First instance determination - France

Overview of first instance procedures

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Relevant EU legislation

France is bound by the recast Asylum Procedures Directive (APD), the recast Reception Conditions Directive and the Dublin III Regulation and has transposed their provisions through the Code of Entry and Residence of Foreigners and of the Right to Asylum, CESEDA (Code de l'entrée et du séjour des étrangers et du droit d'asile)

National legislation

Code of Entry and Residence of Foreigners and of the Right to Asylum, CESEDA (Code de l'entrée et du séjour des étrangers et du droit d'asile)

Competent authority and other stakeholders

French Office for the Protection of Refugees and Stateless Persons OFPRA | OFPRA, Office Français de Protection des Réfugiés et Apatrides

OFPRA is a public establishment created in 1952. It is placed under the supervision of the Ministry of the Interior since 2010 and has a functional independence.

OFPRA has three main missions:

- Examining applications for international protection (asylum / statelessness)
- Providing legal and administrative protection for statutory refugees, beneficiaries of subsidiary protection and stateless persons

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- Providing opinions in the framework of the asylum border procedure.

Case officers in charge of conducting interviews also carry out the assessment of the application.

Types of procedures and case processing

Admissibility: OFPRA - French Office for the Protection of Refugees and Stateless Persons

Accelerated procedure: OFPRA

Border procedure: Ministry of the Interior with opinion from OFPRA

Subsequent applications: OFPRA

Time limit for a decision and length of the procedure

In 2024, OFPRA processed cases within an average time of 4.6 months.

Measures to enforce the legal time limit for processing an application:

According to Article L. 521-3 of the Code of Administrative Justice, in case of emergency and upon request, a special procedure enables the judge to order OFPRA to take a first instance decision in a set period of time, with penalties for late execution if necessary.

Penalty payment for exceeding processing time:

The applicant can file a lawsuit with the administrative court against OFPRA for fault-based liability. To obtain compensation, the applicant must prove fault, the prejudice of the delay (material or moral) and the link between the fault and the prejudice. There is no maximum fee for a penalty payment.

Regular procedure: OFPRA examines in one single procedure whether the applicant can be eligible for refugee status, constitutional asylum or subsidiary protection status.

Time limit: Time-limits foreseen (as referred to in the recast APD):

- 6 months from lodging;

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- May be prolonged by another 9 months in case of:

  - complex issues of fact and/or law are involved and the support divisions of OFPRA need to be consulted;

  - OFPRA considers excluding the applicant from being a refugee;

  - a large number of persons simultaneously apply for international protection and the Director General of OFPRA takes the decision allowing for the prolongation of the time-limit;

  This can be further prolonged by 3 more months, when it is necessary to ensure an adequate and complete examination.

The deadline for decision can reach a maximum of 21 months, when there is an uncertainty about the situation in the country of origin, which is expected to be temporary and the Director General of OFPRA takes the decision allowing for the extension of the time-limit.

OFPRA informs the applicant about the delay at least 15 days before the expiry of the six-month deadline and upon the applicant's request it also provides information on the reasons for the delay and the expected timeline of the decision.

Quality assurance of first instance procedures

In order to maintain a desired level of expertise and a harmonisation of practices, OFPRA creates qualitative internal instruments while ensuring their thorough implementation, ensuring quality monitoring (*en-ante*), performing quality-monitoring (*ex-post*), and collectively reflecting in order to define quality improvements and needs.

To ensure the quality management before a decision is taken (*ex-ante*), case officers benefit from trainings and support from the Legal and COI divisions and from thematic and geographic expert groups, which create multiples internal tools at the disposal of the case officers.

OFPRA also created in 2013 the Harmonisation Committee which is composed of representatives of the different Divisions and which is an internal forum for discussion and harmonisation of practices and policies. Since 2021, OFPRA

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organises plenary sessions and restricted sessions.

OFPRA's e*x-post* quality control is carried out jointly with UNHCR. Its terms are set out in a Memorandum of Understanding. The assessment focuses both on the way in which the cases are handled and on the quality of the decision.

In parallel, a continuous quality control is implemented internally. It covers the proposed decisions issued by delegated case officers. It covers first time applications and other procedures (subsequent applications, inadmissibility, closures, ends of protection, opinions issued at border) and a theme related control. It is based on grids consistent with the tools developed by EUAA.

Both quality control methods result in reports presented to the Harmonisation Committee. The annual joint quality control report is published on OFPRA’s website. The identified corrective actions are then implemented under the supervision of the Vulnerabilities and Quality Policy Officer.

Interinstitutional cooperation

Information currently not available

Regular asylum procedure at first instance

There are several channels of cooperation between OFPRA and other institutions involved in the asylum procedure, which mostly take the form of an exchange of information.

OFPRA carries out exchanges of information with the administrative authorities like, Prefectures and other institutional partners about international protection applicant and beneficiaries rising public order issues, and the existence of an asylum application in another Member State.

Regarding the exchange of information with the judicial authority, in accordance with article L. 121-10 of the CESEDA and the second paragraph of Article 40 of the Code of Criminal Procedure, the Director General of OFPRA transmits to the Public Prosecutor any useful information which has led to the rejection of an application for asylum or statelessness based on one of the exclusion clauses.

On the other side, the judicial authority also informs OFPRA on any information that may lead to suspicion that the applicant or the beneficiary of the protection

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is subject to an exclusion clause, or a public order ground or that the asylum application resulted from a fraud.

OFPRA and its agents are also bound by reporting obligations under Article 40 of the Code of Criminal Procedure and Children in Danger or at risk of being in danger, as well as by the obligation to provide assistance to a person in danger.

In terms of vulnerabilities, OFII refers to OFPRA the special needs identified at the stage of the allocation of material reception conditions and further at any time of the asylum application.

