



OBSERVATION REPORT

DUBLIN REGULATION

INTO THE INFERNAL MACHINE OF THE EUROPEAN ASYLUM SYSTEM

DETERRENCE AND EXCLUSION: AN ANALYSIS OF THE IMPACTS
OF THE DUBLIN PROCEDURE ON THE RIGHTS OF EXILES IN FRANCE



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A strategy of dehumanisation

Dublinised: a new term applied to refugees who will be subject to the Dublin Regulation, yet another linguistic trick creating an impersonal category for those suffering under the sadly all too well known Dublin III Regulation. The term allows those using it to distance themselves from the individual situations of those confronting the infernal Dublin machine, to blind themselves to what an individual woman, child or man is living through, a cold and ridiculous public policy. Using dehumanisation to make a policy acceptable is not new and still works very well, so well that even organisations fighting to oppose the Dublin Regulation are using the term dublinised.

This report by the Cimade hopes to put an end to rendering these people invisible. The aim is to explain, particularly to the general public, the innumerable, disastrous and often cumulative effects that the Dublin Regulation has on people. It traces and describes in detail, the steps refugees will have to take from arrival in Europe through to the different possible outcomes they will face once they arrive in France, a very telling story. They may end up living on the street or receiving unpredictable and precarious offers of accommodation; suffering interminable administrative checks; spending hours in police stations with minimal regard to human rights or dignity. They will face complex and obscure procedures designed to increase the pressure they are under and encourage them miss some steps of this difficult procedure to be declared as absconded. Those requesting international protection will most probably be held in detention centres or be deported to countries where it is known they will be even less well protected.

The Cimade's conclusion is decisive. This report demands an end to the iniquitous regulation and proposes that Europe establish a new policy both at the national and at the European level based on our list of recommendations.

The French government can and must act differently, but, let's not be naive, the inertia and the zeal with which it applies the Dublin Regulation does not arise from a virtuous desire to respect European law: it does this when it suits. When considering applications for asylum, under the Dublin Regulation France is allowed to exercise sovereignty. In its fight against immigration the French government has deliberately chosen to mistreat thousands of people and to maintain them in situations of insecurity.

We have a right, considering the information gathered in this report, to ask ourselves whether this lack of respect for the dignity and human rights of refugees has not become a vital pillar of European and French immigration policy.

Jean-Claude Mas, General Secretary of La Cimade

INTRODUCTION

Against the backdrop of a European political crisis, the Dublin Regulation stalemate

For many people in exile who seek asylum when they come to Europe, the word “Dublin” brings to mind thoughts of a constant threat which might knock them down at any moment. Far from evoking thoughts of the Irish capital, “Dublin” puts them back into endless procedures, continual suspicion and fear of being sent back to a country where they don’t want to live. Dublin is the name of an absurd system where they don’t have a say in choosing where they make their asylum claim and build a better future. Trapped in a deeply unjust system, these people who have fled their countries and who seek protection from Europe become “dublinised”. Their daily routine is now defined by waiting, checks, and administrative obstacles.

The Dublin Regulation - what’s it all about?

A cornerstone in the structure of the European political asylum system, the Dublin procedure came into being at the same time as the concept of “freedom of movement” in Europe (1985-1990). Put in place to stop multiple asylum requests being submitted by one individual and to fight against movement of

people seeking “secondary” protection, it aimed to determine the Member State responsible for an asylum claim. Formalised firstly in 1990 by a convention signed in Dublin, the system has since evolved into a European regulation, and it has been modified on multiple occasions and successively named Dublin II and later Dublin III¹. The latest iteration, adopted by the European Parliament in June 2013, is now applied by all members of the European Union (EU)², as well as Switzerland, Lichtenstein, Iceland and Norway; associated countries. It does not apply in Monaco, or in Andorra, or in France’s overseas territories.

The Dublin Regulation dictates to asylum seekers which country will handle their claim. The principle is simple, though the application of it is anything but: only one asylum claim per individual should be necessary across the whole of the European Union,

1. EU Regulation n° 604/2013 establishing criteria and mechanisms to determine the Member State responsible for an asylum claim for international protection submitted in one of the Member States by a Third Country National, 26th June 2013.

2. Denmark, which was initially excluded from the Dublin Regulation, joined it through a communication on 12th July 2013.

and the country responsible for handling the claim is the first country that allowed the asylum seeker to enter, whether or not this was deliberate. A large database, Eurodac, has been established, in parallel, in order to facilitate the application of the regulation. The database provides a repository of the hundreds of thousands of fingerprints of foreigners who have passed through the external borders of the EU in an irregular way or who have made an asylum request in one of the Member States. Thus, when a person wishes to make an asylum application in France, the authorities first check if their fingerprints appear on the Eurodac records.

The Dublin Regulation is part of a Common European Asylum System (CEAS) which similarly includes other legislature governing, in particular, the reception of asylum seekers and the procedural guarantees while their asylum application is being processed³. Furthermore, the European judiciaries (the Court of Justice of the European Union and the European Court of Human Rights) play a central role in interpreting European laws, and particularly those which relate to questions of migration and asylum.

Deep political crisis in Europe

In the summer of 2015, pictures circulated the globe of thousands of people seeking protection landing on the Greek islands and lining up along railway platforms in the Balkan states. Politicians and commentators in unison declared a “refugee crisis”, while Europe ostensibly stayed its course by proposing solutions to the emergency. Against this backdrop, Germany announced that it would officially suspend the application of the Dublin Regulation for Syrian nationals, by making use of the “sovereignty clause”, in order to allow an individual to register their claim in Germany, even in cases where another country would have normally been responsible for processing the claim. Asylum requests have therefore all been handled in Germany and the Syrian nationals have not been sent back to Greece, Hungary or anywhere else. In 2015 and 2016, over a million people entered the asylum process in Germany in this way. The question of migration also became one of the main priorities for the European Commission, which decided to reform a large part of the legislation relating to the politics of asylum and immigration. A previous reform of the European asylum system in 2013, however, had only just been finalised, after five years of negotiations. The phrase “refugee crisis” is therefore largely used to justify an unprecedented tightening of migration policy. It was clear from the

establishment of “hotspots” – identification and sorting centres in Greece and Italy – as well as the unprecedented strengthening of the operations and finances of the European border and coast guard agency, Frontex, that security was also a key motive. Additionally, the exceptional step was taken to outsource migration management, as demonstrated in particular by increased cooperation with countries such as Turkey, Libya and even Afghanistan. The EU and its Member States pursued a dual objective: reduce

The phrase “refugee crisis” is therefore largely used to justify an unprecedented tightening of migration policy.

entry to European territory as much as possible and increase the rate of expulsion from Europe considerably⁴. One of the most direct consequences of this policy was that it heightened the risk for people taking increasingly dangerous migration routes. A significant number of people therefore die or go missing in the Mediterranean⁵, but in addition, this is increasingly happening far from the European border, for example in the Sahara Desert.

In 2016, in a maelstrom of legislative activity, the European Commission also initiated a complete reform of the Common European Asylum System. Even though this was only created in 2013 as a result of many years of work and intense negotiations, seven legislative proposals were tabled, without any evaluation of how these would apply to the existing laws within the national Member State systems. The urgency of the situation was cited to justify the hasty approach⁶. Almost three years later, the State still have

3. The three directives “Reception”, “Procedures” and “Qualifications” were formed with the “Dublin” and “Eurodac” regulations and, the legislative bedrock of the common European asylum system, which is currently undergoing reform.

4. For an interpretation of the cooperation between the EU and several African countries in terms of migration and the dynamics of externalisation, see the multi-association report from La Cimade, Loujina Tounkaranké and Migreurop: *Chronique d’un chantage – Décryptage des instruments financiers et politiques de l’Union européenne*, (in French), December 2017.

5. IOM, Mediterranean Sea, *Data of Missing Migrants*, Recorded deaths in the Mediterranean by month, 2014 – 2019.

6. Christoph Tometten, “La fortification juridique de l’asile en Europe”, in *La Revue des droits de l’homme, Actualités Droits-Libertés*, November 2017.

not found a compromise on the Dublin Regulation and the reform of the Common European Asylum System is still at an impasse. This blockage at the heart of the European Council serves to illustrate the lack of solidarity between the Member States and the political crisis crossing the European Union.

The serious shortcomings in the European asylum system lead to repeated human rights violations.

The tracks of reform laid down by the Commission would considerably limit human rights for asylum seekers in Europe, albeit with a few exceptions. The mantra of “reducing secondary movement” – to confine an asylum seeker to the country responsible for their claim – is repeated consistently throughout the proposed legislation. However, the serious shortcomings in the European asylum system already lead to repeated human rights violations, from the moment of arrival to Europe, up to the end of the asylum process and even beyond⁷.

Rigorous application of the regulation in France

For two years, in France and in Europe, the number of people who fall under the Dublin Regulation has considerably increased. In France, this figure rose from approximately 6,000 in 2014 to more than 45,000 in 2018, representing more than a third of asylum seekers registered in the country⁸. In Ile-de-France for example, half of first-time migrants came under the procedure. The high level can be explained by the significant number of people seeking protection who arrived in Europe via the Mediterranean and the Balkans in 2015 and 2016, but can also be attributed to the dismantling of camps in Calais and Paris, since a large number of the people living in the camps had travelled there via another European country. Despite this, the number of people who were actually sent back to the country deemed responsible for handling their claim remained very low, accounting for only 525 in 2015 (out of the 12,000 people under a Dublin procedure).

Since June 2016, there has been a significant change in the practices undertaken by the Prefectures [the regional authorities]. Demonstrating this desire to augment adherence to the Dublin Regulation, the

REPORT METHODOLOGY

The observations and information presented in this report have come from a range of sources. Firstly, the majority of analysis presented is the result of significant time spent undertaking legislative, political and legal oversight of European and French migration policy, particularly relating to asylum. Unless otherwise stated, all figures presented in this report have come from the European Statistical Office, Eurostat. Elsewhere, staff from La Cimade's legal services have provided many observations and testimonies. Many thousands of migrants request this legal counseling every year, and so they provide a real vantage point for observing the consequences of the Dublin Regulation. La Cimade is also present in many detention centres (Toulouse, Rennes, Hendaye, Bordeaux, and Mesnil-Amelot, which serves Ile-de-France), as well as being in contact with people who have been detained, essentially because they have requested asylum in France. La Cimade collaborates with other organisations in Belgium, Germany, Hungary Italy, Spain, Norway etc. to gather information on the situation in other European countries and to collectively denounce the consequences of the Dublin Regulation.

French Minister of the Interior, Bernard Cazeneuve, discretely sent a memo to the Prefectures, which instructed them to adhere rigorously to the regulation; to send migrants back more quickly to the designated responsible country, and to use a number of different methods of constraint to do so⁹. Thus, a variety of strategies were put in place by the State to trace people more easily and to increase the number of deportations: compulsory order to report to the authorities and other particular accommodation measures, resorting to administrative detention, prolongation of the procedure by declaring someone absconded, halting housing and financial support etc. There is a multi-

tude of administrative tools aimed at dissuading, discouraging and making asylum seekers invisible – but at what price and to what end?

Dublin: an infernal machine?

Even before 2015, many civil society organisations across Europe were pointing out the limitations of the Dublin system. Today more and more voices are denouncing the consequences of this regulation and calling for an alternative system. The French Defender of Rights has repeatedly appealed to the government to change course and to suspend the application of the Dublin Regulation in order to allow people already weakened by months, or even years, of roaming, to be able to seek asylum. The Defender of Rights issued a reminder that “in Europe [there are] many hundreds of thousands of people for whom returning to their homeland – in fact, to their nationality – is impossible but who, because of these rules, will never find a legal and humane way out of their situation. Without perspective, without really considering their situation, they are destined to a life of perpetual roaming, no opportunity to integrate and with living conditions so hard and so desperate that their physical and mental health are seriously impacted.”¹⁰ In October 2017, the European Parliament adopted its report on the reform of the Regulation, in which it confirmed its stance in favour of a system which would take into account, in part, the preferences of those seeking asylum¹¹.

In 2017, out of a total of 166,359 referrals undertaken by the 32 countries that apply the regulation, only 23,715 people were actually expelled under the Dublin Regulation, representing a very low proportion of just 14.25%. The financial and administrative measures put in place by the Member States contribute significantly to the ‘effectiveness’ (in relation to the stated objectives) being highly limited. A significant number of dublinised people end up accessing the process, for example in France, but only after many months or years of social instability, of fear of expulsion, of repeated checks and sometimes detention. They are regarded as unwanted from the moment they request asylum. Elsewhere, countries in this system with external borders, notably Greece, Spain, Italy and Bulgaria, are put under immense pressure to control

borders and identify people who arrive in the country in an irregular manner, while also processing their asylum applications. This stands in contradiction to the fundamental principal of European solidarity, enshrined in the Lisbon Treaty.

Thus, there is a triple paradox: the system is not effective (in relation to the goal of the Member States) given its burden and its cost; it results in an almost systematic violation of the rights of people who are

Today more and more voices are denouncing the consequences of the regulation and calling for an alternative system.

in need of protection; and it is unjust for a proportion of European countries, specifically the “first entry” states. So, what purpose does the Dublin Regulation serve? Why are we continuing to oil this “infernal machine”, when it creates such discord and rights violations? Isn't there another way?

By following the experience of someone going through the Dublin process, from their arrival in Europe to exiting from the procedure, this observational report intends to shed light on the consequences of this ‘infernal machine’ on people seeking asylum. Through Kafkaesque administrative processes and a relentless attachment to inspect, detain and endanger people who come under the Dublin Regulation, it seems that the main objective is to dissuade refugees and migrants from accessing a form of protection of their rights, no matter the cost.

10. [Translated from the original French] Defender of Rights, *Exilés et droits fondamentaux, trois ans après le rapport Calais*, December 2018.
11. European Parliament, *Rapport Cecilia Wikström sur la réforme du règlement Dublin*, 6th November 2017.

