seeker who has been denied entry into the territory, who is placed in a transit zone or in a detention centre, and who does not speak French shall indicate the language s/he understands at the beginning of the procedure. The indicated language will then be used until the end of the procedure (Article L. 111-7).

The appeal has to be filed in French (Article R.733-7). Applicants should be assisted by an interpreter while presenting their explanations to the CNDA (Article L. 733-1). This applies only to the hearing. No specific provisions on language assistance to prepare the appeal exist.

## Hearing

Normally a public hearing is granted before the CNDA (Article R. 733-17). However, the Chair of the Panel and the Chairs of Divisions may decide not to hold the hearing in cases deemed not to justify a revision of the OFPRA decision (Article L.733-2 as well as R 733-16).