

FROM ARREST TO DETENTION CENTER :

FACING THE DEPORTING MACHINE WHEN UNDOCUMENTED



This brochure aims to collect legal and practical information useful to understand your rights and try to be released in case of arrest and possible deportation. The brochure has been written on the basis of legal texts and first- and second-hand experiences. The French legal system doesn't leave many opportunities for gaining freedom in such cases, and some of the advice reported here are not legal or legally allowed. This guide is very dense, and practices change from one case to another, and from one prefecture to another. They are therefore not exhaustive.

Moreover, "it's you and your good luck": depending on the prefecture, cops, lawyers and judges that you meet, what happens to one person is not guaranteed to happen in the same way to another.

These pages are not only a guide for those who can be deported, but also an act against national borders. This text is not only concerned with providing tools to escape State control, but it also wishes to oppose it, by blocking its deporting machine.

Taking part in a struggle, refusing to board a plane, spending time in jail, and everything that might happen to you while you are in a detention center, is not necessarily going to be a problem when you will try to obtain a residency permit later on.

If you want to share your experience: face-a-lexpulsion@riseup.net

If you want to have the PDF: abaslescra.noblogs.org/face-a-lexpulsion/

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GENERAL SUGGESTIONS BEFORE ARREST

Highly risky places:

It is possible to be arrested anywhere, but there are some places where police controls are more common. These are **stations (buses and trains), big metro stations** (in order to avoid more controls: avoid mechanical stairs, one-way corridors, if possible have some money with you to pay the fine if you don't have the ticket, it's 35 euros if you have a spare ticket; otherwise is more), **La Chapelle, Barbès, the areas around campgrounds, and also very touristic neighborhoods.**

If you are controlled or arrested, try your best to make it visible. Even more in the the case of a roundup, so that people around you can be aware and possibly intervene.

You are summoned to the prefecture:

If you are summoned to the prefecture, be alert. Ask someone to translate the summons paper to you. If the summons paper says "en vue de votre éloignement" (in order to proceed with the expulsion):

If you are asylum seeker, it may possibly refer to a deportation within the "Dublin agreements"

Otherwise, if you have been denied papers from the prefecture for residency permit (OFPRA or CNDA) **it is surely an expulsion procedure** (you can be under and OQTF* without knowing it). **So do not go to the summon!**

Based on your own strategy during the procedure:

You can choose to give a **fake identity**, in order to avoid give away your nationality.

In this case, avoid (in general) to have with you any paper that could identify you (like your passport or a document application receipt).

If the cops have access to a paper that helps them verify your identity, it will make your deportation easier, because they can possibly have a laissez-passer from your consul faster. **If they have your passport, cops may not even need the laissez-passer.** If you are in police custody, cops may look in your phone to see which country you called, and therefore guess your nationality: erasing your phone calls history on a regular basis can be a good strategy.

CAUTION: the Algerian consul issues laissez-passer for anyone regardless of their nationality, you may be deported in Algeria even if you are not Algerian; you may face prison in Algeria and in France when you come back.

ARREST

Everything that will happen during an arrest may be useful to your lawyer in order to obtain your discharge during your hearing with the judge (if your rights are not respected). This is why it is important to ask for your rights at the moment of your arrest. Cops will tell you that you will be released earlier if you do not ask them, but this is not true, they are not the ones who decide. **So, asking all your rights is a strategy to multiply the possible errors made by the police, , which will become useful to you later on.**

At the police station:

there are two types of procedures:

La retenue administrative (administrative withhold)

La garde à vue or GAV (police custody)

IDENTITY CHECK: before being put in GAV or retenue administrative, you can be held for identity check for at most four hours. During this time, you don't have the same rights you have in GAV or retenue. Sometimes, in the case of a roundup, cops and prefecture organize so that in the 4 hours you can be put in CRA. In this case, when you are summoned to the JLD (see below), your lawyer has to look into the legal terms of your arrest.

Do not sign any document that you do not understand. Do not believe cops. You can write "je ne comprend pas" ("I do not understand") on papers. As a general advice, avoid signing any paper they give you. If you live with other undocumented people, do not give your real address so as not putting them in danger.

You should never say that you don't want to leave the country (except in the TA -see below-). If you are asked the question "*Do you want to leave the country?*" you can answer "*Yes I want to leave*", or "*If I don't have other options, I will leave*", or "*I want to leave, but with my own means*". What you say to cops or judges is not going to commit you to anything.