On its side, OFPRA reports to OFII vulnerabilities linked to the substance/reasons for the asylum application when there is a need for reassessment of the material reception conditions, with the express agreement of the applicant.

Regarding cooperation with the appeal court, the National Court of asylum (CNDA): pursuant to Article R. 532-13 of the CESEDA, as soon as an appeal has been lodged against an OFPRA's decision, the latter communicates the asylum application file of the applicant to the CNDA by a secure electronic procedure. On its side, the CNDA can request for additional investigation or it can cancel the decision and refer the case back to OFPRA

Legal basis

Art L. 531-12 of the CESEDA

Competent authority and stakeholders

French Office for the Protection of Refugees and Stateless Persons (OFPRA)

Personal interview

OFPRA invites the applicant for a personal interview. The interview can only be omitted in the following cases:

1. During the examination of the merits of the case, based on Art L. 531-12 of CESEDA:

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- OFPRA is able to take a positive decision with regard to the refugee status on the basis of the available evidence;

- Medical reasons beyond the applicant’s control make the organisation of a personal interview impossible.

- The medical reasons for exemption from the personal interview relate to the applicant's state of health or, exceptionally, to the state of health of a relative in their care. To assess these reasons, medical justification is required.

2. During the personal interview, the applicant presents him/herself and answers personally the questions put to them by the OFPRA case officer. They are heard, under the conditions provided for in Article L. 521-6 of the CESEDA, in the language of their choice or in another language of which they have sufficient knowledge (Art. L. 531-13 of the CESEDA).
3. During the personal interview, each adult applicant is interviewed individually, without the presence of family members. OFPRA may interview minor applicants individually, under the same conditions, if it considers it reasonable to believe that he/she may have suffered persecution or serious harm of which their family members are unaware. OFPRA may conduct a supplementary interview in the presence of family members if it deems it necessary for the proper examination of the application (Art. L. 531-14 of the CESEDA).

The applicant may attend the personal interview accompanied by either a lawyer or a representative from an accredited association. The lawyer or representative from the association may only intervene to make observations at the end of the interview (Art. L. 531-15 of the CESEDA). The person accompanying the applicant to an interview cannot disclose its content (Art. L. 531-16 of the CESEDA).

The absence of a lawyer or a representative of an association does not prevent OFPRA from conducting an interview with the applicant. The absence, without legitimate reason, of an applicant duly invited to an interview does not prevent OFPRA from processing the case (Art. L. 531-16 of the CESEDA).

At the request of the applicant and if it appears to be clearly justified by the difficulty for the applicant to explain all the reasons for the asylum application, in particular those relating to sexual violence, the interview is conducted, as far as possible, by a case officer of the sex of his/her choice and in the presence of an interpreter of the sex of his/her choice (Art. L. 531-17 of the CESEDA).

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When justified for the smooth running of the interview, the applicant with a disability may, at his/her request and with the authorisation of the Director General of OFPRA, be accompanied by the health professional who usually follows him/her or by the representative of an association providing assistance to people with disabilities (Art. L. 531-18 of the CESEDA).

The personal interview conducted with the applicant, as well as the observations made, are transcribed and added to the applicant's file. The transcript is communicated, upon request, to the applicant, the lawyer, or the association's representative before a decision is made on the application. In the event that the accelerated procedure is applied, this communication may be made when the decision is notified (Art. L. 531-19 of the CESEDA).

The personal interview is transcribed and audio-recorded. The applicant may only have access to this recording after notification of the negative decision and for the purposes of appealing this decision. This access is granted under secure conditions. Any person who release an audio recording made by OFPRA of a personal interview is punishable by one year's imprisonment and a fine of 15 000€ (Art. L. 531-20 of the CESEDA).

Assessment of an application

Case officers from OFPRA are the competent actors for the assessment.

OFPRA’s Professional Database comprises all relevant information necessary for assessing applications for international protection, including information on the situation in the countries of origin, guidance notes, practical tools to support the determination process, analyses by OFPRA’s Department of Legal, European and International Affairs (DAJEI) The Professional Database is managed by the Department of Information, Documentation and Research (DIDR).

Scope and outcomes of a decision

The decision is signed on behalf of the General Director of OFPRA, by the head of section or an experienced case officer endowed with the delegation of signature. In particular cases, the decision is signed by the head of the geographical division.

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OFPRA notifies the applicant its decision in writing, by any means that guarantees confidentiality and personal receipt of this notification. Any negative decision is justified in fact and in law and specifies the means and time limits for appeal. No decision can be based on OFPRA's silence (Art. L. 531-22 of the CESEDA).

If the applicant for international protection is accompanied by minor children, his or her decision also mentions the decision in relation with the minor children. In relevant cases, it is also possible that minor children are subject of an individual decision. The other parent will also be kept informed on the decision concerning the minor.

Withdrawal of an application

Competent authority to withdraw an application

French Office for the Protection of Refugees and Stateless Persons (OFPRA)

Implicit withdrawal

Grounds for implicit withdrawal: Concept foreseen in art. L. 531-37 and L. 531-38of the CESEDA

Consequences of implicit withdrawal: OFPRA takes a decision of implicit withdrawal (closing decision) in situations determined by Article L. 531-3 of the CESEDA.

- The applicant did not lodge their application with OFPRA.

OFPRA may take a decision of implicit withdrawal (closing decision) in situations determined by Article L. 531-38 of the CESEDA.

- The applicant, without legitimate reason, lodged their application with OFPRA without complying with the deadlines or did not attend the personal interview;
- The applicant, in a deliberate and characteristic manner, refuses to provide information essential to the examination of their application;
- The applicant has not informed OFPRA, within a reasonable time, of their place of residence or address and cannot be contacted for the purpose of examining their asylum application;

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- The applicant has abandoned, without legitimate reason, the place where they were staying in accordance with OFII's (the reception agency) proposition.