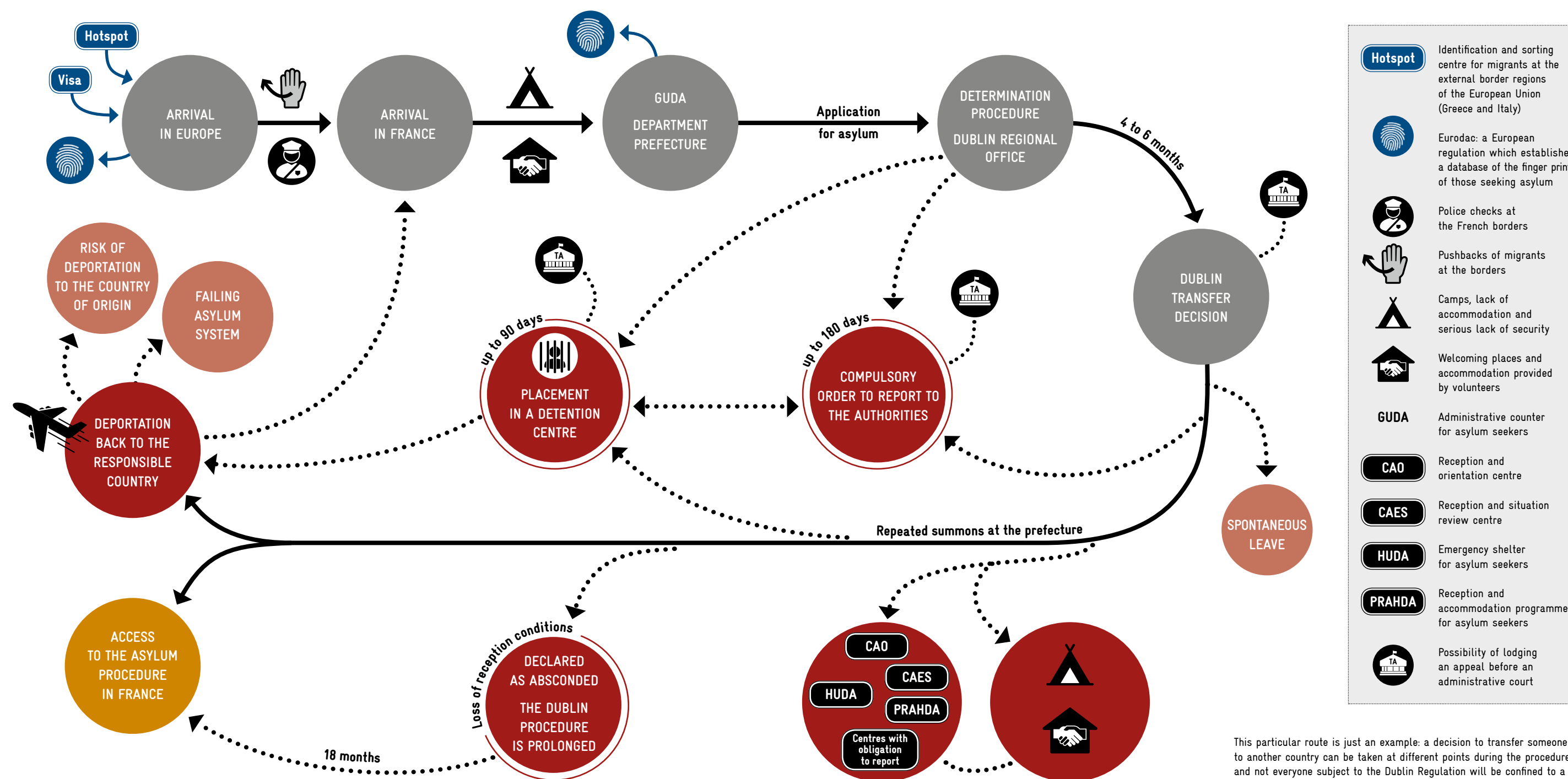
7. Van Ballegooij, Wouter et Navarra, Cecilia, *The Cost of non-Europe in Asylum Policy*, European Parliament Research Service, October 2018 pg. 7.

8. Figures from the Ministry of the Interior and OFII.

9. Ministry of the interior, correspondence 19th July 2016 regarding the application of EU Regulation n°604/2013 ‘Dublin III’.

The route of the Dublinised an obstacle course

The procedures set out in the Dublin Regulation constitute a veritable obstacle course for those who are in fact, seeking protection. For months, if not years those "Dublinised" – those subject to the procedure set out in the Dublin III Regulation, follow a tortuous route: finger prints are taken; numerous administrative checks undergone; decisions taken about which country France might deport them to etc. Checks multiply and the risks of being placed under a compulsory order to report to the authorities or even being sent to a detention centre are more than likely. 90% of those Dublinised have to endure long and distressful months before they can at last register their application for asylum in France and despite this, some will be deported to the country France considers responsible for their claim.



This particular route is just an example: a decision to transfer someone to another country can be taken at different points during the procedure and not everyone subject to the Dublin Regulation will be confined to a compulsory order to report to the authorities or put in a detention centre.

01

Arrival in Europe - identification at any cost

The majority of people granted protection in Europe entered the continent in an irregular way. They usually arrive via a country on one of the continent's external borders, and they continue their journey, despite the many obstacles, to the heart of the Schengen area. From "the first country of entry" until they reach France, the authorities persist in trying to identify migrants to then determine which country should process their claim for asylum. The migrants' personal choice is only very rarely taken into account.



Fingerprinting on a EURODAC machine, August 2012. © DR

1.1 ONE FOOT IN EUROPE: FINGERPRINTING AND SORTING UNDER THE GUISE OF WELCOMING

Entering Europe through a "hotspot"

Arriving legally on European soil to seek protection would be achieving the impossible nowadays. Certain European Member States provide so called humanitarian or asylum visas, but this is inconsistent and done according to the goodwill of the national authorities. For example, in 2017 France provided 2,849 asylum visas to immigrants from Syria and Iraq, mainly through its consulates in Libya, Turkey and in Jordan¹². Even though the European Parliament stated in December 2018 that it was in favour of introducing humanitarian visas within a European context, the Member States are not keen to develop these legal methods of coming to Europe to seek asylum¹³. Resettlement programmes piloted by the UN High Commission for Refugees (UNHCR) present another way to enter a country legally in order to obtain protection. However, despite urgent appeals by the UNHCR to States to increase their support of these programmes, very few people actually benefit from them, and often only after many years of

waiting in refugee camps in Niger, Chad, Kenya, Libya or Turkey. France received fewer than 4,000 people between 2016 and 2017 as part of these resettlement programmes¹⁴. Although the number reached 5,109 people in 2018, the total number of people resettled between 2011 and 2018 (10,246) only represents 57% of the cases submitted by the UNHCR (17,791)¹⁵.

The increased number of resettlement cases in recent years is positive, but this must not be at the detriment of access by other asylum seekers who, having limited access to a consulate or having been on a UNHCR waiting list for years, have no choice but to come to Europe illegally. It is estimated that 90% of people recognised as refugees have entered Europe illegally¹⁶. For many years, the priority of the European Union has been cooperation with third

12. European Migration Network, *Rapport annuel 2017 sur les politiques d'immigration et d'asile, Partie 2 France*, April 2018, p. 40.

13. European Parliament, *Des visas humanitaires pour éviter la mort de réfugiés et mieux gérer les flux*, 11th Decembre 2018.

14. European Migration Network, *Ibid.*, p. 37.

15. Source: UNHCR, *données statistiques sur les réinstallations*.

16. European Parliament, *Résolution du Parlement européen contenant des recommandations à la Commission sur les visas humanitaires (2018/2271(INL))*, 11th Decembre 2018.

countries and the reinforcement of external borders, just to limit the number of people arriving in Europe. The consequences of this closed-doors policy are immense in terms of cost, be that financial, political or humanitarian, given that it is estimated that more than 40,000 people have died at the European borders over a twenty-year period¹⁷.

For those who disembark in Greece or Italy, the journey to a "hotspot" is essentially obligatory. The "hotspot" approach, which has been used by the EU since 2015, is intended to facilitate the process for identifying, registering and fingerprinting migrants. It takes place at specific centres, in Greece and in Italy, mainly on islands, and through intervention by different EU agencies like the European Asylum Support Office and the European coast and border guard, Frontex. These centres have become places of detention; the processes in place are derogatory to the migrants and the living conditions are appalling, especially in Greece. The aim of these "hotspots" was to quickly identify people who could register an asylum claim and those who could be removed from the country, for example being sent to Turkey under the arrangement of 20th March 2016 between the EU and Ankara. The reality, however, is that

The "hotspot" approach, which has been used by the EU since 2015, is intended to facilitate the process for identifying, registering and fingerprinting migrants.

thousands of people are detained, in Dantean conditions without access to an asylum process¹⁸. The use of the "hotspot" approach has also been justified by the use of relocation; an initiative which has now been stopped without having fulfilled its objectives¹⁹. In 2015 and 2016, the pressure put on countries at the external border of the European Union to identify every individual who entered the territory in an irregular way increased significantly. Italy and Greece, seen as the "poor relations", were called to order by the Commission. For the other Member States such as Germany and France, the concern is to be able to prove, thanks to the fingerprints registered in Greece, Italy or Hungary, that people should be sent back there. It is the concept of "first country of entry", which places the responsibility on the country that

allows the individual to enter illegally. In 2017, this concept was the basis for around 10% of referrals issued by countries that apply the Dublin Regulation. Within a few months, the number of fingerprints taken following illegal entry can rise rapidly: for example, in 2016 Italy the number of fingerprints taken from people arriving in an irregular way to the country went from 30,000 to more than 169,000. The practice of taking forced fingerprints has been documented by Amnesty International²⁰, while people in exile think nothing of burning the end of their fingers to blur their fingerprints and thereby escape being placed on file. The statutory law Salvini (named after the Italian minister of the interior at the time), definitively adopted in November 2018, officially transformed the Italian "hotspots" into "closed" centres in which people can be imprisoned for up to 30 days in order to undertake identity and nationality checks.

Eurodac or the centralisation of millions of fingerprints

The European regulation Eurodac, in place since 2003, allows for fingerprints to be taken when a person enters illegally or when they submit an asylum claim. The collected fingerprints are then sent to a centralised database located in Strasbourg. At the end of 2017, more than 5 million records were registered there. The prints are divided into multiple categories:

- The first category lists people over the age of 14 claiming asylum. The prints are kept for 10 years on the database. The records are deleted if the person obtains protection or if they become a naturalised citizen.
- The second category relates to people over the age of 14 who have been stopped while making an illegal crossing at an EU border. The records

are kept for 18 months and are not deleted before that unless the person leaves the EU from a country that applies the Dublin Regulation.

- The third category of records pertains to people over the age of 14 staying illegally in a European country. The records are sent to the database but are not kept. They are usually taken when people are stopped at crossings but do not intend to make an asylum claim.
- Finally, the fourth category of records has existed since 2015 and allows certain police services to compare them in the context of criminal or antiterrorist investigations, and to check, as a last resort, if the fingerprints are known.

These fingerprint records are compared to those already present in the database. Therefore, a single individual could be the subject of multiple records in identical or different categories made by a single country. For example, a Sudanese person who arrives at an Italian port where their fingerprints are taken in category 2 then claims asylum and their prints are registered in category 1. They are shared with France where they are used to create a new record in category 1, if the person claims asylum.

In the context of the reform of the Common European Asylum System, the Eurodac Regulation should undergo significant modifications²¹. The most concerning part of the reform is without doubt the change in the purpose of the database: police service access to Eurodac (particularly Europol's immediate access to the system), the collection of new biometric personal information (fingerprints, pictures, personal information) and that, including for children from the age of six, storing data relating to people in illegal situations in a Member State for 5 years, etc. The goal of the Eurodac database is therefore no longer to determine the state responsible for processing an asylum claim; instead it looks likely to become an immense European record of personal data of foreigners in insecure situations, used in particular to support the deportation of migrants without legal status. The European Data Protection Supervisor has not hesitated to express very serious concerns regarding the project²².

Continuing on the journey through Europe, a journey fraught with difficulties

Despite the desire for harmonisation between the asylum policies in Europe, the national systems remain very different today when it comes to the procedures, the level of protection or the material conditions of reception. For example, in 2017 an

asylum seeker from Afghanistan was 21 times more likely to gain protection in Switzerland than in Bulgaria. Someone seeking asylum in Germany will be granted accommodation and language classes as soon as their claim is registered, whereas in Hungary they will be detained for the duration of the asylum process. In these conditions, and without the preferences of the person being taken into consideration, it is more than logical that an individual would not wish to remain in the first country they arrived to

In 2017, France was the "European champion" of refusing entry at the land borders, sending massively people seeking protection back to Italy.

and decide to continue on their journey. This is what the EU refers to, with concern, as 'secondary movements' which should be hindered at all costs, since they cannot be completely halted. However, there are multiple obstacles to overcome: for thousands of asylum seekers stuck in the Greek "hotspots", or for others who are detained in different places, there is the physical impossibility of leaving; blockages and push-backs at the internal borders within the Schengen area after border checks in France and in various European countries were "temporarily" re-established in 2015. At the French-Italian border, many organisations have documented rights violations against people in exile for many years, especially in cases of young people in danger. In 2017 France was the "European champion" of refusing entry at the land borders (more than 75,000), sending people seeking protection back to Italy, and in so doing violating French and European law²³.

In other Member States such as Germany, strategies have been developed to bypass the Dublin system, by approving bilateral administrative arrangements with other European countries. The idea of these

17. To learn more about the situation at the external borders of the EU, please see La Cimade's observation reports, *Frontière européennes – Défense d'entrer ?*, June 2016 and *Dedans, dehors : une Europe qui s'enferme*, June 2018.

18. Migreurop, *Des hotspots au cœur de l'archipel des camps*, note n°4, October 2016 and Gisti, *Accord UE-Turquie : la grande imposture – Rapport de mission dans les « hotspots » grecs de Lesbos et Chios*, July 2016.

19. Adopted in September 2015 by the Council of the European Union, relocation, presented as an expression of true European solidarity, was intended to permit 100,000 people to be relocated from Italy and Greece to other European countries. Intensifying these people – according very selective criteria (only some nationalities were eligible, having arrived at a specific time etc.) – was done through the 'hotspots'. After a delayed start, only a third of the people had been effectively relocated.

20. Amnesty International, *Hotspot Italy – How EU's flagship approach leads to violations of refugee and migrant rights*, November 2016.

21. The final text has not yet officially been adopted at the date of publication of this report, but the Council and the Parliament reached provisional agreement June 2018.

22. European Data Protection Supervisor *Avis du CEPD sur le premier paquet de mesures pour une réforme du régime d'asile européen commun (Eurodac, EASO et règlement de Dublin)*, July 2016.

23. To learn more about this, see the analysis taken from many observation exercises at borders in the report by La Cimade *Dedans, dehors : une Europe qui s'enferme*, June 2018 as well as the report by l'Anafé, *Persona non grata*, February 2019.

agreements, signed so far with Spain and Greece, is to be able to directly send back people who have been stopped at the German borders, if the EURODAC records show that they have already sought asylum in one of those two countries, without applying the referral procedure envisaged by the regulation. In exchange, Germany accelerates the processing of requests by Greek and Spanish authorities based on certain common criteria of the regulation (see textbox below). Thus, we are witnessing over time the use of an alternative system which contradicts European legislation.

1.2 WELCOME TO FRANCE, YOU'VE BEEN DUBLINISED!

Asylum or Dublin?

For someone arriving in France, having braved the perils of crossing the Mediterranean or the mountain passes of the Alps, hoping to make an asylum

claim, it's not over yet. In effect, this is the start of a long journey of procedures, acronyms to understand and queues to wait in.

At first glance the French asylum process could be reduced to an outline. The system appears very simplistic, which, according to the former minister of the interior Gérard Collomb, means an asylum seeker can just "shop around for the best deal." Migrants also do a spot of "benchmarking" by checking which legislation across Europe is, let's say, the weakest, and you see for example that such a nationality – and I'm not saying which – heads rather towards a given country not because they are more of a francophile but because they think it'll be easier there²⁴. Such declarations are quite far from reality. In practice, it is made extremely complex and opaque for the people who it affects, people who are barely,

24. Interview with Gérard Collomb, Minister of the Interior, by le Sénat 30th May 2018.

BETWEEN GREECE AND GERMANY: THE WINDING ROAD OF FAMILY REUNIFICATION

Within the context of the Dublin Regulation, the principal of family unity is essential because it is at the top of the list of criteria that decide which state is responsible for processing an asylum claim. For example, for a Syrian national arriving in Greece, whose spouse has registered a claim in Germany, then Germany would be responsible and not Greece. For young people in danger, the regulation requires members of the extended family (parents, uncles, aunts, grandparents) to be researched and state that the country responsible is the one where the young person is.

Of the hundreds of thousands of Syrians who have registered an asylum claim in Germany, some of them had or have other family members arriving in Greece at the same time. Applying the principle of family unity, Greece referred these claims to Germany to manage. Thus, in 2017, according to the Greek asylum services, 5,788 requests were sent to Germany who accepted 90% of the cases. However, the number of actual transfers to Germany remained extremely limited (883, of which 45 were children). As a result of this, a significant blow was dealt by the administrative tribunal of Wiesbaden, which ordered that the

authorities adhere to a six month period for making the transfer happen. In 2018 the number of actual transfers seems to have increased, particularly to make up for the delay, but the rate of agreement of new cases fell to 40%²⁵.

German organisations working with people exiled in Germany and in Greece determine that this fall is a result of practices developed by the German authorities to refuse a large number of cases submitted by Greece: for example by demanding a multitude of documents proving family connections or translations of documents (this was not envisaged by the regulation) and then by considering these documents as false, even if they have been recognised by the Greek authorities; or even by invoking security reasons without providing further detail. These constitute illegal strategies used against people who have been separated from their families for many years, leaving them hoping in vain to restart family life with their family all in one country.