When you arrive to the police station, in GAV as in retenue, you have rights. Ask for all your rights, if they are not respected, this could be used to obtain your discharge later on:

- **Ask for a translator in your mother tongue:**

cops are not translators, even if they speak your mother tongue

- **Ask for a lawyer appointed by the court, or a lawyer you trust:**

preferably a lawyer specialized in immigration rights. If you ask for a lawyer appointed by the court, he/she will not be the same person throughout the whole procedure. Give your lawyer all the useful documents, ask him/her to get them. If there is a decision to be disputed (like an OQTF -see below-) ask your lawyer to dispute it.

CAUTION: *a lawyer is necessarily a good counselor!*

- **Ask to see a doctor:**

you can ask him/her to witness any violence you may have endured (try to make him/her produce a certificate).

CAUTION: *doctors are not allies, don't tell them anything more than necessary!*

- **Ask to have a trusted person informed:**

this may help people to organize support outside.

CAUTION: *if you want to use a fake identity, it has to be known by the trusted person you want to inform, because he/she will be talking with cops on the phone. You can ask to call him/her by yourself, but cops may refuse.*

- **You can ask to inform your employer:**

Do so only if you think this might be useful.

Retenue Administrative

Garde à Vue

In Reteune Administrative, cops check for your identity & nationality	In Garde à Vue, cops suspect you of committing a crime; they can accuse you of any crime
It lasts 24 hours	It lasts 24 hours at most and can be extended once by 24 hours (it can last up to 96 hours in case of serious accusations)
You do not have the right to remain silent. Try to speak the least you can. If you are asked if you are willing to leave, a good answer is "Yes, by my own means"	In this case, you have the same rights that in retenue administrative (see above), but you also have the right to remain silent, so do it!
They can at any time decide to put you in GAV. The total duratio of your detention is to be the same	
You should be kept in a separate cell from the people in "garde à vue"	
You are not supposed to be handcuffed	
You can keep your phone	

If people close to you, collectives and supportive persons are aware of your arrest, they may express their solidarity by having a rally in front the police station, for example. If you can show the authorities that you have external support, this may change your relationship with cops in the police station, as well as with all the other people you will meet during the procedure.

FINGERPRINTS: if you'd asked for a French visa in your home country and you'd provided your fingerprints (VisaBio database) or you'd been or are under a so-called Dublin procedure (EURODAC database), **your fingerprints may be tracked down as well as your identity and country of origin.**

You can refuse to give your fingerprints. It is illegal, but most of the time cops will not make you give your fingerprints by force.

Caution: if you are sued for refusing to give your fingerprints and you go in Comparition Immdiate (immediate trial), you can ask f o r t h e t r i a l t o be postponed . However, there is the possibility to be put in pre-trial detention in the meanwhile. If you give your fingerprints in prison, they may be tracked. **If you keep refusing to give them, it may impact your prison life, but it will avoid to give them to the prefectur.**

If you are given an OQTF and IRT when you leave the police post:

At the police station you may receive an additional summon (for a possible trial), a "rappel à la loi" (a reprimand), but also **an order to leave the country (like an OQTF)**. An OQTF "Obligation de Quitter le Territoire Français" (Obligation to Leave the French Territory) is an administrative decision requesting you to leave the country. Most of the times, the OQTF has no delay, meaning that **you have 48 hours to dispute it**. The OQTF is nowadays always paired with an IRTF "Interdiction de Retour sur le Territoire Français" (Ban on returning to the French Territory) for two or three years. The IRTF period starts the day you have officially left the country: as long as you stay in France, the IRTF is still valid in its entirety.

If you are liberated, go as soon as possible ask an association specialized in immigration rights to translate the documents and, if possible, to dispute the OQTF and IRTF.

THE DETENTION CENTER

Some people call it "the deposit". The detention center (CRA) is a prison for undocumented people, where one can be detained up to 3 months while the State tries to deport him/her. Authorities are willing to keep you there because they suppose that you don't want to leave the country on your own. To hold you in detention, the prefecture must have taken an administrative expulsion decision on your person (OQTF, "Dublin" transfer decision, ...).