OFPRA notifies the applicant in writing of its decision by any means guaranteeing confidentiality and personal receipt of this notification. This decision is justified in fact and in law and specifies the means and time limits for appeal.

After the nine-month period, the closing decision is final and a new application would be considered a subsequent application.

In the meantime (before reaching the nine months), the applicant may request the reopening of the file with the prefecture, which will then re-register it. The applicant will then have eight days to submit their reopening request to OFPRA. When the reopening request is incomplete, the applicant has an additional four days to complete it (Article R. 531-40 of the CESEDA).

Appeal against a decision to discontinue the examination due to an implicit withdrawal:

Litigation against decision to close the procedure is handled by the administrative courts. A request before OFPRA for reopening the procedure is a prerequisite before lodging an appeal with the administrative courts.

Explicit withdrawal

Grounds for explicit withdrawal: Possibility foreseen in Article L. 531-36 of the CESEDA.

Consequences of explicit withdrawal:

The applicant must express their wish to withdraw their application either by sending a signed and clearly written letter to OFPRA, or during the personal interview. In the latter case, the applicant's wish and the reasons for withdrawing are noted, and the interview is then terminated.

This closure is recorded in the applicant's file.

Appeal against a decision to discontinue the examination due to an explicit withdrawal: information currently not available

Personal interview

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Competent authority: Interviewers

All personal interviews are conducted by case officers from OFPRA. They are statutory or contractual agents, with a level 6 diploma or a qualification recognised as equivalent.

OFPRA has information online in EN and FR about examining the application, including on the personal interview.

Special procedural guarantees during the interview

Each international protection applicant is interviewed individually without his/her family members. The applicant shall be present in person for the interview and answer to the questions asked by the case officer. The applicant is allowed to come at the interview with a lawyer or another third party (a representative of certain categories of NGOs as listed in Art. L. 531-15 of the CESEDA, provided that the NGO concerned is entitled by the General Director of the determining authority for that purpose, as well as its representatives.) Case officers and interpreters are specially trained for interviews with applicants who have special needs or vulnerabilities.

Accompanied minors: France assesses to what extent a minor can contribute to the establishment of material facts during the interview. Usually, accompanied minors below the age of 13 are not interviewed. The invitation for the personal interview specifies whether minor children must also present themselves to OFPRA during the interview. Accompanied minors are usually interviewed through their parent(s) or other legal representatives. However, OFPRA may decide to interview the minor alone if there are good reasons to consider that the minor may have been persecuted or victim of serious harm, without his/her family members being aware (Art. L. 531-14 of the CESEDA). Specialised and specifically trained case officers conduct interviews with minors.

Unaccompanied minors: Interviews with unaccompanied minors are conducted by specialised and specifically trained case officers in the presence of their legal representative, an interpreter if relevant, and they can also be assisted by a lawyer or another authorised third party. There is no minimum age for unaccompanied children in order to participate in a personal interview. More information about interviewing UAMs is available in OFPRA's guide on asylum for unaccompanied minors (*Guide de l'asile pour les mineurs non accompagnés*).

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Victims of trafficking or other forms of violence: Upon request and where feasible, applicants with special needs and/or vulnerabilities may choose the gender of the case officer and/or of the interpreter who will be present at their interview, provided that this request is motivated and manifestly founded by the difficulty to express the grounds of the application (e.g. in situations of sexual violence).(Art. L. 531-17 of the CESEDA)

Applicants with disabilities and/or other health issues: Applicants with disabilities may, at their request, and with the authorisation of OFPRA, be accompanied for their interview by a health professional, who usually follows the care of the applicant, or by a representative of an association supporting persons with disabilities (Art L. 531-18 of the CESEDA).

Possibility to omit the personal interview

Positive decision	Art. L. 531-12 1° of the CESEDA: OFPRA is about to take a decision granting refugee status on the basis of the evidence at its disposal
Previous meeting - essential information	No
Issues raised are not relevant or of minimal relevance	No
Safe country of origin	No
Safe third countries	No
Inconsistent, contradictory, improbable, insufficient representations	No
Subsequent application	Art. L. 531-42 of the CESEDA: During the preliminary examination of the subsequent application, OFPRA may not conduct an interview.

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Application to merely delay/frustrate enforcement	No
Not reasonably practical to conduct it	No
Applicant unfit or unable to be interviewed	Art L. 531-12 (2) of the CESEDA: Medical reasons, that are long-term and beyond the control of the applicant, prohibit the conduct of the interview

Organisational aspects

Preparation and timing of the interview: All personal interviews are conducted by case officers from OFPRA.

Case officers access the files as soon as they are assigned. The files are submitted the day after the lodging to an automated summons system that assigns the files to the case officers, placing them in predefined slots in schedules of case officers. When the file cannot be assigned via the automated procedure, the assignment to the case officer is done manually.

The case officer in charge of conducting the interview has access to written information in the applicant's file, including grounds for seeking protection and all personal documents and evidence submitted. In order to prepare for the interview, the case officer has access to COI reports on the COI database. He/she can also request for additional COI on ad-hoc basis.

Information provision (before the personal interview):

After the lodging of the application, a written invitation is sent to the applicant's last known address (private or otherwise). The applicant also receives an electronic notification stating that the invitation is available in the secure personal digital space or, if the dematerialised process is not implemented, sent by simple mail to the last known postal address.

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At the beginning of the interview, the case officer recalls the purpose and the process of the interview, the fact that the interview is audio recorded, the respective role of the case officer and the interpreter, confidentiality guarantees, code of conduct for the legal advisor or other counsellor (if any).