25. Greek asylum services, *Statistical data of the Greek Dublin Unit (7.6.2013 - 31.12.2018)*, January 2019

if at all, informed by the authorities about the procedural subtleties and local practices.

In principal, the first step in making an asylum claim is registering with the Prefecture in the French department. Within three working days from when the person presents themselves to the Prefecture, the authorities must register their asylum claim, decide which procedure is applied and provide an asylum claim certification.

But since 2015, asylum seekers are required to visit the reception platform (SPADA) before going through the registration process. The reception platforms are managed by associations that have responded to a call for offers from the French Office of Immigration and Integration (OFII), which distinguishes between two types of service: receiving people to register their asylum claim and, after registration and under the direction of OFII, guiding them through the asylum procedure if they have not been provided with housing and therefore are not supported by a social worker. These are organisations such as Coallia, Forum réfugiés Cosi or France terre d'asile, which record the details of the person (personal records, family, photographs) on behalf of the local authorities, and provide them with a certificate at a desk specifically for asylum seekers (GUDA), according to the number of available places sent by the Prefecture.

According to the law, the time between SPADA and the first meeting in GUDA must be no longer than three days. In actual fact, this time limit has not been respected for the past three years. The SPADAs need – in effect – to manage the number of people they need to see in place of the Prefectures, even though the number of people they are able to see at their platforms is much higher than the number of appointments at the Prefectures. This is followed by an increase in violence, camps and strikes by the workers in these organisations such as in Paris and also in Marseille²⁶. In each region or Department, the method of getting an appointment at a SPADA is different²⁷.

Since May 2018, in Ile-de-France, an intermediate step has been added. To be able to present an asylum claim in one of the nine SPADAs, the person must first call a phone line put in place by OFII. This guides the caller through the available meetings at SPADA depending on the local provision. The problem, however, is that the call is not free and the number of meetings in the SPADAs – calculated according to the number at a GUDAs – falls far short of the demand. To post flattering statistics on it, OFII limits the number of calls handled by the 10 agents and

leaves other people hanging on the end of the line for hours in the hope of landing an appointment, without counting these as non-handled calls. This practice has been condemned by the administrative jurisdiction, but nothing has changed²⁸.

The second step is then to go to a GUDA to become registered, get the folder of information on making an asylum claim to the French office for refugees and stateless people (OFPRA) as well as the asylum claim certification, and be introduced to OFII's services. OFII is charged with evaluating the vulnerability of the person and assessing their entitlement to the material conditions of reception (financial support and accommodation). Indeed, the main

At no time does the administration ask the person why they came to France and left their first country of entry.

idea behind the creation of the GUDA by the reform in 2015 was to gather together in the same place all the services provided by the Prefecture (whose responsibility it is to register asylum claims, establish the applicable procedure and provide the asylum claim certification) and those of OFII (who are responsible for reception).

It is therefore at the GUDA that the authorities take fingerprints in order to determine if they have the right to register their claim in France, or if they fall under the Dublin Regulation. The prints are compared with the EURODAC database and with VIS (a database that lists visas given to Third Country Nationals by the EU Member States) and compare them with the pre-existing ones. If there is a "hit" (a positive match), this is the "queen" of results for the Prefectures, allowing them to activate the Dublin procedure, even if members of the nuclear family are present in France or if a visa has actually been delivered on behalf of France. At no time does the administration ask the person why they came to

26. For more information on this, see the collective coverage by the asylum observatory in Marseille *L'asile en exil – État des lieux d'accueil des personnes en demande d'asile à Marseille 2017-2018*, December 2018 and in particular the article *Cahier des charges des plateformes ou l'impossibilité organisée de répondre aux besoins*, p. 74.

27. French coordination of the right to asylum, *D'une réforme à l'autre, l'asile en danger*, February 2018.

28. JRITA Paris, 13th February 2019, Gisti and other n°1902037.



Certificate for asylum demand under the Dublin procedure (renewal), issued by the Seine-Saint-Denis Prefecture in 2018.

France and left their first country of entry, including during the individual and confidential interview which is meant to be led by the Prefecture with the support of an interpreter if necessary. The regulation allows this to be avoided even where it is almost certain that another Member State is responsible for the person. The Prefectures therefore relish using this possibility when there is a "hit". Many months of waiting and procedures then lay ahead for someone who falls under the Dublin Regulation, during which time they will never be heard out about their need for protection.

After some hours waiting at the GUDA, the person leaves with a certificate valid for one month and with some mention of the Dublin procedure. This will be repeated after four months then three, which means long months of waiting without being able to access OFPRA. The only desired outcome for the Prefecture is that they will be able to make a transfer, by will or by force, to the country considered responsible. And

during these many months, those who come under the Dublin Regulation have barely any information about the different steps in the process and about their future. The Dublin Regulation mandates, of course, that this is summarised in a brochure of information on the application of the regulation in a language the person can understand and in which an individual interview will be held. However, when the asylum seeker's native language is deemed "rare" it is often the English version which is given out, with little regard for whether or not the person will be able to understand it. What's important is simply that they have been notified, regardless of whether they have actually understood.

Not enough accommodation: is the street a solution?

Before 2014, the law made no provision for accommodating or providing an income for dublinised people. The litigation brought by La Cimade and GISTI in 2010²⁹ forced the French government, after years of legal battles, to provide them with reception conditions.

Once the Prefecture has registered the applicant as dublinised, the applicant meets with the OFII, which assesses their "vulnerability"³⁰ and offers to take charge of their case. This sometimes means sending them to an accommodation shelter hundreds of kilometres away, in a remote and isolated area. If the person accepts the offer, they receive a card giving them access to the allowance for asylum seekers (ADA), which provides €6.80 per day for an individual and an additional €7.40 if the individual has no accommodation. Therefore, claimants subject to the Dublin Regulation cannot be deprived of material reception conditions simply because they are dublinised. European jurisprudence confirmed this in light of the shortcomings of several member states, including France³¹.

In practice, 58% of asylum seekers in 2018 were not offered accommodation; the percentage is even

29. See the Judgement of the European Court of Justice pronounced on 27 September 2012 (C-179/11) and the decisions of the Council of State made on 7 April 2011 and 17 April 2013 (n°335924).

30. In order to direct individuals processed by the GUDA towards an adequate accommodation system, the asylum reform of 2015 integrated the assessment of vulnerability into the duties of the OFII. In practice, the criteria used by the OFII to define vulnerability are extremely narrow and the rapid and hasty assessment of needs does not end up providing protection for a large number of people who nonetheless ought to be recognised as vulnerable in accordance with European guidelines.

31. European Court of Justice, Judgement in Case C-179/11 Cimade, GISTI v. France, 27 September 2002.

IMPOSSIBLE TO ACCESS THE SYSTEM

In Paris and the Ile-de-France region, to access the reception platform for asylum seekers, which is the first step for those who fall under the Dublin Regulation, people must go via a telephone platform. Boubacar testifies to the endless difficulties of a system which seems to have been put in place to dissuade rather than to welcome.

I came to France in October 2018, *France terre d'asile* gave me the number of the French Office of Immigration and Integration (OFII) that I had to call to put in place the first steps of my asylum claim.

I called from 9am to 12pm with the help of *Emmaüs Solidarité* in Créteil for almost three weeks without managing to get them on the phone. I waited 45 minutes before a voice said that all the people were busy. And then the line went dead. When *Emmaüs* was closed, if I had managed to get a little bit of money, I would buy some credit for my phone and I would call again. With Lycamobile [the main telephone operator used by migrants] it is €2.70 for 45 minutes. Four calls and that's ten euros gone. Ten euros is a lot of money for someone in my situation.

One day, I got an OFII agent, he asked me if I was in a couple and I said no, and he asked me if I had children, I said no. He said "Sir, we only take couples or people with children". I couldn't even reply, I was so taken aback. Because they insist we have to use the 01 42 500 900 number, I spent a lot of money and when there's no benefits for an asylum seeker it's very difficult and it's very discouraging. I told a woman about my difficulties and she suggested calling from her telephone. Finally, someone answered. They asked me questions about

my identity and my telephone number and I answered all their questions. They told me that they were going to send me a text message with confirmation. I never received the message.

Then I asked the president of the Maraude du Cœur 94 association for help. We called in the morning at 9am from the landline and from his mobile at the same time. On the fifth day, at about 3pm, we got an agent who told us that the appointments with the office of the Val-de-Marne Prefecture were already full and that we should retry on Monday. On the Monday we called again with the two phones at the same time from 9am to 3.30pm, and also on the Tuesday and all the other days of the week. On Monday 10th December 2018, we finally got through to someone and got an appointment for the following morning.

Someone who doesn't have any money and who has come to France to find protection, to have to go through that, it's really very hard. Some don't even have a phone. You run after organisations to get help with calling, you arrive there and sometimes there are already so many people that you can't even be sure you'll get access to a phone.

I had to wait two months for my first appointment, where it's normally meant to be done within ten days maximum according to the law. The whole system is designed to discourage people from starting the asylum process."





The Porte de la Chapelle camp in Paris where hundreds of people in exile live, January 2019.
© Rafael Flichman / La Cimade

higher among dublinised applicants. One of the reasons for this is that half of all accommodation is off-limits to them: in particular, applicants subject to the regulation are denied admission to reception centres for asylum seekers (CADA). Other systems available to them (HUDA, CAO or PRAHDA; see the infographic “A choice between closely supervised centres or the street” page 29) are overwhelmed. According to the OFII, in 2017, 19,758 claimants subject to the Dublin Regulation were admitted to one of these systems, representing 32% of the total³². For those who do not benefit from a solid support network or organisational aid, there is nowhere to turn to but the streets or squats. Nevertheless, French and European laws stipulate that any person seeking asylum has the right to accommodation and that, aside from this provision: “Any person without shelter and in a state of medical, mental or social distress shall have access at any given time to a system of emergency accommodation [and] must be able to receive individual support in that place and remain there as long as he or she so wishes, until a solution is presented³³”. Since accommodation centres and general systems of emergency accommodation are overwhelmed by

asylum seekers, this provision is often no more than a dead letter. For example, French social services for homeless people are permanently overwhelmed, despite the creation of new centres. At the same time, expulsion measures issued by Prefectures are hastening the removal of a significant portion of those applicants subject to the Dublin Regulation from accommodation centres, despite their level of social distress, in order to “streamline” and “reduce congestion” in accommodation centres. There are an increasing number of informal camps appearing in the middle of cities, forests or under bridges in places like Calais, Paris, Ouistreham, Saint-Denis, Caen, Metz, Nantes, Strasbourg and Lille. Their living conditions are deplorable and often warranted by the public authorities so as not to incentivise asylum-seekers. Problems include difficulties accessing water and toilet facilities, non-existent hygiene, leading to outbreaks of scabies and infectious diseases, and the absence of food distribution, etc³⁴. Furthermore, the police presence

in these areas is often very heavy. Routine harassment and violence have been reported on numerous occasions by organisations in Calais and Paris and are always denied by the authorities³⁵.

The living conditions in the camps are deplorable and often warranted by the public authorities so as not to incentivise asylum-seekers.

The majority of people located in these camps are asylum seekers. For example, at Millenaire, the Parisian camp evacuated in May and June 2018, 65% of those evacuated were asylum seekers, 25% were attempting to gain access to the asylum procedure and 10% were refugees³⁶. In Nantes, nearly 550 people occupied Daviais Square between June and September 2018 due to a lack of accommodation. La Cimade recorded that more than 80% of them were seeking

asylum and a large number were dublinised. In an order issued in September 2018, the interim relief judge of the Administrative Court of Nantes instructed the mayor's office to provide them with shelter, while the OFII and the Prefecture were directed to house them in the longer term. Nearly 6 months later, the majority of them are still being housed by the mayor's office of Nantes³⁷.

As a result, despite successive evacuations and the court system's numerous condemnations of the government, informal camps continue to spring up as a consequence of the structural lack of accommodation solutions. People whose administrative situation is highly precarious find that they are even more vulnerable due to deplorable living conditions, even though their need for protection is the main reason why they came to France.

35. Organisations have made various statements criticising acts of harassment and violence against migrants and volunteers on the northern coast and in Paris, including the confiscation of blankets, the use of tear gas, prohibiting migrants to sit down, etc.

36. OFII Twitter account, @OFII_France, June 2018.

37. Administrative Court of Nantes Orders n° 1808527, 1808530, 1808533, 1808535, 1808537, 1808539, 1808540, 19 September 2018.

32. OFII, Activity report 2017.

33. Article L.345-2-2 of the Code of Social Action and Families.

34. Administrative Court of Lille, Order n°1806567, 31 July 2018.

02

Being dublinised: a state of permanent exception

What does it mean to be subject to the Dublin Regulation? Prefectures see the situation simply as a group of people who must be sent away as quickly as possible to an other European country. For those affected, the phrase is synonymous with punishment: absolutely no possibility of asserting their need for protection, repeated summons, placement in government-run accommodation centres, a precarious life in the streets, etc. A long waiting period begins, with claimants in a state of permanent exception. During this time, the French authorities try to determine to which Member State the individual will be deported.



A dublinised Afghan, Porte de la Chapelle camp in Paris where hundreds of people in exile live, January 2019.
© Rafael Flichman / La Cimade

2.1 A LONG AND OBSCURE PROCEDURE

The Dublin procedure is extremely complex to implement and is based on very strict definitions, criteria and waiting periods³⁸. This explains in part the large number of court rulings that cancel transfers as a result of flawed applications of the Dublin Regulation by Prefectures, despite a considerable improvement in recent years of their technical capabilities (training, dedicated teams, etc.).

The first step of the procedure is to determine which State will be responsible for the applicant. This is established based on a hierarchy of criteria defined by the regulation. The waiting periods and the applicable criteria vary depending on whether the applicant is "taken charge of" (for an initial asylum claim) or "taken back" (for an asylum claim already presented in another European country³⁹).

For those claiming asylum for the first time in Europe, a detailed list of criteria, known as "take charge criteria", are applied based on a precise hierarchy. Family criteria are awarded the highest priority. This means that the country responsible is the one in which other family members are already located (the nuclear family for adults and the extended family for isolated minors). If these criteria are not

applicable, the authorities must then verify whether the person obtained a residence document or visa through another Member State, in which case that State would then be designated as responsible. Next, it must be determined if the case involves an irregular external border crossing or a prolonged stay in another State. The final question to address is the matter of certain Member States waiving visas for specific nationalities (e.g., Albania, Bosnia, etc.) and asylum claims made in an airport.

If the person has already claimed asylum in another Member State, then a different set of criteria applies, known as "take back criteria". These dictate that, regardless of the procedural stage in the other State and even if the applicant ultimately withdrew his or her claim, the Eurodac hit triggers the application of the Dublin Regulation.

38. To understand the details of the procedure and read an article-by-article explanation of the regulation, see *Dubliné-e, vous avez dit dubliné-e ? Guide pratique des procédures Dublin*, La Cimade September 2018.

39. In practice, some people believe in good faith that while illegally crossing a border, they have simply had their fingerprints recorded (placing them in category 2), when in fact border officials have assigned them to category 1 by attributing to them an asylum demand without their knowledge. They are then subject to a take-back procedure.

If the person has already claimed asylum in another Member State, then a different set of criteria applies, known as “take back criteria”. These dictate that, regardless of the procedural stage in the other State and even if the applicant ultimately withdrew his or her claim, the Eurodac hit triggers the application of the Dublin Regulation.