The arrival at the CRA:

If the OQTF decision has just been taken and you have been notified at the police station, or you are being Dublined, you have 48 hours to appeal against it.

Contact immediately the association in charge of your rights inside the detention center. If you can't meet with the association, go to the CRA clerk office in order to have your appeal recorded by writing "je conteste toutes les décisions dont je fais l'objet" (I challenge all decisions made against me). Ask (insist until they do it) the authorities to fax your appeal to the Administrative Court (Tribunal Administratif, TA). If you can't do it, you can ask a trusted person to do it for you, by adding the sentence "la requête de l'intéressé sera régularisée par la présence de l'intéressé à l'audience" (the request of the interested party will be regularised by the presence of the interested party at the hearing). Your appeal has to be sent to the same Administrative Court of the department of the prefecture that issued the OQTF. If your appeal is accepted, you will be heard at the TA (see TA below) .

Cellphones with camera are not allowed in detention centers; all other types of phones are.

As in police detention, it is useful to take note of any information your lawyer could use.

The OQTF decision may have been taken many months before you are held in a detention center, even if you were not aware and did not receive a notification. You can't dispute the decision before the TA if the deadline for appeal already passed.

In the detention center, cops decide everything and everything is based on a power relation. **Talk with other detainees to know about the practices in the** (regarding the operations of the center as well as the deportation practices, deportation flights not communicated to detainees, fake sum moning, etc...), and if possible collectively organize to gain a power balance against the administration.

You will also face doctors and nurses, **that unfortunately are not there to make sure you are healthy**, but rather to calm you and insure the power of the cops inside the center, and to sedate you before the deportation flight. **Beware of the drugs they want to give you.**

In the detention center, you can contact the association for your administrative procedures and be assisted for your appeals (collect information on your case, ask for a lawyer's name, receive legal advice on your case, ...).

The State relies on the presence of associations in the CRA to make people think that detainees may defend themselves legally and that you have allies within the center. It is the humanitarian alibi of the deportation machine.

In practice, they are legal guarantors: most of the time, they will not give practical advice outside the law. Moreover, they are not numerous and have neither time nor means to follow up all the files. They are therefore forced to sort out "good" from "bad" files. Whatever they tell you, insist telling them that, even if there is nothing to defend the appeal, it may buy you some time. Other people can also pressure them from the outside.

During the time spent in detention, the administration will try to know your nationality (or to assign you one):

If the administration has your passport, they do not need a laissez-passer and they will try to deport you quickly, possibly before a hearing with a judge.

If you are “Dublined”, the laissez-passer is issued at the same time as the decision of expulsion.

In case they don’t have your passport, they need to receive a laissez-passe from a consulate to allow your deportation:

If they have another identity document or a copy (found on you or get from previous procedure in the prefecture) the consul doesn’t need to see you to send on a laissez-passer.

If they don’t have any document on you, the consul must then see you to decide if he will send on a laissez-passer or not.

The consul :

If the French police doesn’t have any of your documents, they have to introduce you to a consul so that he can confirm your nationality and issue the laissez-passer. If the consul doesn’t recognize you, cops can take you to other consulates.

If you think that the consul will recognize you, it is always possible to insist with him on the ties that you have in France, so that he might refuse to issue the laissez-passer. Again, you can discuss with the other detainees about more or less risky strategies to avoid being recognized by the consul.

Going to the consul and refusing to talk to him will not prevent him to issue a laissez-passer. You can refuse to see him, but there is a risk to be sent in “garde à vue”.

Some consuls come to the detention centers. This is true in the detention center of Vincennes for Morocco, Tunisia and Algeria.

Only the prefecture knows if a laissez-passer has been issued or not. The only time you can know this is during an hearing at the JLD.

Freedom and detention judge, "juge des libertés et de la détention" (JLD) :

Fourty-eight or seventy-two hours after your arrival at the detention center, you are taken before the Freedom and detention judge at the "Tribunal de grande instance" (TGI) of the department of your detention center. The case is referred to the judge by the prefecture, which requests that you remain in detention in order to deport you, because they consider that you will not leave the national territory on your own (this is why it's better not to say that one doesn't want to leave).

Some JLD take place in a building next to the CRA. It is the case of Mesnil-Amelot or Coquelles.

In the Paris court during weekends you have to show your ID at the door to enter and witness auditions.