At the end of the interview, the case officer informs the applicant of his/her right to request the transcript of the interview, and that he/she will be provided with the means of appeal in case of a negative decision, and the formalities in case of a positive decision.

Modalities of carrying out the interview:

The personal interviews take place at OFPRA's headquarters, except in case of videoconferencing, external missions, interviews taking place at the branch office in French Guyana and in the framework of the border procedure. Hearing rooms must preserve guarantees of confidentiality. They are all equipped with a computer.

There are specially dedicated rooms for interviewing vulnerable applicants.

Remote interviews:

In accordance with Art. R. 531-16 of the CESEDA, OFPRA may decide to conduct the personal interview using audiovisual communication in the following cases:

1. When the applicant is unable to travel, particularly for health or family reasons;
2. When the applicant is detained in a place of deprivation of liberty;
3. When the applicant is in an overseas territory or in New Caledonia;
4. When the applicant is under house arrest, if OFPRA considers that the applicant's particular situation requires the use of audiovisual communication;
5. When the applicant has an effective protection in a Member State of the European Union;
6. When the applicant benefits from refugee status or an equivalent protection in a third country.

Choice of gender of the interviewer/interpreter:

Upon request and where feasible, applicants with special needs and/or vulnerabilities may choose the gender of the case officer and/or the interpreter who will be present at their interview, provided that this request is motivated and

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manifestly founded by the difficulty to express the grounds of the application (e.g. in situations of sexual violence).(Art. L. 531-17 of the CESEDA)

Objecting to the interviewer/interpreter:

After the interview begins, the case officer explicitly checks with the applicant (and the interpreter) that communication is good (comprehension and verbal expression). This exchange is recorded in the interview transcript. In case of difficulty, either OFPRA is able to resolve the situation, or the interview is postponed, and the reasons for the postponement are recorded in the interview transcript.

However, in case the applicant refuses to express himself in the language chosen at the registration stage, this refusal is recorded in the interview report and it does not, in principle, prevent OFPRA from processing the case on the basis of the elements in its possession. The choice of the language of procedure can only be challenged during the appeal before the National Court of Asylum

Language and interpretation:

During the registration of the asylum application, the applicant indicates their choice for the language to be used in the personal interview conducted by the determining authority (Art. L. 531-13 of the CESEDA).

Interpreters are not employed by OFPRA, but by interpretation firms holding public contracts awarded by OFPRA. Interpreters must meet the following requirements:

- Have the required university degrees;
- Have prior experience in translation and/or interpreting;
- Be fluent in French and one or more spoken languages of the applicants'; countries of origin;
- Acquire geopolitical, administrative, and legal knowledge of the countries of origin concerned.

In addition, interpreters are subject to ethical rules: impartiality, independence, confidentiality, and strict neutrality. The rights and obligations of interpreters are set out in an interpreting charter, which is part of the OFPRA reform initiated in 2013, as well as the contracts that bind it to service providers. The Charter was last updated in 2023 and is available on the OFPRA website

Persons present during the interview

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Applicants can be accompanied to the personal interview by the following persons:

- Interpreters, if the request has been made at the registration stage;
- Family members: The invitation for the personal interview specifies whether minor children must also present themselves to OFPRA during the interview. Accompanied minors are usually interviewed through their parent(s) or other legal representatives. However, OFPRA may decide to interview the minor alone if there are good reasons to consider that the minor may have been persecuted or victim of serious harm, without his/her family members being aware (Art. L. 531-14 of the CESEDA). Specialised and specifically trained case officers conduct interviews with minors.
- Legal representative for unaccompanied minors: Interviews with unaccompanied minors are conducted by specialised and specifically trained case officers in the presence of their legal representative, an interpreter, and they can also be assisted by a lawyer or another third party. There is no minimum age for unaccompanied children in order to participate in a personal interview. More information about interviewing UAMs available in OFPRA's guide on asylum for unaccompanied minors (*Guide de l'asile pour les mineurs non accompagnés*).
- Lawyer and representative of NGOs: Applicants can attend the personal interview accompanied by either a lawyer or a representative of a human rights association, an accredited association defending the rights of foreigners or international protection applicants, an association defending the rights of women or children, or an association fighting against persecution based on gender identity or sexual orientation. Only associations that are independent of the authorities of applicants' countries of origin and provide assistance to all applicants may be accredited. The lawyer or representative of the association may only intervene to make observations at the end of the interview (Art. L. 531-15 of the CESEDA). A decision from 21 April 2023 updated the list of accredited third parties (e.g. from civil society) which can send a representative to join the personal interview of an international protection applicant. The previous decision from 30 July 2020 remains effective.
- Health professionals: Applicants with disabilities may, at their request, and with the authorisation of OFPRA, be accompanied for their interview by a health professional, who usually follows the care of the applicant, or by a representative of an association of support for persons with disabilities (Art L. 531-18 of the CESEDA).

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More information about the assistance by a third party during the interview including the list of accredited third parties and the decision is available on the OFPRA website

Structure/steps of the interview (Restricted if the information is not already public):

The personal interview follows a particular structure:

1. During the introductory part, the information about the personal interview is provided. Explanations on the respective roles of persons present in the hearing room, as well as on the purpose of the interview, on the principle of confidentiality, on the applicant's obligations and duties, on the framework and structure of the interview, on the recording of the interview and the written report, are provided. The applicant is asked about any special needs; he/she's encouraged to report any communication / comprehension difficulties.
2. Validation of personal details written down in the applicant's file (for confirmation).
3. Questions and answers with regards to the grounds for applying for international protection. Free narrative, flexible/open questioning, clarifying/reflective questions are used during the personal interview.
4. During the concluding part, the applicant is asked whether they want to add anything. They are also provided with further information on the next steps of the procedure and on the possibility to appeal a possible negative decision.
5. There is the possibility of a follow-up interview if there is a need for completing and/or clarifying the information. During the follow-up interview, questions about identity, family and itinerary would not be asked again except if specifically needed.
6. The duration of the personal interview depends on the individual case. Breaks can be taken at the request of the applicant or the interpreter, at regular intervals.