In practice, “take back requests” are the basis for the large majority of Eurodac hits, and therefore of Dublin transfer decisions: in 2017, they accounted for 64% of

These criteria largely ignore the socioeconomic realities and vulnerability of asylum seekers.

agreements among European States and 71% of agreements between other States and France. After take back requests, the next most commonly employed criterion in Europe is the issuance of a residence document or visa by another Member State (15% of agreements made in 2017), followed closely by irregular external border crossing (12% in Europe in 2017 and 18% in France).

These criteria largely ignore the socioeconomic realities and vulnerability of asylum seekers. Furthermore, although family criteria take priority, the concept of what constitutes a family, understood on the one hand to be nuclear and on the other to have formed before fleeing the country of origin, is much too narrow to effectively encompass private and family life.

Moreover, every State may apply the “discretionary clause” (Article 17 of the regulation) and decide to examine a person’s asylum application without applying the Dublin procedure. This clause was heavily used by Germany in 2015 to process Syrian nationals and, to a much lesser extent, by France in 2017 for the 1,367 people evacuated from camps in Calais.

France is required to respect strict time limits when contacting the responsible State: within 3 months of the date on which the asylum application was lodged with SPADA, but within only 2 months if the applicant has crossed the EU’s external border irregularly or applied for asylum in another State. In the case of a Eurodac hit corresponding to these criteria, the regulation stipulates that only one country be contacted. However, if the hit relates to several other

DUBLINISED IN SPITE OF THE DUBLIN CRITERIA!

Arcade (not his real name) is a Burundian who arrived in France with a short-stay visa issued by the Belgian consulate in Bujumbura. The visa was issued on behalf of France, since his wife and children reside legally in France. He decided to seek asylum due to the situation in Burundi and went to the Prefecture of Rennes. The official asked him to immediately call his wife (who was at work) so that she could come with their children (who were at school) and fill out an asylum application. Without delay, the entire family was declared to be subject to the Dublin Regulation and Belgium’s responsibility, despite the fact that France was responsible for the application because the wife and children had a residence document and because Arcade possessed a visa issued on behalf of France. It was only a month later, after La Cimade intervened with the Ministry of the Interior, that the family was able to gain access to the OFPRA procedure. Other Burundians in the same situation have turned to the administrative courts to gain access to OFPRA.

European States, the Ministry of the Interior, which consults the database, encourages Prefectures to contact all of them at once without using the criteria to attempt to determine the responsible Member State, thus incorrectly applying the regulation. Once contacted, the Member State must normally respond within a fixed two-month period. The period is much shorter when it comes to a “take back request” (between 2 weeks and 1 month, depending on the request). Failure to respond within the fixed period indicates the implicit acceptance by the country concerned, meaning that the deportation can proceed. Under these conditions, it is not hard to imagine that countries located on the external borders of the EU, such as Greece and Italy, which are already dealing with an overburdened asylum system, have difficulty responding within the fixed period and providing the material needed to contest their responsibility.

France made 41,420 referrals in 2017, more than any other country, and accounted for around one

quarter of all referrals made within the European Union. That represents a very large increase compared with previous years (in 2014, referrals did not exceed 5,000). These referrals were mainly directed at Italy (over 16,000), Germany, Bulgaria and Spain, mostly in the form of take back requests. In the case of Germany, it is interesting to note that 19% of applicants subject to the Dublin Regulation were denied asylum there before traveling to France. Even if this number is increasing, it undermines the speech made by Gérard Collomb, the former Minister of the Interior, in which he incorrectly asserted that the majority of individuals subject to the Dublin Regulation who come from Germany had been denied asylum there.

If a State accepts the request, whether implicitly or explicitly, a transfer decision can be made and the person concerned must be notified. These decisions, which must be justified and translated, are established based on models produced by the Ministry of the Interior. A suspensive appeal has existed since 2015, which blocks the transfer until a judge issues a decision, but it must be presented in a very short period of time. This can range anywhere from 48 hours to 15 days depending on the details of the

case. However, this appeal carries with it significantly harmful consequences for the applicant, who is generally unaware that the six-month period delaying his or her expulsion to the Member State responsible will reset to zero if the appeal is unsuccessful (see box on page 37).

In practice, transfer decisions are much rarer than referrals. Yet the notification of the decision and the challenges involved in an appeal make them one of the causes of the complexity and length of the Dublin procedure as it is experienced by those whom it affects. They are even adopted by Prefectures as a means of prolonging the procedure.

2.2 REGIONALISATION: AN EXPERIMENT APPROVED WITHOUT ASSESSMENT








Beginning in 2016, the French authorities expressed their will to apply the Dublin Regulation much more vigorously so as to increase the number of people successfully deported to other Member States. Indeed, until 2016 few Prefectures took part in these procedures, which were by and large restricted to the Île-de-France and Pas-de-Calais regions. All



Inside Linas PRAHDA (91), Hotel Formule 1, February 2019. © Célia Bonnin

Summons under the Dublin Regulation: an endless ferrying back and forth

In the region of Bourgogne-Franche-Comte those subject to the Dublin Regulation are required to attend frequent appointments at the regional office responsible for Dublin procedures at the Doubs prefecture in Besançon. Some, provided with accommodation in Mâcon, Auxerre, Nevers or in a small town with little public transport available have to undertake prolonged journeys where it is often impossible to make the round trip in one day. The Prefecture should provide travel vouchers but often fails to do so and in practice, asylum seekers pay for their train tickets themselves.

Dijon	 0h55 to 1h06 5 to 28 €
Lons-Le-Saunier	 1h06 to 2h03 / 15 to 20 €
Vesoul	 2h07 to 2h22 / 25 €
Belfort	 1h12 to 2h53 / 15 to 41 €
Mâcon	 2h06 to 3h28 / 35 to 44 €
Auxerre	 2h40 to 3h27 / 35 to 60 €
Nevers	 3h22 to 3h37 / 35 to 55 €

Sources: SNCF website, 2nd class weekday rail fares, April 2019

that changed with the dismantling of the migrant camp known as the Calais Jungle and the creation of reception and orientation centres (*centres d'accueil et d'orientation*, CAOs) as well as the programme for reception and accommodation of asylum seekers (*programme d'accueil et d'hébergement des demandeurs d'asile*, PRAHDA). Many Prefectures therefore found themselves in charge of applying the Dublin Regulation, despite a lack of preparation for doing so. In practice, these Prefectures would begin the Dublin procedures, then allow the waiting periods to pass without notifying of a transfer decision, thus causing the waiting periods of the procedure to expire.

The Ministry of the Interior has developed various legal and administrative strategies to remedy this situation, experimenting in particular with regionalisation from the end of 2017. The fundamental idea is to centralise the handling of Dublin procedures in a single prefecture which is responsible for several departments through the creation of "regional

Dublin offices". Although regulatory laws already provided for such a system as early as 2015, it was only put in place for registering asylum claims.

On 20 December 2017, the French government issued two decrees giving the regional Prefecture authority for implementing the Dublin Regulation in the Provence-Alpes-Côte d'Azur and Hauts-de-France regions on an experimental basis. These decrees state that once the claim processed by the regional GUDA (in Marseille and Nice for the Provence-Alpes-Côte d'Azur region and Beauvais and Lille for the Hauts-de-France region) has been registered, all applicants subject to the Dublin Regulation in those regions must report to either Marseille or Lille to renew their asylum claim certification. The regional prefects have jurisdiction over transfer decisions as well as editing compulsory orders to report to the authorities during the determination procedure (which consists of a referral to a Member State and waiting for the response). This pilot regionalisation programme was originally

intended to last for 6 months but has been prolonged until the end of 2018.

This has created an inextricable situation for many applicants living in other departments, for example in Nice or Briançon in Provence-Alpes-Côte d'Azur, or in Amiens or Beauvais in Hauts-de-France. On the one hand, travelling to the Prefecture by public transport is difficult, while on the other hand, no provision was made at the outset to organise transportation. After several court rulings, the Council of State determined that the OFII did not have jurisdiction to provide travel vouchers, but that this responsibility fell to the government instead⁴⁰. La Cimade's observations show that in practice it is still difficult for applicants subject to the Dublin Regulation to

La Cimade's observations show that it is still difficult for applicants subject to the Dublin Regulation to obtain these travel vouchers.

obtain these travel vouchers and to be able to report to their regional Dublin office. Some Prefectures issue travel vouchers if individuals or organisations request them, but others (such as the Prefecture of the Rhône department) believe that people must make their own way to the centres.

The pilot programme has not been properly evaluated and even though organisations on the ground have reported serious concerns about the system, the Ministry of the Interior decided nonetheless that this regionalisation should be expanded and made permanent. The regionalisation in Bourgogne-Franche-Comté, launched in August 2018, is particularly emblematic of this system's limits. In essence, the Prefecture of the Doubs department was selected as the regional Dublin office. The Prefecture is located in Besançon at the extreme east of the region. In practical terms, this means that residents of Nevers in the Nièvre department or Villeblevin in the Yonne department traveling by public transport must spend more than three hours each way to get to the Prefecture, which sometimes means that they have to stay overnight.

Two series of decrees were issued at the end of 2018 to specify the location of the regional Dublin offices throughout the country⁴¹. At the same time, a circular explained in detail the numerous jurisdictions of these regional offices. They are responsible for

handling the application and verifying whether it is complete. They must then contact the responsible State and await a response. The office is furthermore responsible for the renewal of asylum claim certifications (at, one, five, eight and eleven months) the notification of transfer decisions, and the eventual compulsory order to report to the authorities. Lastly, the office is responsible for defending any potential litigation and for organising deportations in collaboration with border police.

Along with this will to shift the handling of Dublin procedures to the control of a single specialised Prefecture, applicants are placed in specific accommodation systems which render their state of exception complete.

2.3 A THIRD-RATE ACCOMMODATION SYSTEM FOR DUBLINISED PEOPLE

European legislation and jurisprudence dictate that applicants under the Dublin procedure must benefit from the same reception conditions as other asylum seekers from the moment that their claim is registered until the moment that they are sent to the Member State responsible. This means an allowance for asylum seekers (*allocation pour demandeurs d'asile*, ADA), health insurance and accommodation. In practice, they are denied access to reception centres for asylum seekers (*centres d'accueil pour demandeurs d'asile*, CADAs), which are currently the centres best equipped to assist them. They are instead directed towards other types of centres.

Indeed, while the desire has been expressed to centre the reception system around CADAs, since 2015 the French government has instead preferred to offer places in more precarious types of accommodation where support is greatly reduced and the facilities correspond to the administrative procedure to which they are subject⁴². Thus when applicants subject to the Dublin Regulation are offered accommodation, they are systematically sent to either an emergency accommodation for asylum seekers (*hébergement d'urgence pour demandeur d'asile*, HUDA), a temporary reception – asylum office (*accueil temporaire –*

40. Council of State, *Référé*, n° 422159, 26th July 2018.

41. For details of the decrees, see *Généralisation des procédures de régionalisation Dublin*, La Cimade 6th December 2018.

42. For a more in-depth analysis of the different types of accommodation facilities and the categorisations that they reinforce: Serge Slama, « De la défaillance systémique à la « policarisation » des conditions d'accueil des demandeurs d'asile en France », in *La Revue des droits de l'Homme*, n°14, 2018.

service asile, ATSA), a reception and orientation centre (*centre d'accueil et d'orientation*, CAO), a programme for reception and accommodation of asylum seekers (*programme d'accueil et d'hébergement des demandeurs d'asile*, PRAHDA), or else an emergency accommodation centre (*centre d'hébergement d'urgence*, CHU), which are only found in the Île-de-France region⁴³.

The consequences for people directed to these centres are significant. The quality of these centres, where resources are much more limited, very often leaves much to be desired: they lack communal facilities for cooking and washing clothes, communal rooms, etc. Reception conditions in some centres are wholly inadequate, plagued by issues of hygiene and dilapidation, with cramped bedrooms which do not permit any privacy. In addition, these centres are sometimes geographically isolated, which limits the ability of those living in them to access mainstream services (such as healthcare, schooling, organisations and points of access for exercising their rights).

Moreover, the quality of the social and legal assistance in these specialised centres is well below that of the CADAs, given that human resources are reduced and in-house personnel charged with social assistance receive an extremely limited training. A single employee must support 25-30 people, as opposed to 15-20 people in CADAs. It seems clear that authorities have prioritised inspecting and monitoring the people whom they want to expel to another European country over sheltering and providing real social support to those seeking protection. The responsibility for handling accommodation for foreigners has been taken over from the Ministry for Solidarity and Health by the Ministry of the Interior, which explains why these systems have evolved with a focus more on so-called 'migratory management' than on social and legal assistance.

The development of PRAHDAs is emblematic of this evolution. In 2016, the French authorities invited tenders for the management of 5,351 accommodation places for asylum seekers. For the first time ever, the statement of requirements obliged the accommodation facility to participate in the inspection of the people being housed, notably by allowing police to enter the grounds. The entire contract was awarded to the accommodation centre operator Adoma. The programme consists largely of places in former Formule 1 hotels, purchased from Accor by means of a social impact fund named Hémisphère⁴⁴. Nearly half of the people lodged under this programme are subject to the Dublin procedure and many of them

have been placed under a compulsory order to report to the authorities (see chapter 3). In these structures, a certain number of the people supporting exiles housed by PRAHDA were employees of the defunct Formule 1 hotels and thus possessed neither experience nor training in a field which is nonetheless extremely complex and specialised⁴⁵.

Furthermore, in December 2017 the Ministry of the Interior called for the creation of reception and administrative situation examination centres (*centres d'accueil et d'examen des situations*, CAES)⁴⁶. The official purpose of these centres is to offer shelter to people for a month, while also incorporating an administrative examination by OFII agents in order to direct them toward another accommodation based on their administrative situation. The administration believes that applicants subject to the Dublin Regulation, who are detected by a fingerprint match, "have no justification to remain in the country" and are therefore directed toward the aforementioned systems. The circular also allows for them to be sent to deportation facilities, such as detention centres, if their expulsion is imminent. Today, there are nearly 3,000 of these CAES, which were expanded throughout France in 2018.

The office of the Defender of Rights has reported its concerns on several occasions as the presence of these third-rate accommodation systems has increased, particularly those housing applicants subject to the Dublin Regulation. These third-rate systems focus more on monitoring and deporting than genuinely sheltering⁴⁷.

43. To make sense of the multitude of acronyms and different centres and to better understand their organisation, resources and objectives, La Cimade published a document in January 2018 entitled, *Typologie des dispositifs « d'hébergement » des personnes migrantes*.

44. The PRAHDAs belong to a new generation of social programmes financed through private funding, known as a 'social impact fund'; the fund in this case was the Hémisphère fund, which is made up of such investors as BNP Paribas, the Deposits and Consignments Fund, MAIF and PRO BTP. The government delegates the management of a social programme to private operators who are focused on optimising their investment. For more information, see: *Radio Parleur*, « Prahda, quand la finance s'empare du social », 29th January 2018.