The judge is expected to look at whether the procedure has been rigorously respected since your arrest. It is therefore the task of your lawyer to show that the procedure has not been respected, in order to obtain your release from the judge.

If your lawyer is specialized in migration rights, he/her will more likely look for "vices de procédures" (procedural defects).

CAUTION: paying a lawyer a high fee is not a guarantee of being properly defended, the lawyers who are activists are often the cheapes. If your lawyer is provided by the court (free), a good defense is not guaranteed. Some people don't give a shit about your situation and won't make any effort to help you, while others will work harder. Tell the lawyer everything that happened since your arrest in detail. (example: you asked for a translator, and you didn't get it...).

For the judge too, it's also a lottery. Some judges don't release almost anyone... Normally, he/she should not look at your personal situation in France or the reasons for your asylum application, but they still often ask questions.

The court expects two contradictory speeches from you:

In any case, the judge will ask you if you do not want to stay. You can answer "*Yes, I want to leave*", or "*If I don't have choice, I will leave*", or "*I want to leave but with my own means*" ...

The judge can ask you how integrated you are in France. Beware, it might be a trap. Depending on the judge, being well integrated may mean that you can be entitled to a residence permit, or indicate that you don't want to leave.

Before the hearing, ask your lawyer if he knows this judge in order to choose a strategy.

Often, lawyers propose to ask for an "assignation à résidence" (house arrest); this implies that you give your passport to the judge, who will give it to the prefecture. This is a very dangerous strategy, because once your passport is in the hands of the authorities there is no need of laissez-passer to deport you. This strategy is worth it only if the prefecture has your passport already, or if you have very strong guarantees of representation (proof of residence, promise of employment, school certificate, marriage certificate, ...) and thus there is good chances that the "assignation à résidence" will be granted.

If you have support from trusted persons, they can bring you guarantees of representation and ask to meet the lawyer. The presence of the people who support you before and during the hearing is important because it pressures on the lawyer and the judge.

If the judge releases you, the prefecture and the prosecutor have 10 hours to appeal the decision of the court. You will be held in the tribunal until you know if there is an appeal or not.

Most of the times, the hearing is really quick and the judge simply extends the detention time.

If your lawyer has raised a lot of issues regarding your detention procedure and the judge still keeps you in detention, **it is worth appealing the sentence. You have 24 hours to do it**, and you have to ask your lawyer to proceed with the appeal. You will be heard the next day or the day after, before the Court of Appeal of the same tribunal (the Court of Appeal is usually not in the same place).

To appeal implies to be put another day in the waiting rooms of the tribunal cell.

If your lawyer didn't say anything (or not much), it won't be possible to say more in the appeal, no matter the lawyer, and the result will be the same.

even if you are released, the decision of your expulsion is not cancelled (see TA below). In case you are not released, you return to the detention center for 28 days.

Next JLDs:

The prefecture has to request a new extension from the JLD on the 30th, 60th and 75th day of your detention. Your lawyer will then have to demonstrate that the prefecture has not attempted to deport you (has not contacted the consul, booked a flight, etc...) and that your confinement is abusive. Most of the time, the prefecture wins the case and your detention is extended.

The Administrative Tribunal (TA) :

You are audited by the TA of the same department that has issued the OQTF the days following the appeal. In the meanwhile, you can't be expelled.

Here again it is a lottery... The judge has to confirm or cancel your deportation order and your ban on returning to the French territory. **So it is at this moment of the procedure - and only in this administrative tribunal - that you have to explain why you want to stay in France** (family life, ties in France, work, school, risks in the country of origin, illness, etc...).

It is better to have a good lawyer specialized in foreigners right. There is no possibility to have a free lawyer that they choose. However, you must have access to a lawyer on duty during the hearing. Again, the presence of trusted people during the hearing and external support is important, because it demonstrates your ties in France.

Flights:

Deportation flights can be announced to you, or hidden. Practices vary from one CRA to another but, in general, you are informed the first time. **It is possible to try to refuse to board this flight. Discuss with others about individual or collective practices** that can work to avoid deportation.

Not all police escorts work in the same way in case of refusal to board a flight. In general try to communicate your refusal as late as possible (the best way is to do so in the plane in plain sight of the other passengers), so that the cops can't anticipate that you are going to rebel. Moreover, you are not alone with the cops, they can't be as violent as they could. Last some passengers may intervene or be outraged.