Audio/Video recording and written report

The personal interview conducted with the applicant, as well as the observations made, are transcribed and added to the applicant' file. The transcript is communicated, upon request, to the applicant, their lawyer, or the association's representative before a decision is made on the application. In the event that the accelerated procedure is applied, this communication may be made when the

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decision is notified (Art. L. 531-19 of the CESEDA).

The personal interview is transcribed and audio-recorded. The applicant may only have access to this recording after notification of the negative decision of OFPRA on the asylum application and for the purposes of appealing this decision. This access is granted under secure conditions. Any person who release an audio recording made by the OFPRA of a personal interview is punishable by one year's imprisonment and a fine of €15 000 (Art. L. 531-20 of the CESEDA).

Postponing the personal interview:

The interview can be postponed if the applicant provides reasonable medical grounds or based on other valid grounds depending on the personal circumstances of the applicant.

Failure to appear:

In case of legitimate failure to appear, a new invitation for an interview will be sent to the applicant. A legitimate reason to fail to appear relates to reasons beyond the applicant’s control and which were unexpected. The applicant who didn’t appear to an interview has 7 working days (4 days in case of accelerated procedure) to submit the supporting document(s) that demonstrate such legitimate reason, which OFPRA will assess.

In the absence of the applicant to the personal interview, and provided that he/she had no good reason to fail to appear and that OFPRA did not make any material mistake during the convocation procedure, OFPRA may take a decision based on the grounds of the written elements of the file. The asylum application may be rejected or declared implicitly withdrawn (closure decision).

Other aspects

There can be follow-up personal interviews in special cases. If after the first interview, the case officer does not have enough elements to take a decision on the asylum application or if it lacks clarity, she/he can organise a second interview to obtain further information.

Special asylum procedures at first instance

Admissibility procedure

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Legal basis and grounds: OFPRA may take a written and reasoned inadmissibility decision without verifying whether the conditions for qualifying for international protection are met in the following cases (Art. L. 532-32of the CESEDA):

- the applicant has already been granted an effective international protection (refugee status or subsidiary protection) in another EU Member State;
- the applicant benefits from refugee status or an equivalent protection in a third country, in particular with regard to compliance with the principle of non-refoulement, provided, in both cases, that the protection is effective and that the applicant is actually re-admissible in this third country; in case of a subsequent application, when OFPRA's preliminary examination concludes that the new facts or elements presented by the applicant do not significantly increase his/her chances of qualifying for international protection.

Competent authority and other stakeholders: OFPRA

Procedural aspects: The procedure to decide on the admissibility of the application is formally part of the regular procedure. The procedural aspects and consequences depend on the inadmissibility ground invoked.

Decision and time limits to decide: 1 month from lodging the application or from the personal interview (when the reasons for inadmissibility emerge during the personal interview), when the applicant has already been granted international protection in another EU Member State or when the applicant has already been granted refugee status or an equivalent protection in a third country (Article R. 531-30 of the CESEDA). Article R. 530-31of the CESEDA adds that OFPRA needs to contact the competent prefecture to verify whether the applicant is re-admissible in the third country concerned. This act suspends the 1 month time-limit for decision. If the prefecture does not reply within 2 months, OFPRA proceeds with the examination and decision on the merits of the application.

In case of subsequent applications, OFPRA carries out a preliminary examination, in accordance with Article L. 531-42 of the CESEDA, within eight days following the lodging of the application (Art. R. 531-38 of the CESEDA).

Appeal: Article L. 531-35 of the CESEDA specifies that the international protection applicant is notified of the inadmissibility decision in writing, by any means guaranteeing confidentiality and personal receipt of the notification. It

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shall specify the appeal procedures and deadlines too.

Impact on reception conditions: In case of a subsequent application, material reception conditions can be refused (Art. L. 551-15 of the CESEDA).

Accelerated procedure

Legal basis and grounds: Articles L. 531-24 to L. 531-28 of the CESEDA divide the acceleration grounds in three groups: (I) The accelerated procedure is automatically applied when:

- the applicant is from a safe country of origin; with the list of safe country of origin adopted by the OFPRA Management Board and under supervision of the Council of State.
- the applicant's subsequent application was not deemed to be inadmissible.
- the applicant is placed under house arrest or in detention, or kept in detention.

The OFPRA channels the application through the accelerated procedure, upon request of the prefecture when:

- the applicant refuses to provide their fingerprints;
- in order to mislead the authorities, during the registration of the application the applicant presents false identity or travel documents, provides false evidence or withholds information or documents concerning his/her identity, nationality or circumstances of entry in the French territory or the applicant has made several applications under different identities;
- the applicant had entered or remained in the country in an irregular manner and has not made an application within 90 days from his/her entry and does not provide a valid reason for this delay;
- the applicant has made an application merely in order to frustrate a removal measure;
- the applicant's presence in France constitutes a serious threat to public order, public safety or national security.
- the applicant is subject to an expulsion decision, a ban on entry to the French territory or an administrative ban on entry to the French territory

The OFPRA may on its own initiative channel an application into the accelerated procedure when:

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- the applicant has presented false identity or travel documents, has provided false evidence or has withhold information or documents concerning his/her identity, nationality or circumstances of entry in the French territory or the applicant has made several applications under different identities;
- the applicant has only raised issues in support of his/her application which are not relevant for the application for international protection;
- the applicant has presented to OFPRA manifestly incoherent and contradictory, manifestly false or unlikely statements that are contradicting verified country of origin information.