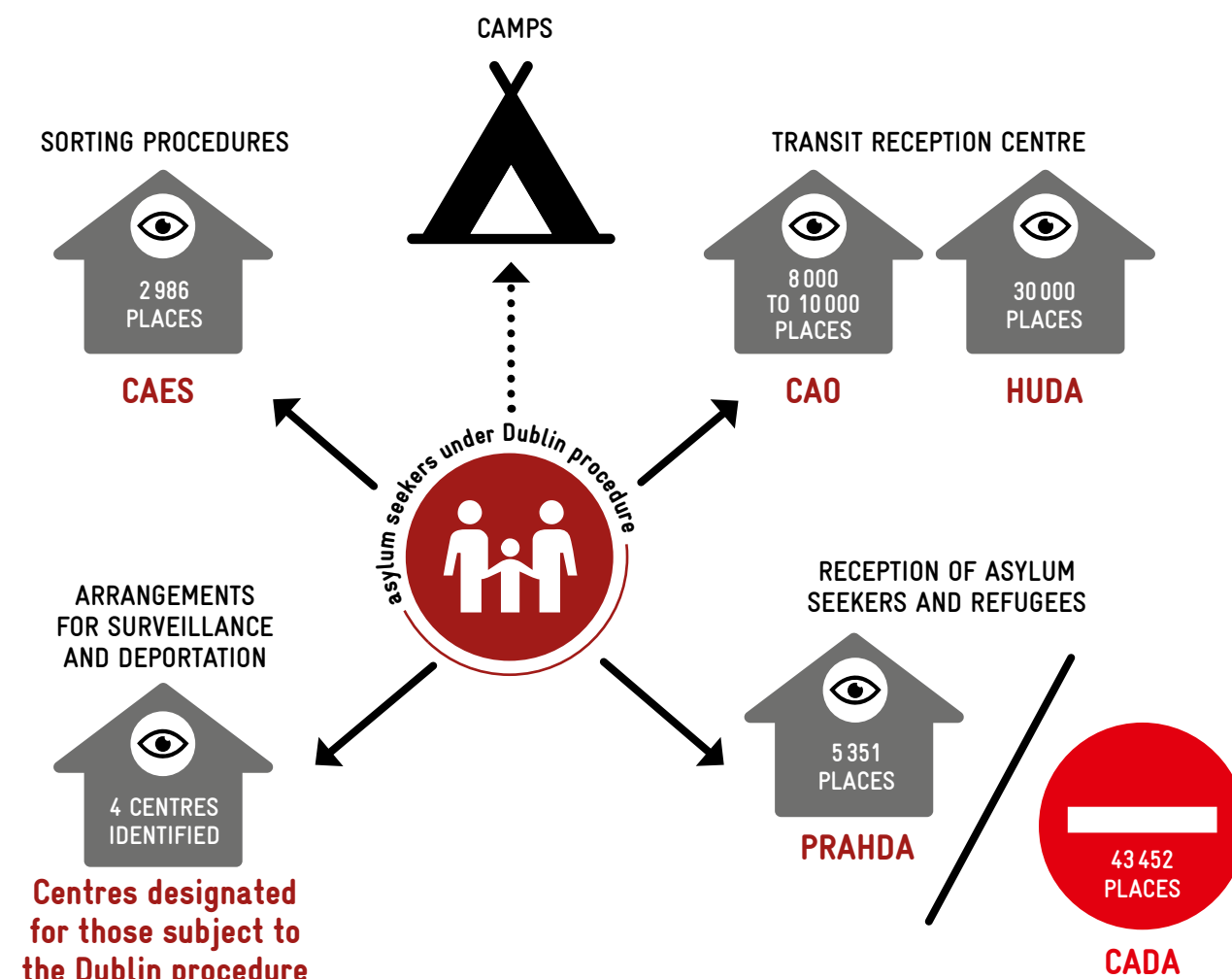
45. *L'Yonne Républicaine*, « L'hôtel F1 d'Appoigny deviendra un centre d'hébergement », 12th July 2017.

46. Ministry of the Interior, *Information relative à l'évolution du parc d'hébergement des demandeurs d'asile et des réfugiés*, 4th December 2017.

47. Defender of Rights, *Avis du Défenseur des droits n°17-09*, 25 September 2017, p. 5.

A choice between a centre under inspection or the street

In France in 2017, only half of those seeking asylum could be accommodated in the network of reception centres and this was equally true for those subject to the Dublin Regulation. Many had little other option than the street or, if they were lucky, they were helped by volunteers. Furthermore those in a dedicated centre often find themselves in an even more precarious situation, under close surveillance. What usually happens is that a large proportion of those subject to the Dublin Regulation find themselves put under compulsory order to report to the authorities and subject to police checks. Faced with this complex and increasingly strict surveillance, some go back to the street.



Centres designated for those subject to the Dublin procedure

CAES: Reception centres combined with administrative services. Accommodation and accelerated administrative procedures are found under the same roof with rapid transfer to another centre once the administrative situation is clear. These exist in the Ile de France, the Grand-Est and in the Hauts de France.

CAO: Reception and orientation centre. Created in 2015 in all regions except Île-de-France, after the evacuation of the camps on the coast of Calais, they aim at directing exiles to another type of center according to their situation. In these centres, many dublinised people are under compulsory order to report to the authorities.

Huda: Emergency shelter for asylum seekers. A global term used originally to describe accommodation provided when the CADA were full. This type of shelter is also used for the accommodation of those subject to the Dublin Regulation. It includes accommodation in dedicated centres, in flats or in a hotel. There are in all about 30 000 places.

Dedicated centres for asylum seekers subject to the Dublin Regulation:

These centres are designed so that those under obligation to report to authorities or awaiting deportation can be kept under strict surveillance. At present there are four such centres in the Ile de France, the Grand-Est and in the Hauts de France.

Prahda: Reception and accommodation programme for asylum seekers. These types of centre were set up in 2016 and are run by ADOMA. Their purpose is to provide accommodation and assistance to asylum seekers waiting to make their applications or who have done so and are awaiting the results as well as those subject to the Dublin Regulation. It is more than likely that the latter will be put under obligation to report to authorities.

Cada: Reception centre for asylum seekers. Those subject to the Dublin Regulation are excluded from the CADA which are designed for those whose application for asylum will be made in France.

03

Waiting: when inspection leads to hiding

As soon as a person is placed under the Dublin procedure, the administration no longer seems to consider them as an asylum seeker, but simply as a person who must be deported. A long period of waiting begins, during which the person will live in the utmost uncertainty as he or she is summoned, brought to court and inspected. When will he or she finally gain access to the asylum procedure in France? Must he or she appear after being summoned by the Prefecture even though he or she faces the possibility of deportation to Bulgaria? How can he or she take French language courses offered by aid organisations while he or she is under a compulsory order to report to the authorities? How can he or she avoid being locked away in detention and then deported to a country where he or she does not want to claim asylum? Over too many months applicants subject to the Dublin Regulation become exhausted dealing with an administrative machine that crushes them with waiting and increasingly numerous checks.



Entrance of the Linas PRAHDA (91), Hotel Formule 1, February 2019. © Célia Bonnin

3.1 THE TOOLS OF AN OMNIPRESENT INSPECTION

For the French authorities, once the response of the responsible Member State has been received (whether by formal acceptance or implicitly by expiration of the deadline), the key issue is the ability to implement the transfer, the euphemism used in the Dublin Regulation to designate deportation from one European country to another. France has a period of six months from the responsible State's acceptance to deport the person. If the French authorities have not deported an applicant subject to the Dublin Regulation by the end of this period, France automatically becomes the Member State responsible for his or her claim of asylum, unless the person is declared to be a "absconded". To increase the number of deportations, the authorities have developed different inspection tools meant to track the movements of applicants subject to the Dublin Regulation in France. These strategies clearly contradict the fundamental rights of the people in question and further weaken their mental state.

During the period between referral to the responsible State and the end of the six-month waiting period, some Prefectures have begun to summon

applicants subject to the Dublin Regulation every month. While the law effectively stipulates that the first certification must be renewed after a month, the next renewal does not occur for another 4 months. Nonetheless, a proportion of applicants subject to the Dublin Regulation are regularly summoned to their Prefecture, causing all kinds of anxiety each time. How can the applicant pay for the train to get from Briançon to Marseille and back on the same day? Why has the applicant been summoned while the certification is still valid? Is the applicant going to be questioned? There are so many questions which keep the person in a quasi-permanent state of uncertainty and fear. This is how Mohammed, an Iraqi whose claim was dismissed in Denmark, describes the situation: "Every month I am summoned to the Prefecture and every time the people at the GUDA tell me that Denmark has agreed to take me back [...]. They repeat the same thing every month. I suffer psychologically and each time that I hear them say that, I feel that a small part of me dies"⁴⁸.

48. Collective work of the Asylum Observatory in Marseille, *L'asile en exil - État des lieux d'accueil des personnes en demande d'asile à Marseille 2017-2018*, December 2018, p. 48.

Report to the authorities: inspection, anxiety and exhaustion

Though authorities very rarely used compulsory orders to report to them until a few years ago, today the practice has become a major element of the strategies for inspecting people subject to the Dublin Regulation (and, more broadly, for carrying out other types of removal measures). A June 2011 law created a form of compulsory order to report to the authorities for people subject to the Dublin Regulation, which lasts 45 days and can be renewed three times⁴⁹. These inspection measures restrict people's freedom of movement and are ultimately aimed at deporting them. These people are forced to remain within a given area and must report regularly, as often as

These obligations to report to the authorities become especially burdensome when they occur daily and seriously undermine the person's rights.

once per day, to the local police station or gendarmerie, depending on the decision of the Prefecture. Furthermore, the law of 10 September 2018 on asylum and immigration allowed authorities to force people to remain in their home for up to three hours. These people can be confined to their home or to accommodation centres that are often isolated from the city centres. Since 2015, the Prefectures can place a person under compulsory order to report to the authorities at the very beginning of the procedure, i.e., even before the State responsible is formally determined.

The use of these measures has increased exponentially since 2011; it jumped from 373 instances in 2011 to 2,998 instances in 2014, then to 4,687 instances in 2016, finally reaching 8,791 instances in 2017. The number of applicants subject to the Dublin Regulation who have been targeted by these practices has not been made public, but observations during legal counseling and in detention centres indicate that they could represent a significant portion of the total. Furthermore, the Ministry of the Interior has clearly called on Prefectures to employ this measure widely for applicants under the Dublin procedure, along with other coercive methods such as interrogating them in their homes⁵⁰.

The information gathered by La Cimade from people subject to the Dublin Regulation reveals a wide variety of administrative practices, with a very pronounced degree of compulsion in the implementation of this order to report. For example, a person placed under this measure by the Prefecture of the Seine-et-Marne department must report to their police station or gendarmerie twice per month, whereas a person under the same measure in the Yvelines region must do so twice per week⁵¹. Some Prefectures even require people under compulsory order to report to the authorities to do so at their police station or gendarmerie as often as once per day, as is the case in the Val-de-Marne department⁵². The ways in which these checks are carried out are a significant aspect of the restriction of movement caused by this measure. Indeed, during the verification process, the person cannot be elsewhere: no doctor's visits are possible during this time, nor is dropping off or picking up children from school, for example. These restrictions become especially burdensome when they occur daily and when they have the potential to seriously undermine the person's rights. This is even more the case when police stations and gendarmeries are located far from the person's residence, as happens frequently for people placed under compulsory order to report to the authorities in accommodation centres which are isolated from city centres.

Apart from the goal of setting up a kind of mechanism for tracking applicants subject to the Dublin Regulation and establishing their whereabouts in order to deport them to the responsible country, this kind of measure is an additional tool for dissuading and discouraging people. The errors and exhaustion brought about by this system mean that people end up "at fault" and find themselves declared as "absconded", which makes their situation even more precarious.

Accommodation under inspection

Applicants subject to the Dublin Regulation are not considered to "have justification to remain in the country", according to the set phrase of the administration. In this regard, in addition to the inspection

49. L. 561-2 of the Code of Entry and Residence of Foreigners and of the Right to Asylum (CESEDA).

50. Ministry of the Interior, *Instruction du 19 juillet 2016 relative à l'application du règlement (UE) n°604/2013 dit Dublin III*.

51. La Cimade, *Dublin : état des lieux et conseils pratiques en Île-de-France*, updated in December 2018.

52. La Cimade, *Assignations à résidence. Analyses depuis les centres de rétention de Rennes et du Mesnil-Amelot*, January to June 2018.

THE VIOLENCE OF A COMPULSORY ORDER TO REPORT TO THE AUTHORITIES

The practice of placing applicants subject to the Dublin Regulation under the obligation to report to the authorities is spreading. This measure is accompanied by a system that restricts freedom of movement, since applicants are sometimes required to report daily to police stations. It causes severe anxiety, as Paulina, who is under this measure in Nevers, experienced first-hand.

“ I came to Europe to flee the violence that befalls women in Angola. I had a Portuguese visa. After Portugal, I went to Belgium. Thanks to my religious community there, I learned that my daughter was in France, in Nevers. I hadn't seen her in 25 years, and I met my seven grandchildren for the first time, whom I had not seen grow up. I then claimed asylum in France and learned that I was under the Dublin procedure. I didn't understand what that meant until the day I was summoned to the Prefecture in the Nièvre region. When I arrived there, a woman explained to me that I had to make my asylum claim in Portugal and that they might help me get there. She also told me that at my age, 57, perhaps they wouldn't do it, but that I had to report twice a week to the police for over a month. The following week, I met with the person at La Cimade who is following my case. The person asked me if I brought any important belongings with me when I went to the police, like money or my papers. I just smiled without answering, but that scared me very much. Every time that I went to the police, I didn't want to bring any belongings, neither papers nor money. I felt as if doing so would result in misfortune. I couldn't convince myself that it could become a reality. It was impossible for them to take me away, because I had just found my daughter again and they couldn't separate me from her and my grandchildren. One evening, it was 26th December, we saw a police car in front of our building. We immediately thought



that they were coming to get me. My whole family was afraid, but nothing happened, and they left. In my country, everyone is afraid when the police are there. It is a sign that something bad is going to happen. One day, my daughter wasn't able to accompany me because she had an important appointment. She wanted me to go with my son-in-law. But I couldn't do that.

I felt as if only my daughter was capable of protecting me. So I didn't go. And I didn't go the next time either. We were getting closer to the end of the compulsory order to report to the authorities. I felt very bad. I was worrying non-stop and I was extremely tense. My whole body ached and trembled. I felt like I wasn't able to walk anymore, and my legs hurt a lot. I went to see the doctor who gave me a medical certificate to bring to the police. When my daughter and I arrived at the police station for the final examination, the police officer who was there was very agitated and it was very crowded. When he saw me, he asked, "Madam, do you want to sign or not? If you don't want to sign, then get out!" My daughter wasn't happy with how he was treating us and she wanted him to explain, but he was too agitated. He said, "Why doesn't she want to sign? She is going to have problems with the Prefecture." And then we left and I didn't sign. Since 24th January, I don't need to go to the police any more, but I am still afraid. I won't be calm until 18th June. Only then, after waiting for 6 months, will I be sure that I can remain with my family!"

measures just explained, they are also often sent to accommodation which “officially blurs sheltering individuals – an unconditional fundamental right – with a form of deprivation of freedom intended to deport them, as the Defender of Rights expressed with concern⁵³. This is mainly a reference to PRAHDAs and detention centres for dublinised people, but applicants can also be under a compulsory order of residence in other types of accommodation, for example in CAOs or HUDAs. According to the OFII, 19,758 dublinised applicants entered one of these systems in 2017, which is 32% of applicants⁵⁴. The Ministry of the Interior, by means of various circulars and directives, has ordered Prefects to identify accommodation dedicated to housing asylum seekers subject to the Dublin Regulation who are under a compulsory order to report to the authorities, and to ensure that time in this accommodation is “devoted specifically to enacting their transfer”⁵⁵. At the same time, the objective is to increase the number of deportations to, in the words

Some accommodation centres are completely focused on the detention and deportation for people under the Dublin procedures.

of the authorities, “improve the flow of the system” as a whole, i.e., quickly free up places after applicants are removed. At no time do these instructions take into account the social distress of the person. These inspection measures of accommodation centres produce different results. The terms of service for PRAHDAs expressly state that the accommodation’s operator is responsible, in conjunction with the authorities, for preparing the deportation of the person to the responsible State. In particular, the operator has the duty to ensure that the obligations of residents to report to the authorities are met and to alert the authorities if any person is absconding⁵⁶. At the beginning of 2019, the Ministry of the Interior expanded these obligations to include all emergency accommodation facilities. Furthermore, the Ministry expressly required those managing the accommodation to grant the police access to the facilities’ common spaces⁵⁷. In some types of accommodation, the provision of an office for the Prefecture or

the police is envisioned, in order to notify removal decisions and carry out verifications linked to the order to report to the authorities. This is the case for example in the PRAHDA in Margueritte (34), La Crèche (79) and in a centre in Aubervilliers (93). Finally, police have been witnessed intruding into private areas (in theory only with authorisation from a judge responsible for release and detention and only for people who have refused to be deported). However, according to evidence gathered by La Cimade, as well as some court rulings, these actions very often take place completely illegally and even when the people involved have met all of their verification obligations.