People that you trust can go to the airport to talk to passengers at the check-in and encourage them, for example, to ask the captain (and not the cops) to refuse to take off with someone being deported on board.

Usually there is no escort on the first flight, if it is at the beginning of the 90 days; in this case, it is possible to refuse the flight before leaving the CRA (see with other detainees). To make you accept a flight, cops may pressure you and lie to you saying that there will be an escort.

Prison :

The detention center and the prison go hand in hand, and it is common to be taken from one to the other. Indeed, **at the CRA, during your detention or after 90 days, you can be prosecuted for "evading deportation order" following a refusal to meet the consul, an attempt to escape, a denied boarding** Thus you might find yourself before the criminal court, and endure a prison sentence. This practice has become common.

At the release from prison, people are very often transferred directly to the detention center. So you can go back and forth between prison and detention center.

Asylum Application:

You can apply for asylum in CRA. In the next 5 days, your request -first request or reconsideration- will be examined (96 hours in case of accelerate procedure). In any case, **its primary goal is to avoid a flight.**

During the examination period by the OFPRA, you can't be deported. In order to keep you in detention, the prefecture will take a detention order (AMR); you have 48 hours to dispute it to the TA. This appeal is also suspensive. The hearing before the TA takes place at the same time as the one disputing the deportation decision, if you appealed. It will take place 96 hours after the decision of the OFPRA (or more depending on the court). In case of rejection by the OFPRA and in case of appeal before the CNDA, the court will decide to keep you in detention or not.

Within five days:

You can collect the asylum application file any time

OFPRA summons you normally between day 4 and 10, and sends his decision 3 to 6 days later (sometimes before)

OFPRA rarely summons people in a reexamination procedure and can assets its decision on written documents only.

After five days:

You can collect your asylum application file only between 9 a.m. and 5 p.m. (depending on the CRA)

In case of re-examination without new and real elements after the 5 days, OFPRA will reject your application without examining it, it will state that your request is inadmissible (if new facts, see "within 5 days")

If the nationality of your asylum request is considered as a safe country, your request will be automatically rejected by the prefecture within the same day or the next day, regardless of possible new elements. In this case, there is no need for the

Some practical Infos:

There are four CRA in Ile-de-France region, in which more than 8.000 people have been incarcerated during 2018. They are sometimes divided in different buildings, you should call the cabin in the right Building to talk to the person you want.

Le Mesnil-Amelot :

Adress: 6 Rue de Paris (77990 Le Mesnil-Amelot)
Association: La Cimade
Number:
CRA 2
Male Building: 01.60.54.16.49 / 50 / 51 / 52 / 53 / 55 / 56 / 57
Female Building: 01.60.54.16.48 / 47
Families Building: 01.60.54.16.48 / 27.89
CRA 3 01.60.54.27.76 / 78 / 84 / 26.02 / 26.03 / 27.64.88
27.64.91 / 27.64.94

Paris-Vincennes :

Adress: 48 Avenue de l'École de Joinville (75012 Paris)
Association: Assfam/groupe SOS
Number:
CRA 1 01.45.18.02.50 / 59.70 / 12.40
CRA 2A 01.48.93.69.47 / 69.62 / 90.42
CRA 2B 01.43.76.50.87 / 01.48.93.99.80 / 91.12

Palaiseau :

Adress: 13 Rue Emile Zola (91120 Palaiseau)
Association: France Terre D'Asile
Number: 01.60.14.90.77 / 01.69.31.29.84 / 01.69.31.17.81

Plaisir :

Adress: 889 avenue François-Mitterrand (78370 Plaisir)
Association: France Terre D'Asile
Number: 01.34.59.49.80



CONCLUSION

This brochure covers a lot of procedures, but as laws against foreigners are passed, there are fewer and fewer legal means to get away with law implementation. In this context, it is particularly important to establish a power leverage. The institution does not treat you the same way if you react. If isolated, you are always more vulnerable: this machine is overwhelming, but it is embodied in multiple individuals (civil servants, judges, cops, lawyers, etc...) on whom, if organized and supportive, you can have an impact.

Being part of groups of undocumented migrants, organizing oneself inside the detention centers between detainees as well as outside with people in solidarity, often makes it possible to get out of this machine.