Competent authority and other stakeholders: OFPRA - French Office for the Protection of Refugees and Stateless Persons

Procedural aspects: When the registration of the asylum application is carried out, the asylum application certificate is provided by the prefecture. It allows them to move freely within France during the procedure. This certificate is valid for six months (renewable) when the applicant is channelled to the accelerated procedure.

Applicants are interviewed by OFPRA under the same conditions as in the regular procedure. They receive the same procedural guarantees.

OFPRA may decide not to rule on an accelerated procedure, unless the applicant's presence in France constitutes a threat to public order, public security or the security of the State, when it appears necessary to ensure an appropriate examination of the application, in particular if the applicant from a country included on the list of safe countries of origin invokes serious reasons to believe that his/her country of origin cannot be considered safe due to his/her personal situation and in light of the reasons for his/her application.

Decision and time limits to decide: The OFPRA takes a decision on the application within 15 days following its lodging (Art. R. 531-23 of the CESEDA).

Appeal: An appeal must be made in front of the National Court of Asylum (CNDA - Cour nationale du droit d’asile), within one month after the notification of the decision.

Impact on reception conditions: Depending on the grounds for the accelerated procedure, material reception conditions can be refused (article L551-15 of the CESEDA).

Border procedure

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Legal basis and grounds: Article L. 351-1 to Article L. 351-5 of the CESEDA.

Competent authority and other stakeholders: Ministry of the Interior with opinion from OFPRA (the French Office for the Protection of Refugees and Stateless Persons.

Procedural aspects: The border procedure is applicable in France to persons arriving at external borders (airports, harbours or other arrival areas) without fulfilling the necessary entry conditions.

The applicants are kept in a waiting zone (zone d'attente). This is legally not considered as administrative detention (centre de rétention) and the two types of premises should strictly be separated. Order of 12 June 2024 lays down the list of accredited humanitarian organisations that are authorised to propose representatives who can access the waiting zones. This authorisation is valid for a period of three years from 9 June 2024. The decision in the framework of the border procedure concerns only the authorisation to enter the French territory and it does not deal with the merits of the application. Three major aspects are examined:

- whether the application falls under another Member State's responsibility under the Dublin III Regulation,
- whether the application is inadmissible,
- or whether the application is manifestly unfounded.

OFPRA delivers its independent and reasoned opinion to the Minister of the Interior on the last two aspects, while the Dublin Unit of the Ministry of the Interior delivers its opinion on the application of the Dublin III Regulation. OFPRA's positive opinion for permitting the applicant's entry to France is binding on the Minister, except when allowing the entry is considered a serious threat to public order.

Article R. 351-6 of the CESEDA specifies that, if after the personal interview, OFPRA considers that the international protection applicant requires specific procedural guarantees, which are not compatible with his/her presence in a waiting zone, OFPRA sends its decision to the authority who placed the applicant in this waiting zone and to the Ministry of the Interior and the placement in such zone shall stop.

Decision and time limits to decide: The Border Division of OFPRA has 2 days to deliver its opinion to the Minister of the Interior, starting from the moment that

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the Border Police takes note in writing about the applicant's request for entry to the territory in order to ask for international protection. The personal interview has to take place within this time-frame as well. The legislation does not foresee a specific deadline for the Minister's decision. Overall, applicants may be kept for maximum 30 days in the waiting zone.

Appeal: If the decision denies entry into the territory, the applicant can lodge an appeal within 48 hours from the notification of the decision. The competent administrative court will consider the appeal and decide within 72 hours. This appeal has a suspensive effect. The applicant may be provided with free interpretation and legal assistance.

Impact on reception conditions: Applicants are accommodated in a waiting zone (zone d'attente) near arrival points, train stations, harbours or airports. The vulnerability of unaccompanied minors is taken into account; they benefit from specially-adapted reception conditions in the waiting zone, and the Public Prosecutor appoints a representative.

Subsequent application procedure

Legal basis and grounds: Article L 531-41 of the CESEDA:

A subsequent application can be submitted:

1. after the rejection of an asylum application by the CNDA (in case of appeal of a first instance decision);
2. when the international protection applicant had previously withdrawn his or her application;
3. when OFPRA has closed the case for the reasons set out in Article L. 531-37 or L. 531-58 of the CESEDA (failure to appear to the interview, lack of cooperation, absence of address);
4. when the international protection application has left the French territory, including for going back to his/her country of origin.

Competent authority and other stakeholders: OFPRA - French Office for the Protection of Refugees and Stateless Persons

Procedural aspects: In case of a subsequent application, the international protection applicant has 8 days to lodge his or her subsequent application before OFPRA (while it is 21 days in the regular procedure). In case the application is

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incomplete, the applicant has 4 days (instead of 8 days in the regular procedure), to send missing elements.

The applicant registers his/her subsequent application with the Prefecture in order to obtain the usual asylum application certificate. The Prefecture can refuse to issue it when a first subsequent application has already been rejected by OFPRA or when a first subsequent application is submitted in order to frustrate a removal order.

Decision and time limits to decide: Within 8 days OFPRA proceeds to a preliminary examination on the admissibility of the application. OFPRA re-examines, under the accelerated procedure, the application, taking into account "new evidence" or facts. To support his/her subsequent application, the applicant must provide in writing new evidence or facts intervening after the CNDA decision in appeal of the former application.

Appeal: 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.

Impact on reception conditions: Material reception conditions can be refused (article L551-15 of the CESEDA).

Last-minute application pending removal

Last-minute applications lodged by first time applicants pending a removal

- Competent Authority: The French Office for the Protection of Refugees and Stateless Persons (OFPRA)
- Occurrence: Information refers to the step of detention pending actual removal.