Some accommodation centres are completely focused on the detention and deportation for people under the Dublin procedure. These centres essentially keep dublinised people under compulsory order to report to the authorities. La Cimade identified four centres of this kind in the Île-de-France region⁵⁸. The legal foundation and status of these centres is extremely complex, opaque and therefore questionable. These facilities are only mentioned in a budgetary context in the 2018 finance bill and are designated as centres that should be near airports, which is not the case here. With regards to the information obtained by La Cimade and its partners, the highest possible level of opacity obscures these facilities. Very often, people are barely informed of the procedure’s status and in particular of the day when they will be transferred by plane. Again police frequently intrude into these facilities either to notify people of decisions, to inspect people or to carry out a deportation. Under these conditions, a certain number of people subject to the Dublin Regulation leave these centres, unable to live with the daily fear of deportation. In these cases, the pressure weighs so strongly on them that the street seems preferable to a place of shelter that no longer protects them.

53. Defender of Rights, *Avis du Défenseur des droits n°17-09*, 25 September 2017, p. 5.

54. OFII, *Rapport d’activité 2017*.

55. Ministry of the Interior, *Note aux préfets relative à la fluidité du parc d’hébergement des demandeurs d’asile*, 6 July 2018.

56. See for example the case of the PRAHDA of Vitrolles in the Bouches-du-Rhône department: *Politis*, « Les Reclus de la République », 5 July 2018.

57. Decree of 15 February 2019 pertaining to the terms of agreement of reception centres for asylum seekers, published in the Official Journal on 20 February 2019.

58. These four centres are located in: Ullis (Essonne department), Paris (Paris department), Aubervilliers (Seine-Saint-Denis department) and Montmorency (Val-d’Oise department).



Inside Troyes PRAHDA (10), Formule 1 Hotel, November 2018. © Célia Bonnin

3.2 DECLARED AS “ABSCONDED” AND THE NEED TO LIVE IN HIDING

French authorities have a period of six months to deport the person following the explicit or implicit response of the European country in which they first arrived, or from the time of the official court decision in the case of an appeal. This period of time may also be extended to 12 months in the case of detention, or 18 months if the person is considered as absconded.

Evolving definitions of “absconding”

The European legislation, and therefore the French legislation, stipulates that the time given to authorities to deport a person who has been dublinised may be tripled if the person is declared as absconded. This means that for 18 months the person who is requesting asylum does not have a right to the usual asylum procedures in France. The fact of being absconded was defined in 2006 by the Council of State as a “systematic and intentional defiance of the transfer measure”. At the time it was decided that failing to respond to a summons, if it was evidence, did not

allow the person to be considered as absconded; but that if the summons explicitly mentioned the desire to execute the transfer and the person did not respond to the summons twice, or did not respond with their children, then the absconding status would be applied.

According to the Dublin Regulation, the government has three ways of executing a transfer decision. The first is based on the effort of the person. In this case, they can receive financial and logistical assistance from the OFII. In Paris, when a transfer decision is announced, people are invited to visit the OFII to be offered this assistance. If they refuse, then it is considered proof of non-cooperation with the process. If the person were to go to an airport located 500 km from their place of residence without transport provided by the authorities, the Council of State would nonetheless judge them as not absconded! The second way, called “under control”, consists of a police escort up to the doors of the plane or train. An intermediary method has been put in place by French authorities to bridge these two processes. For many years, the Prefectures have given the person a government document called a “routing”.

This specifies that the person must go to a border police service, located near their place of residence and details the route from this point to the airport as well as the aircraft that they need to take to return to their country of origin.

However, over several years, the definition of the absconding status has become increasingly restrictive. Thus, not following the directions by failing to show to a scheduled meeting is considered as being absconded. This is the case even if the bus station near the meeting place is 40 km from the person's place of residence and they need to make a 4:00 am meeting, even if there is not transportation available to get them there. After a person has been assigned their "routing" they can be considered to be absconded if they fail to check in. Even if a person argues that there are risks associated with the transfer, they will still be considered as absconded⁵⁹ if they refuse to proceed with the plan.

However, over several years, the definition of the absconding status has become increasingly restrictive.

In November 2018, the Council of State went even further by considering that failing to respond to a summons during which a routing was scheduled to be administered could be considered a defiance of the system and thus a reason for the person to be declared as absconded. On 19th March 2019, the CJEU presented, for the first time, a standardised definition of this notion, by retaining the deliberate nature of the defiance of the implementation of the transfer but not its repetitive nature⁶⁰. It is likely that this decree will force changes in prefectural practices and jurisprudence in France. Essentially, a simple refusal to execute the decision could allow a Prefecture and the OFII to consider the person as absconded, to extend the waiting period by a year, and to withdraw reception conditions.

Government strategies for encouraging people to abscond

Given the ever-increasing reasons for which a person can be declared absconded, it becomes increasingly difficult to make a no-fault judgment.



Ousmane and Aboubacar from Guinea and under a Dublin procedure, at La Cimade Nevers, July 2015. © Vali Faucheux

Because of this, it seems that the government is putting strategies in place aimed at pushing people who have been dublinised into making mistakes so that they might receive an extension on the Dublin procedure.

From this perspective, assigning places of residence plays a key role. This is because authorities consider a person who has failed to show up for a scheduled check-in to be absconded. For those who are confined to their homes and are required to check in up to once per day at a location that is sometimes far from where they live it is easy to miss an appointment. Thus, check-in requirements were put in place for people who have health or mobility issues. An example of this would be a pregnant woman being considered as absconded because she missed an appointment. Others have been considered absconded for having missed an appointment even though there was a problem with their transportation, or they had another administrative appointment held at the same time⁶¹. Another individual was even declared absconded because the police station where she was supposed to check in refused to record it because there was no log book. Though they are faced with these abusive practices, the courts are remaining silent and are thereby validating these government strategies for declaring dublinised people absconded.

59. To see the list of decisions of the Council of State on this subject see: La Cimade, *Dubliné-e, vous avez dit dubliné-e ? Guide pratique des procédures Dublin*, September 2018.

60. CJUE, arrêt dans l'affaire C-163/17 Abubacarr Jawo contre Bundesrepublik Deutschland, March 19, 2019

61. Gisti, « Traque, expulsion, abandon : parcours de dublinés », in *Plein droit*, n°119, December 2018, p. 18.

Certain Prefectures, such as the Paris police Prefecture, have also put in place certain abusive practices for people, and families in particular, who are going through Dublin proceedings by using immigration detention. The prefecture is arresting them at the

It seems that the administration is putting strategies in place aimed at pushing people who have been dublinised into making mistakes in order to extend the Dublin procedure.

desk in the framework of a summons, the night before the flight is scheduled and lock them in detention cells for the night. These people, who are caught off guard, refuse to board the plane and are immediately released by the Prefecture who then

declares them to be absconded, thereby prolonging their legal transfer period. Families who were obeying the rules that they had been given were illegally put in detention and then immediately declared to be absconded as soon as they were released a few hours after their scheduled departure. This practice has been documented by the volunteers and employees of La Cimade, particularly when the deprivation of liberty of persons held in detention was declared illegal by the courts⁶² (see chapter 4). These deprivations of liberty, intended solely to facilitate the logistics of deportation, allow the police to implement the deportation directly and more easily, even if it is against the law.

Beyond the abusive strategies of certain Prefectures, it is important to note the large variety of practices from one department or region to another. This can be seen as much in the regularity of their summons as in the compulsory orders of residence or arrest

62. La Cimade, *Un après-midi au 8^e bureau*, February 6, 2018.

THE ADVERSE EFFECTS OF AN APPEAL AGAINST A DUBLIN DECISION

When a dublinised person receives a transfer decision they have 15 days to make an appeal (except in the case of a compulsory order of residence where the period is 48 hours) before the administrative court in order to challenge it.

This person may also make an appeal in the case of compulsory order of residence. In both situations, the person is unaware of the fact that they may end up being dublinised for a longer period if the appeal is rejected. If the appeal is in fact rejected then the transfer waiting period restarts from zero on the same date. For example, if an asylum seeker dublinised to Italy presents an appeal to their transfer after five months of Dublin procedures and the appeal is rejected, then the authorities will once again have six months to deport the person back to Italy instead of one month, as was the case before the appeal.

Moreover, the Prefectures sometimes play around with notifying a person of a transfer decision, even when it has been several months since the country responsible for the asylum seeker has given its approval and the six month transfer waiting period is nearing the end. Having received the decision late, the person tries to protect themselves by using their right to an appeal. Doing this, however, may actually prolong their

dublinised status if the appeal is rejected. Despite the short periods of time given to file an appeal, it is a decision that must be well thought out. Ideally, this decision should be made with the help of an immigration lawyer, which dublinised individuals don't often have access to. Making an appeal to a transfer decision given only days after registration wouldn't make much of a difference if it fails, whereas an appeal filed at the end of the period could lead to a significant extension of the Dublin procedure. Additionally, it is important to understand certain details in order to properly determine an appeal's chance of success. These details include: whether or not the authorities will respect the process, the person's knowledge of the process, chances of mistreatment in the country of deportation, etc. It is virtually impossible, therefore, for them to fully understand how to exercise their rights. La Cimade endeavors to support people who have been dublinised, by walking them through the process of how to defend their right to an appeal, in addition to try guiding them in making a choice that will not come back to hurt them in the future⁶⁷.

67. La Cimade, *Conseils pratiques pour aider à former un recours contre la décision de transfert Dublin*, 18th January, 2019.



Le campement de la Porte de la Chapelle à Paris où survivent des centaines d'exilé·e·s, janvier 2019.
© Rafael Flichman / La Cimade

conditions preceding deportation⁶³. Moreover, the lack of information on the people in question concerning the complexity of the procedures they are subject to and their fear of being deported to a country they never want to return to, are all reasons to miss a summons or a scheduled check in. For example, the extension of the transfer period – in case of non compliance with the compulsory order to report to the authorities – is simply not mentioned during the process. In 2017, an estimated 7,500 people were declared absconded by the government, though it is possible that this number is an understatement⁶⁴. This number has nonetheless increased significantly, considering that in 2016 only 2,506 people were given this designation.

Forced into hiding without any protection

Being classified as absconded has very severe consequences for those it concerns. Those who were already subject to the state of emergency that is the Dublin process literally find themselves outside of the system. Material benefits are immediately withdrawn and the OFII, tasked with paying the Ada (asylum seeker allowance), immediately cuts off

this financial aid. This is done while an end-of-care decision is sent to the accommodation center if the person has managed to receive a place in one. As of January 2018, the observations of the person do not

The Dublin legislation thus changes into a horrific mechanism which leaves asylum seekers completely invisible and exposes them to even greater uncertainties.

even have to be collected before this decision is made, even if a person is considered at risk. These decisions are irrevocable, if they are not addressed. This happens even though European law provides for a reduction, not a suppression, of reception conditions, and of possibilities for partial reinstatement for people in this situation.

63. La Cimade, Dublin : état des lieux et conseils pratiques en Île-de-France, updated in December, 2018.

64. Minister of the Interior, estimations given in an interview with La Cimade in 2018.

For up to a year and a half, these people need to stay in hiding since they don't have the right to access the French asylum processes. People already potentially weakened by a dangerous journey and long waiting periods become invisible to the authorities. Deprived of material support, they have no choice other than to risk working without papers and to rely on the support of their family and friends or end up in the street. Some become discouraged and return to the country in which they first arrived, but many more are awaiting the end of the infamous 18-month waiting period. These people live in hiding, in fear of being caught, arrested, jailed and sent back to the country from which they fled for whatever reason. Their physical and mental health is permanently affected, as is observed daily by doctors and psychologists working with exiled people⁶⁵.

Thus, people who came to Europe with a serious need of protection find themselves completely lost,

having never at any time had the chance to make known their fears of returning to their country of origin and their reasons for requesting asylum. In 2016, 149 people had their housing and allowance that were given to them taken away because they failed to respond to a summons. In 2017, this number increased to 2,953⁶⁶. Other victims of these types of decisions were never recorded. The Dublin legislation thus changes into a horrific mechanism which, after having tracked down, regulated, and assigned asylum seekers, leaves them completely invisible and exposes them to even greater uncertainties.

65. Many resources exist concerning the mental health of exiled people. See, for example: Rapport du Centre Primo Levi et de Médecins du Monde, *La souffrance psychique des exilés, une urgence de santé publique*, June 19, 2018.

66. Statistics taken from the statement in defence of the OFII as part of the 1804887/5-2 case at the Paris Administrative Tribunal, October 2018.

04

Detention and deportation: the violence of the transfer

As of 2016, French authorities have made increasing Dublin transfers a priority. In addition to strategies employed by governments to inspect and track dublinised people, certain measures that restrict or remove their freedom have been put in place over the past few years to encourage deportation. Administrative detention is now affecting a growing number of people going through the Dublin procedure, including families with children, despite being out of the legislative framework for several months. Even though the total number of transfers has remained relatively low so far, people continue to be deported to European countries where asylum system failures have been proven. These people are eventually at risk of deportation to countries where their lives are in danger.



Mesnil-Amelot administrative detention centre (77), November 2017. © Yann Castanier / Hans Lucas

The Dublin procedure is long, arduous, and results in repeated rights violations for people whose only crime is seeking genuine protection. Furthermore, this system mobilises many agents of the State, and therefore mobilises the efforts of the people affected, governments, police departments, lawyers, those working to protect people's rights, and others. Nevertheless, the deportation rates (percentage of people effectively deported compared to the number of agreements given by the countries determined to be responsible) have remained around 10% for years.

In 2017, the French authorities effectively deported 2,633 people undergoing the Dublin process. These "outgoing" transfers doubled compared to 2016. However, it continues to represent only about 9% of agreements granted and 6% of referrals made, as was already the case the previous year. These deportations returned people primarily to Italy, Germany, Spain, and Belgium.