- Type of procedure: In the case of an asylum application in administrative detention, the asylum application must be lodged within five days. If France is the responsible Member State for the application, it is examined by the determining authority (OFPRA) within 96 hours. Beyond five days, the application will only be considered admissible if the foreign national reports

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a new fact occurring after the five-day period has expired.

The Act of 10 September 2018 provided that when the asylum application is submitted in the last fifteen days before the expiry of the maximum period of detention, the administration may refer the matter to the liberty and detention judge in order to obtain an extension of the detention. This extension, if granted, is for 15 days.

Last-minute applications lodged as subsequent applications pending a removal

- Competent Authority: The French Office for the Protection of Refugees and Stateless Persons (OFPRA)
- Occurrence: Information refers to the step of detention pending actual removal.
- Type of procedure: In the case of an asylum application in administrative detention, the asylum application must be lodged within five days. If France is the responsible Member State for the application, it is examined by the determining authority (OFPRA) within 96 hours. Beyond five days, the application will only be considered admissible if the foreign national reports a new fact occurring after the five-day period has expired.

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Safe country concept

Safe country of origin

The concept of a safe country of origin is defined in Article L. 531-25 of the CESEDA. This concept is applied in practice within an accelerated procedure.

A country is considered as a safe country of origin when, on the basis of the legal situation, of the application of the rule of law in a democratic regime and of the general political circumstances, it can be demonstrated that, on a general basis

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and equally for men and women, whichever their sexual orientation may be, persecution is never resorted to in that country, nor torture or any other sentence or degrading treatment, and that there is no threat linked to a violence which can extend to people without consideration of their personal situation within the frame of international or internal armed conflicts.

According to Art. L. 531-25, OFPRA's Management Board:

- sets the list of safe countries of origin;
- regularly reviews the situation in countries considered to be safe;
- ensures the actuality and the relevance of the additions;
- deletes from the list countries that no longer meet the conditions; and
- suspends the addition of a country if there is a rapid and uncertain evolution of the situation.

The composition of the OFPRA Management Board is defined by article L. 121-13 of the CESEDA.

The list was last updated on 2 July 2021 by decision of the Council of State. Benin (already suspended from the list in 2020), Senegal and Ghana were removed.

The current national list of safe countries of origin is:

1. Albania
2. Armenia
3. Bosnia and Herzegovina
4. Cape Verde
5. North Macedonia
6. Georgia
7. India
8. Kosovo
9. Mauritius
10. Moldova
11. Mongolia
12. Montenegro
13. Serbia

The applicant coming from a safe country of origin is informed during the registration stage that the application is automatically examined under the accelerated procedure. In accordance with Article L. 531-28 of the CESEDA, OFPRA can decide to examine the application under the regular procedure if it

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deems it as necessary to examine it in an appropriate way.

OFPRA examines the case within 15 days, the appeal to the National Court of Asylum Law (CNDA) has no automatic suspensive effect (unless the administrative judge decides otherwise) and is processed in a single judge hearing instead of a collegial hearing.

Safe third country

The concept of a safe third country is not compliant with the French Constitution and not defined in national law.

First country of asylum

The concept of first country of asylum is defined in Article L531-32 of the CESEDA This concept is applied in practice within an admissibility procedure. It is applied when:

- The applicant benefits from refugee status or equivalent protection in a third country, in particular with regard to compliance with the principle of *non-refoulement*, on the condition, in both cases, that the protection is effective and that the applicant is actually re-admissible in this third country;

European safe third country

The concept of a European safe third country is not defined in French law.

Assessment of an application at first instance

Legal provisions relevant for an assessment

Article L. 511-1 of the CESEDA

Article L. 512-1 of the CESEDA

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Competent authority for the assessment

Case officers from the French Office for the Protection of Refugees and Stateless Persons (OFPRA) are the competent actors for the assessment.

Required qualifications:

Training: Regular trainings are provided to case workers, especially on personal interviews, assessment of evidence and supportive documents and on the reasoning of decisions taken. OFPRA is carrying out the interviews in-house and there is also training provided by EUAA.

Case officers have a level 6 diploma or a qualification recognised as equivalent.

Case officers follow initial trainings introducing them to the asylum application environment, as well as practical training – including the training modules developed by EUAA – and benefit from a mentoring system provided by experienced staff.

Case officers also benefit from continuing trainings. A training plan, which includes training activities, is proposed each year to strengthen their skills or acquire new ones. It includes modules developed by EUAA, as well as trainings provided by partners at the national level.

Interpreters are not employed by OFPRA, but by interpretation firms holding public contracts awarded by OFPRA. Interpreters must meet the following requirements:

- Have the required university degrees;
- Have prior experience in translation and/or interpreting;
- Be fluent in French and one or more spoken languages of the applicants' countries of origin;
- Acquire geopolitical, administrative, and legal knowledge of the countries of origin concerned.

In addition, interpreters are subject to ethical rules: impartiality, independence, confidentiality, and strict neutrality. The rights and obligations of interpreters are set out in an interpreting charter, which is part of the OFPRA reform initiated in 2013, as well as the contracts that bind it to service providers.

Grounds

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Acts of persecution and grounds for persecution, within the meaning of Section A of Article 1 of the Geneva Convention of 28 July 1951, shall be assessed under the conditions laid down in paragraphs 1 and 2 of Article 9 and paragraph 1 of Article 10 of the Directive 2011/95/EU (Art. L. 512-2 of the CESEDA)

Guidelines for case officers

OFPRA's Professional Database comprises all relevant information necessary for assessing applications for international protection, including information on the situation in the countries of origin, practical tools to support the determination process, analyses by OFPRA's Department of Legal, European and International Affairs (DAJEI) and documentation related to international and European affairs. The Professional Database is managed by the Department of Information, Documentation and Research (DIDR).