Over all, in Europe, Austria and Germany deport the most, and primarily towards Italy, while Germany and Italy are the primary destinations of deportees. In the case of Germany, a significant portion of the transfers, nearly 1,000 out of 4,500, have to do with

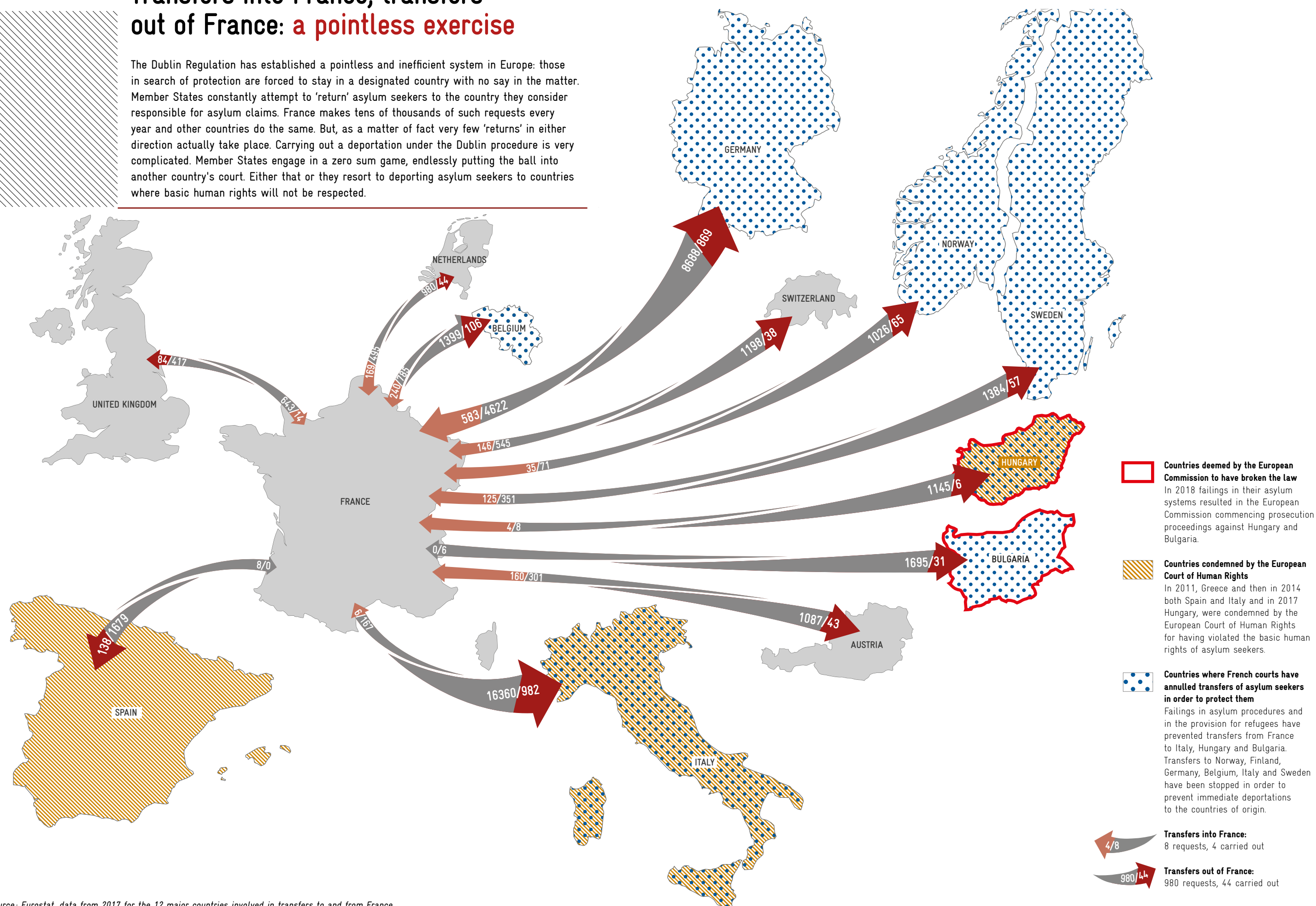
reuniting families⁶⁸. As for Italy, it was the main country where dublinised people were deported to from all over Europe. In fact, 5,678 people were returned there in 2017, the majority from Germany, Austria, Switzerland and France.

In France, authorities were congratulated on the increased deportation rate between January and July of 2017, where it jumped from 9 to 17.5%. However, the counterargument for increasing a rate that remains low compared to the number of procedures is very strong. Reasons for this include implementation of inspection tools, traceability of people, social precariousness, detention appeals, those at risk of deportation running away, and others. In some cases, French authorities are making efforts to deport people to countries where the rights of asylum seekers are not insured. This is evidence of the government's insatiable will to apply the Dublin procedures at any cost.

68. See box "Between Greece and Germany: the winding road of family reunification" page 16.

Transfers into France, transfers out of France: a pointless exercise

The Dublin Regulation has established a pointless and inefficient system in Europe: those in search of protection are forced to stay in a designated country with no say in the matter. Member States constantly attempt to 'return' asylum seekers to the country they consider responsible for asylum claims. France makes tens of thousands of such requests every year and other countries do the same. But, as a matter of fact very few 'returns' in either direction actually take place. Carrying out a deportation under the Dublin procedure is very complicated. Member States engage in a zero sum game, endlessly putting the ball into another country's court. Either that or they resort to deporting asylum seekers to countries where basic human rights will not be respected.



Source: Eurostat, data from 2017 for the 12 major countries involved in transfers to and from France.

4.1 ADMINISTRATIVE DETENTION OF DUBLINISED ASYLUM SEEKERS

Strictly regulated by European legislation, the detention of asylum seekers under the Dublin procedure has greatly increased in France in recent years. Between 2010 and 2015, dublinised people represented 1% to 5% of those placed in detention centres in France, but this number has since grown to almost 15% in 2018. Authorities arrest people undergoing the Dublin procedure when summoning them to Prefectures or check-ins in the event of a compulsory order to report to the authorities and then place them in detention. Thus, in a large number of cases, people who respected the rules laid down by the government are the ones who are negatively affected. The goal for authorities is to deport the detained person as quickly as possible so that, in certain cases, the person never even goes before the liberty and detention judge (JLD), while still guaranteeing individual freedoms and control over the proceedings. The person can therefore be transferred by force following an irregular detention hidden from the judiciary process. Following several condemnations from the courts, France significantly modified the legislative framework on the subject in order to adapt it to their practices. This has allowed the government to almost systematically detain people under the Dublin procedure.

When France chose to illegally detain dublinised people

While France decided in 2016 to accelerate the execution of transfer decisions and is increasing its detention rate to achieve this, the courts note that this must be done within the limits set forth by Dublin. The jurisprudence of the Court of Justice of the European Union (CJEU) and notably the Al Chador decision influence the interpretation of the laws made by the national courts⁶⁹. Thus, in an arrest made on 27th September 2017, the Court of Cassation reiterated the argument that was developed by the CJEU and decided that French legislation, as it stands, does not permit the detention of dublinised persons who are due to be transferred. The criteria that define an asylum seeker as being “a significant risk of absconding” are absent in French law, which means that the detention of dublinised persons is illegal⁷⁰.

There are, however, several Prefectures that choose not to obey this decision and therefore detain people, by using processes that seem to be based around the method of avoiding jurisdictions that would definitely condemn such practices. In administration detention centers where La Cimade aims to help people exercise their rights, it has been noted that people are detained in the evening and then transferred the next morning⁷¹. These people are arrested during a check-in, sometimes at their place

More than 1,300 people seeking protections were deprived of freedom between October 2017 and March 2018, during which time this practice was outside the law.

of residence without prior notice from the judge of liberty and detention (JLD). However, the law requires that an arrest made at a place of residence be authorised by the JLD if the person is under a compulsory order to report to the authorities. Thus, the Prefectures circumvent this rule by avoiding any resistance from the judge, who could only note irregularity of the detention if it was referred... Between October 2017 and March 2018, people who were finally brought before the JLD before being deported from the country were systematically released. Since they wanted to avoid punishment, the Prefectures released those who refused to board before they were even brought before the JLD. In this case, the person may be freed, but they are immediately declared to be absconded because they refused to return to Italy, Germany, or Bulgaria... La Cimade, other associations and unions have denounced these obvious violations of the law by Prefectures⁷². La Cimade estimates that more than 1,300 people seeking protections were deprived of freedom between October 2017 and March 2018, during which time this practice was outside the law.

69. Court of Justice of the European Union, Judgment in Case Al Chodor C-528/15, March 15, 2017.

70. Cour de cassation, Judgment n° 1130, September, 27, 2017.

71. La Cimade, *Personnes dublinées : convocation déloyales et expulsions depuis le CRA de Rennes avant l'entrée en vigueur de la loi*, February 27, 2018.

72. Communiqué de presse inter-associatif, *Ces préfectures hors la loi*, October 25, 2017.



Centre de rétention administrative du Mesnil-Amelot (77), novembre 2017. © Yann Castanier / Hans Lucas

March 2018: A new law that legalises this detention

The government was aware that this situation could not continue, and as of October 2017, it has, with the help of Minister of the Interior Gérard Collomb, produced a new law proposal, which would “allow a proper application to the European asylum system”. Led by Republican MP Jean-Luc Warsmann, it aims to identify “a significant risk of absconding” and thereby legalise detention of dublinised people. Meanwhile, the Court of Cassation reiterated its jurisprudence with a new verdict made on 7th February 2018.

The law adopted on 20th March 2018 defines a presumed risk of absconding through twelve extreme circumstances. Based on these circumstances, it would allow authorities to detain dublinised people and their children in a semi-systematic way. Some of these criteria include leaving a country during the asylum determination phase (for example, a person in Austria dublinised for Hungary who runs away to France to seek asylum there), being rejected by another country, or leaving the accommodation

centre designated by the OFII⁷³. This seems to be far from the original intention of the European legislation which suggest that the administrative detention of asylum-seekers be used only as a last resort.

The French parliament has gone above and beyond this definition of risk of absconding by allowing detention even before a transfer decision, the legal decision that determines whether deportation occurs. This means that even if the Prefecture has not yet finished the referral determination process, the asylum seeker can be taken into custody. This marks the first time since the creation of administrative detention centers in France that a person can be detained without being targeted by a deportation decision, something which the Constitutional Council has always prohibited. The law has also reduced the period of time given to challenge these decisions from two weeks to one. This period, however, was returned to two weeks the following month by the next law⁷⁴.

73. To find out more about the different criteria established by the law of March 20, 2018: La Cimade, *Rétention des personnes dublinées : publication de la loi permettant sa généralisation*, March 21, 2018.

74. Loi n° 2018-778 du 10 septembre 2018 pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie.

The Dublin Regulation as first reason why children are being held in detention centres

Although condemned six times by the European Court of Human Rights for detaining children, France continues to place families with children in detention centres. In 2018, 114 families spent several days in this type of centre. The vast majority of these families were subject to the Dublin Regulation and were claiming asylum in France. As the Cimade and numerous other organisations have been arguing for years, the experience of being held in a detention centre is traumatic for a child and is a violation of their rights.

Arshad

Iranian, 17 years old

held for 4 days in a detention centre in Toulouse in September 2018.

Farah

Yemeni, 6 years old

held for 1 day in a detention centre in Metz-Queuleu in November 2018.

Misha

Russian, 3 years old

held for 10 days in a detention centre in Mesnil Amelot in February 2018.

Bora

Albanian, 6 months old

held for 8 days in a detention centre in Mesnil Amelot in July 2018.

Today, with detention permitted for up to 90 days since 1st January 2019, asylum seekers can be detained for three months, even if the country they are to be sent to has not yet been decided. This potentially very long deprivation of liberty can have severe physical and mental effects, especially for those who have already suffered traumas in their countries of origin and through their escape journey. In addition to these people, children are at an increased risk of suffering as a result of this system.

Families with detained children

Dublinised families with children cannot escape the traumas of detention centres. The numbers show that in 2017, 69% of detained families with children under the age of 18 were families undergoing the Dublin process. In 2018, this group is still the majority, with 57% of those detained being families, despite the efforts of citizens and civil organisations to fight against this situation.

With all procedures combined, France continues to lead Europe in the detention of families with children in immigration detention centers (CRA). It has been condemned on multiple occasions by the European Court of Human Rights (ECHR) for "inhumane and degrading treatment"⁷⁵. Additionally, the United Nations, Defender of Rights, UNICEF, and the Controller-General of Places of Deprivation of Liberty emphatically recommend that France cease these actions⁷⁷. However, authorities legalised this practice through the March 2016 law, which led to the detention of 304 children in France and 2,493 in Mayotte in 2017, as well as the continuation of this practice in 2018.

The most common practice is to detain a family, usually one which had been given a compulsory order to report to the authorities, early in the morning. The family is escorted by either the police or gendarmes and is brought to the police station to sign documents related to their immigration detention. The family is then brought to a CRA by police escort, usually at the end of a very long day. The family is woken up at dawn or in the middle of the night so that they can be forcibly led to the airport. At this point, the family either boards the airplane or refuses and is returned to the CRA before being brought before a judge, who usually frees them. In some cases, families can remain locked up for several days. In all of the situations, it is a particularly traumatising experience for the children involved, from newborns to teenagers, as well as for their parents.

This is the case for Irene (name changed), a young woman from Mali who was placed under the Dublin procedure with her three-month-old baby. Authorities want to send her back to Italy, no matter the cost, since it was the country through which she originally entered Europe, and so they detained her in a CRA in Mesnil-Amelot in November 2018. In a shocking display, the Court of Appeals in Paris approved the deprivation of freedom for this single woman and her newborn baby by claiming that it is in the best interest of the child that authorities deport her as quickly as possible and that the woman stop "her unjustified and illicit resistance"⁷⁸. Irene and her daughter were finally freed at the end of eleven long days of detention thanks to the emergency actions taken by the ECHR. The European Court has a very different definition of what is in the "best interest of the child".

Detention is a particularly traumatising experience for children, from newborns to teenagers, as well as for their parents.

Virtually all dublinised families were previously under a compulsory order to report to the authorities. Detention therefore acts as an extension of this order to report to the authorities, the conditions of which are often respected by families. One Afghan family, with three young children (11, 6, and 6 months) was also taken early in the morning in October 2017 to a hotel in Haut-Rhin where they were kept. After being detained for a day at the local administrative detention centre of Saint-Louis⁷⁹, the family was deported by private plane from the Mulhouse airport to Helsinki. In Finland, they are at risk of being deported



Sources: CIMADE Administrative centres of detention, 2017 et 2018. Names and faces have been changed.

75. ECHR, January 19, 2012, Popov contre France (n°39472/07 et 39474/07), ECHR, 12 juillet 2016, A.B et autres contre France (n°11593/12), R.C. et V.C contre France (n°76491/14), R.K. et autres contre France (n°68264/14), R.M et autres contre France (n°33201/11), A.M et autres contre France (n°24587/12).

76. Defender of Rights, *Décision 2018-045 relative à la présence d'enfants dans les centres de rétention administrative*, February 8, 2018.

77. CGLPL, *Avis relatif à l'enfermement des enfants en centre de rétention administrative*, May 9, 2018.

78. Court of Appeals of Paris, n° B 18/05333, December 1, 2018.

79. A place of immigration detention (LRA) is often a cell with minimal physical luxuries and an effective access to the extremely reduced rights, without legal support provided inside. To know more see: La Cimade and alii, *Centres et locaux de rétention administrative*, Rapport 2017, June 2018.



Mesnil-Amelot administrative detention centre (77), November 2017. © Yann Castanier / Hans Lucas

to Kabul. At no point was the family brought before a judge.

Despite civil society is fully mobilised to ask for the end of child detention, a petition with 150,000 signatures, and countless condemnations, French authorities continue to turn a blind eye. During debates on asylum and immigration law, in the spring of 2018, the government refused to forbid the detention of families and instead proposed the development of detention centres for this specific purpose, on the pretext of adapting infrastructures. They have since remained intact. Thus, in 2019, the confinement of families continues, particularly of those placed under the Dublin procedure.

4.2 TRANSFERS: DEPORTATIONS IN ALL BUT NAME

Deportations to countries that do not respect European law

The European courts (ECHR and CJEU) played an important role in the interpretation of the Dublin Regulation by clarifying the criteria of liability. This

was done for both the time period given to countries and the rights of dublinised people, especially for those who have a valid appeal. Several court decisions also brought to light the failures of the regulation, such as the *MSS v. Belgium and Greece* decision, made on 21st January 2011 by the ECHR⁸⁰. In this landmark case, the Strasbourg Court condemned Belgium for deporting an Afghan asylum seeker to Greece, which exposed him to risks related to detention conditions as well as the defects of the asylum process there. Greece was condemned because its accommodation and processing system for asylum seekers were not considered to be in line with European law. Several months later, the CJEU continued the same argument, noting that “important job of national authorities is to educate themselves on how well their neighbors address human rights issues risk”⁸¹. It also highlights the possibility for a Member State to study the asylum application itself

80. ECHR, *MSS v. Belgique and Greece*, n°30696/09 (Grande Chambre), January 21, 2011.

81. Marie-Laure Basilien-Gainche, « Les gens de Dublin ont des droits : la qualification de pays d'origine sûr appliquée aux Etats membres de l'Union est une présomption réfragable », in *Les Lettres « Actualités Droits-Libertés » du Credof*, December 29, 2011.

when deportation might expose the person to inhumane and degrading treatment⁸². These two cases had important consequences since they put a sudden stop to Dublin deportations to Greece.