Credibility assessment

Internal credibility assessment (instruction phase) is carried out by the case officer, based on the applicant's statements, the documentary evidence he/she has provided, and the available COI information. Each case officer is assigned within a geographical division.

Assessment of facts and circumstances when aspects of the applicant's statements are not supported by documentary or other evidence

Art. L. 531-7 al. 2 of the CESEDA: Where part of his statements is not supported by evidence, the applicant is not required to provide further supporting evidence if he has complied with the requirements set out in the first paragraph of Article L. 531-5 and if his statements are considered coherent and credible and are not contradicted by information available to OFPRA.

Art. L. 531-5 of the CESEDA: It is the applicant's responsibility to submit, as quickly as possible, all the necessary evidence to support their asylum application. This evidence consists of their statements and all available documents concerning their age, personal history, including that of their family, identity, nationality(ies), travel documents, countries and places where they have previously resided, previous asylum applications, their itinerary, and the reasons for their application. It is the responsibility of OFPRA to assess, in cooperation

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with the applicant, the relevant elements of the application.

Time limit for submitting evidence during credibility

Art. L. 531-5 of the CESEDA: It is the applicant's responsibility to submit, as quickly as possible, all the necessary evidence to support their asylum application. The applicant is invited to provide documents at the stage of the lodging but is allowed to add any relevant element until a decision is taken on the asylum application.

COI research

The COI unit, called Information, Documentation and Research Division (DIDR, Division de l'information, de la documentation et des recherches), supports the case assessment by providing reliable, objective, transparent and up-to-date information on the countries of origin in order to help the decision-making.

DIDR is responsible for disseminating useful information for the assessment via an internal documentary portal (Flora). DIDR is also responsible for training case officers on countries of origin. The DIDR also offers an on-demand research service for case officers, when additional information is needed to study a case.

The DIDR has three research departments specialised in certain geographical areas (1. North Africa / Middle East / Turkey / Balkans section, 2. Asia section and 3. Africa / Americas section) and one department for "Documentation and monitoring" in charge of the portal and for consultations.

More information about COI research is available on OFPRA’s website

Decision and outcomes

The decision is signed on behalf of the General Director of OFPRA, by the head of section or an experienced case officer endowed with the delegation of signature. In particular cases, the decision is signed by the head of the geographical division.

OFPRA notifies the applicant its decision in writing, by any means that guarantees confidentiality and personal receipt of this notification. Any negative decision is justified in fact and in law and specifies the means and time limits for

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appeal. No decision can be based on OFPRA's silence (Art. L. 531-22 of the CESEDA).

Minors and unaccompanied minors: If the applicant for international protection is accompanied by minor children, the decision received also mentions the decision in relation with the minor children. It is also possible that minor children are subject of an individual decision. The other parent will also be kept informed on the decision concerning the minor by post.

COI units

Background information

Legal basis: Article L. 531-6 of the CESEDA: OFPRA decides on the application taking into account the situation prevailing in the applicant's country of origin at the date of the decision.

The COI unit, called Information, Documentation and Research Division (DIDR, Division de l'information, de la documentation et des recherches), is a division of OFPRA.

Structure and capacity

Organisation: The COI unit DIDR is one of the ten divisions of the French Office for the Protection of Refugees and Stateless Persons.

Mandate and tasks: The COI unit provides all relevant COI to case officers. Country of origin information reports are published by OFPRA's Division for Information, Documentation and Research (DIDR) on the OFPRA website

Staff capacity: The DIDR is comprised of 32 members, including 20 researchers and 4 heads of sub-units. Internally it follows the below structure:

1 head of unit and an assistant, 1 deputy head of unit;

Three research departments specialised in certain geographical areas: 1. North Africa / Middle East / Turkey / Balkans section, 2. Asia section and Former USSR, 3. Africa / Americas section, each supervised by a manager/senior COI analyst;

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Sub-unit dedicated to the "Documentation and monitoring" and in charge of the COI portal and for consultations (manages the OFPRA's Professional Database and the internal library).

Requirements: Country analysts hold a Master's degree/PhD. They specialise on a specific geographical and thematic area, and all are fluent in English.

Regular training and updates: The staff members follow EUAA training on COI, as well as regular trainings on various topics, for example: online research, source analysis, methodology, COI conferences, IT skills, etc. They can also receive training on an individual basis.

COI products

Type of COI products produced and frequency: Around 700 to 800 COI reports are produced per year, including short reports answering queries from case officers on a particular case, reports on general topics and fact-finding mission reports. Moreover, two cartographers are in charge of completing analysis on security levels in countries of origin.

Most of COI products have a specific focus (regional, thematic including medical, group/profile).

Languages: The sources consulted are in Arabic, Russian, Tamoul, Persian, Turkish, Serbian, Amharic, Lao and Thai. The Professional Database contains sources in 35 languages, mostly in French and English. COI products are written in French (with some exceptions).

Methodology and sources: The sources used are mainly DIDR documents. These documents are intended to be used at all stages and by all stakeholders in the process and are produced using information drawn from multiple and original sources available to the public (such as web sources, libraries, contact with specialists, contact with international/local NGO's, French Ministry of Foreign Affairs and fact-finding missions carried out by the DIDR) in line with good practices including the assessment of the reliability of sources, corroboration of information relevance, transparency and traceability of information (see EU guidelines for processing COI).

Quality check: The COI Unit sends out newsletters and delivers weekly 1-hour presentation for case officers on a political, security or thematic situation. The presentation and the PowerPoint are made available on the database. COI

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products undergo quality check prior to publication/dissemination.

Other aspects of COI units

The COI unit contributes to country guidance notes by writing COI products.

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