At the end of 2016, while the discussions on a Dublin IV Regulation were in full swing, the European Commission called for the gradual resumption of deportations to this country, arguing that significant progress had been made to improve the asylum

Despite numerous warnings, EU countries continue to deport to Italy, such as France with 982 persons deported in 2017.

procedures and reception conditions for asylum seekers. In the wake of this, several European countries, led by Germany, made numerous requests for Greece to take over. No deportations were therefore carried out before the end of 2018. However, the situation for people seeking protection is still extremely problematic in this country, as is documented regularly by many European and Greek organisations⁸³.

There are other extremely problematic situations at the moment besides the one in Greece which raise questions concerning national courts. Hungary has stood out in recent years for its practices that violate the rights of people in need of protection as well as European legislation. Some of these violations include systematic confinement in transit zones, speedy trials, limited access to legal assistance, massive pushbacks at borders, and the criminalisation of support organisations, etc.⁸⁴ Several infringement proceedings are currently under way against this country; this does not, however, seem to prevent France from continuing to target Hungary as a destination for dublinised persons. As such, 1,145 requests were sent to Budapest in 2017 and 6 people were actually deported there. Bulgaria is also under scrutiny from European institutions following a series of reports illustrating the systematic failures of the asylum system and the repeated rights violations of exiled peoples⁸⁵. A complaint was brought before the European Commission in the summer of 2018 by 14 Afghan asylum seekers dublinised by France because they suffered degrading treatment in Bulgaria.

Lastly, people seem to be looking to Italy, especially in France. In Pau, Rennes or Melun, courts have indeed canceled expulsions to the country because of systemic failures and the high risk of human rights violations. In several decisions handed down by the Administrative Court of Toulouse, in particular, the increased risks of rights violations for victims of trafficking have been taken into account. Among the many independent reports on the situation in Italy are the Danish Refugee Council and the Swiss Refugee Organisation published in 2018 denouncing the glaring flaws in the Italian reception system and the living conditions of refugees sent back to this country⁸⁶, despite a conviction in 2014 by the ECHR (Case of *Tarakhel v Switzerland*). Legislative changes pushed by the Italian Minister of the Interior, Matteo Salvini, at the end of 2018 worsened the access to rights of people already weakened by a failing asylum system⁸⁷. Despite these numerous warnings, countries throughout the European Union continue to deport to Italy. An example of this is France, which sent 16,360 requests and deported 982 people in 2017.

The risks of “ricochet” deportations

With the number of detained dublinised people increasing, the risk of “ricochet” deportation has become more likely. These are people seeking protection whose asylum application was rejected by another European country and who came to France to file a new application. In the case of deportation to the responsible country, the person is also threatened with a sequence of deportations back to their country of origin. In certain cases, the person can be detained immediately following their arrival. This is what happened to Afshin (modified name), an Afghan national whose asylum application was rejected in Norway and was then dublinised to France. In 2017, Norway had an Afghan protection rate of only 20% against more than 80% in France, which is a colossal difference. After being held in

82. CJEU, *N.S (C-411/10 et M.E. et autres (C-493/10)*, December 21, 2011.

83. See, in particular, the statements of active associations working with exiles in Greece such as Doctors Without Borders, Refugee Support Aegean, or the Lesbos Legal Center.

84. La Cimade, *Dedans, dehors, une Europe qui s'enferme*, June 2018.

85. CPT, *Report to the Bulgarian Government on the visit to Bulgaria from 25 Sept. to 6 Oct. 2017*, Strasbourg, May 4, 2018.

86. Danish Refugee Council and Swiss Refugee Council, *Mutual Trust is not enough*, December 2018.

87. La Cimade, *En Italie, une loi contre les droits des personnes migrantes*, December 21, 2018.

RALLYING TO DO AWAY WITH DUBLIN

In different places, exiled people are mobilising to denounce the consequences of the Dublin Regulation, especially with the organizations that accompany them in the twists and turns of this administrative and legal labyrinth. For people in the process of deportation, refusing boarding and therefore their deportation (when they can) is a real act of resistance against this system. In other cases, the collective mobilisation can sometimes move procedures along, and even change mentalities. At the invitation of dublinised people living in the PRAHDA of Vitrolles and Gémenos, a large regional march was held in October 2017 from Vitrolles to Marseille to demand the cessation of deportations and access to the asylum process in France. In the Creuse, on the Millevaches Plateau, nearly 200 demonstrators blocked the gendarmerie to prevent the deportation of a Sudanese asylum seeker, who was expelled to Italy and had been living in the region for almost 18 months⁹⁰. In Finistère, a three-day walk was organised by local groups in the summer of 2018 in order to plant in the minds of the general public the excesses and absurdities of this European regulation. Various local and national groups mobilise under the

slogan "Stop Dublin", calling on French authorities to stop applying this unfair and violent rule for people who simply wish to access the asylum procedure in France⁹¹. La Cimade has launched a petition to request that France study the asylum applications of dublinised people and defend an ambitious European asylum system at the EU level, taking into account the choices of the people concerned⁹².

Elsewhere in Europe, similar actions are also being mobilised, such as in Switzerland where the civil society has unified behind "The call of Dublin", denouncing the mechanical and violent application of the regulation by the federal government for ten years. In Greece, several hundred Syrian men and women protested in front of the German consulate in Athens to demand an immediate reunification with their families, as stipulated in the Dublin Regulation.

90. See the testimony of Noordeen "Leaving Dublin thanks to solidarity" page 56.

91. Learn more on the group's website stopdublin.eu

92. Find the petition « Dublin, de l'urgence de changer de cap » as well as the petition « Faisons respecter le droit d'asile : sortons de l'enfer Dublin » on the page called « Dubliné-e-s : une page ressource » on La Cimade website.

charters to Kabul. France has also indicated its intention to accelerate the rate at which direct deportations back to Afghanistan are carried out. Amnesty International, in collaboration with La Cimade, published a report in October 2017 on this

Several French courts have recognised the risk of ricochet deportations and have therefore cancelled Dublin transfers.

European will to massively expel Afghans and on the situation of deportees once they are there⁸⁹.

Ricochet deportations can also affect other nationalities such as Sudanese people, through Italy or Belgium, or Iraqi people through Sweden. A complaint

filed by five Sudanese nationals deported with 43 others in 2016 to Khartoum is currently being studied by the ECHR. A condemnation of Italy would be an important sign to stop deportations to a country where the risks of torture and inhumane and degrading treatments are clearly documented. Several French courts have recognised the risk of ricochet deportations and have therefore cancelled Dublin transfers. In several important decisions, they have urged France to study the asylum application of the person threatened with deportation to Germany or Sweden, underlining the French authorities' inability to guarantee that the person will not then be deported to their home country.

89. Amnesty International, *Retour forcé vers l'insécurité*, October 2017. La Cimade contributed to the collection of data for France and launched a petition with Amnesty International France calling for the end of the deportations to Afghanistan which was signed by nearly 50,000 people.

custody at the Mesnil-Amelot CRA, Afshin was deported to Oslo, held at the Trandum detention center, and then deported to Kabul despite years of widespread violence in Afghanistan. This is also the case for Roman, who was sent "by ricochet" to Afghanistan through Norway for the second time, having already gone through the process several years ago. Despite the mobilisation of the group La Chapelle Debout, his deportation to Oslo could not be prevented and he ended up in Kabul a few days later. The news that the group received a few months later shows his feeling of total insecurity and abandonment⁸⁸.

In addition to these dramatic examples, the risks of ricochet deportation have the potential to affect numerous people. Several European countries have

clearly announced their desire to accelerate deportations to Afghanistan. The signing in October 2016 of an arrangement between the European Union and Afghanistan entitled *Joint Way Forward on Migration Issues* came to legitimise these political orientations. However, this arrangement has been undermined by numerous reports, notably from the United Nations, which highlight the situation of chronic insecurity in Afghanistan. Of the last 10 years, 2017 was the most murderous for Afghan citizens. This does not prevent Greece, Austria, Bulgaria, Finland or Sweden from continuing the deportations. In addition to these, Germany has set up monthly

88. La Chapelle en lutte, « Nouvelles d'un déporté, par La Chapelle Debout ! », in *Médiapart*, June 22, 2017.

05

A lot of wandering around just to arrive back at square one

The French administration is doing its best to oil the infernal machine that is the Dublin Regulation. Prefectures are increasing the number of deportations and discouraging people seeking asylum from moving around Europe. And yet, the majority of people who undergo the Dublin process eventually succeed in filing their asylum application in France. Nevertheless, this is done at the cost of long months or even years of waiting, anxiety, social precariousness, repeated inspections and restricted freedom. Some of those who were deported return again to France, like the Sudanese people threatened with deportations in Italy. The wanderings have become continuous against a crushing European machine.



Stop Dublin protest in Marseille, April 2018. © Odile Dubost / La Cimade

5.1 DEPORTED FROM FRANCE AND THEN RETURNING THERE, THE NEVER-ENDING STORY

Among those who are deported to Italy, Germany, Spain, and Hungary, some return quickly to France. Indeed, the reasons that led them to leave the European country to which the regulation assigns them are still there: lack of access to accommodation, material support that does not allow them live in dignity, anxiety about deportation to the country of origin, etc. In addition, some people have lived for months or even years in France before being deported, and have established a network of acquaintances, started to learn French and built new lives. This is the case of Ajab, a dublinised Afghan who had been sent to Germany and was assisted by an association in Brittany: after his deportation to Frankfurt, he returned to France in less than 48 hours. Upon return, the infernal machine starts again: placement in the Dublin procedure, refusal of the material conditions of reception, being declared under risk of absconding, and thus confined in a detention centre, waiting, anxiety, etc. The country that has been designated responsible for reviewing

the case remains the same unless the person leaves the EU for three months or, if unsuccessful, leaves the EU under a return order (even for a single day). In fact, the Prefectures start the Dublin procedure from scratch by tasking the responsible State again (if it does not, France is responsible for the asylum application). Against the law, the OFII considers this return as fraudulent and refuses the conditions of reception. However, if the State to which the person was deported did not review the asylum application, the OFII should not refuse the reception conditions⁹³.

The Sudanese deported to Italy from France are particularly numerous, returning to France with an obligation to leave Italian territory (OQTI). In this case, several French courts ordered the appropriate Prefecture to examine the asylum application in light of the conduct of the Italian authorities, who failed to examine the request in question. In 2018, the Council of State issued two contradictory rulings on the issue: in the first, the highest administrative

93. Conseil d'État, Référé, n°424180, 27th September 2018.

body emphasised France's obligation to register the asylum application of the person who received an OQTI following their initial transfer to Italy, thereby admitting the failures of the Italian asylum system which had not allowed real access to a request for protection *in situ*. The second order of the Council of State indicated, in the context of another situation, that the person had voluntarily refused to seek asylum in Italy, preferring to join his uncle living in France⁹⁴. As a result, the French authorities did not have to consider his asylum application and the person could be sent back to Italy.

In practice, failures in the Italian asylum and reception system, the proven risk of deportation to Sudan, as well as the disappearance of humanitarian protection following the Salvini decrees adopted in September 2018, suggest that return trips to France

will continue. Indeed, as long as people in search of protection are uncertain that they will really be properly received and protected in Italy, they will try their luck in France, Germany, etc. In doing so, they can spend years wandering from country to country, from procedure to transfer.

5.2 FILING YOUR ASYLUM APPLICATION IN FRANCE: THE END OF THE NIGHTMARE?

The Dublin III Regulation includes a sort of "safety valve" that keeps the machine running, even when a significant number of people are concerned: the

94. Conseil d'État, Référé, n°420439, 29 May 2018 et Conseil d'État, Référé, n° 425096, 14 November 2018.

WHAT ABOUT THE OTHER WAY AROUND? THE DUBLINISED PEOPLE SENT BACK TO FRANCE

Like other states applying the Dublin Regulation, France can be determined to be the country responsible for someone's asylum application and thereby tasked by its European partners. In 2017, 1,636 people were expelled to France (out of a total of 11,466 agreements given by France). The main countries requesting that cases be taken charge of or taken back are Northern European countries, starting with Germany, followed by Belgium, the Netherlands, Switzerland and the United Kingdom. Greece is also trying to make transfers, especially to reunite minors with their families. In the majority of agreements given by the French authorities, these are people who entered the European Union with a visa issued by France.

Once France has agreed, they indicate a place of arrival to the authorities implementing the deportation. In recent years, the airport is systematically located in regions, particularly in the cities of Lyon, Marseille, Bordeaux, Toulouse or Nice. Upon arrival, the fate of the dublinised person will then depend on their situation. If the person has already been refused asylum in France, the border police can decide to place them in detention and notify them of their obligation to leave the territory. They may then request reconsideration of their application, but on the basis of new facts. In 2018, in detention centres where La Cimade intervenes, at least 20 people in this situation were identified.

If the person has not yet applied for asylum in France, the border police are supposed to direct them to the GUDA within three days to register their application. In 2017, this deadline was not respected and some people came out of the airport with a simple orientation towards the initial reception centre (SPADA). As for finding accommodation, the situation of these returning refugees is no better than that of other asylum-seekers. Thus, in early 2018 a vulnerable person arrived in Nice from Holland. She was directed towards the GUDA in Nice, but no accommodation was planned. She preferred to head to the city of Angers, where she was hosted by a friend. Likewise, a family was left homeless when they arrived in Bordeaux. In early 2019, an Iraqi man was deported from Bonn to Metz from the hospital where he had been admitted due to a proven risk of suicide. It was the last possible day for the transfer. Without a second thought, the German authorities did not hesitate to deport him while he was in a wheelchair in the hospital. Upon arrival, he was taken to Thionville Hospital.

In Germany, however, several court decisions have allowed the cancellation of Dublin transfers to France for vulnerable persons, with those concerned pointing out the French authorities' failure to provide support, particularly in terms of accommodation.



Protest against Noordeen's deportation in front of the gendarmerie in Felletin, July 2018. © La Montagne

expiration of responsibility. If a person subject to a Dublin transfer has not actually been deported during the six-month period (or 18 months if they have been declared as absconded), the responsibility of the initially determined State expires and it falls upon the French authorities to examine the request. Given the low rate of Dublin deportations, which hovers around 10% (depending on the country), the majority of dublinised people end up one day gaining access to the asylum procedure in the country where they live. In France, 16,500 people subject to Dublin procedures were therefore able to apply for asylum with the OFPRA in 2017 and almost 25,000 in 2018, a quarter of the first applications recorded by OFPRA. These are people registered that same year, but also in previous years, some of whom had been declared as absconded. By the end of 2018, it is estimated that more than 40,000 people are still under the Dublin procedure in France. Once all the obstacles of the Dublin procedure are behind them, the person is finally allowed to submit

their file at OFPRA. However, the nightmares are not over. Approximately one-third of the people concerned are placed in an accelerated procedure by the Prefectures, which entails shorter periods of time to complete the proceedings and, in the case of rejection, to access an appeal. In practice, the reception conditions (financial aid and accommodation) are also very limited: in many cases, the OFII blocks the restoration of the material conditions of reception of those who were formerly dublinised and have been reinstated in the procedure. In fact, the OFII distributed an internal non-public note, which asked its agents not to automatically reopen the rights to the conditions of reception for dublinised people declared as absconded and whose application is requalified after the expiry of the transfer period. It specified that recovery of those rights would only be possible for those considered vulnerable. If the French law indeed provides that when the conditions of reception were suspended, the person must request their restoration to the OFII, then this

LEAVING DUBLIN THANKS TO SOLIDARITY

On the Millevaches Plateau in Faux-la-Montagne (Creuse), the mobilisation of citizens and associations has allowed three asylum seekers to settle in the village, to exit the Dublin procedure and to file their case in France. Noordeen, a 21-year-old Sudanese refugee, delivers his testimony.

CIn June 2016, the Sudanese government forces broke into our house, murdered my father and my older brother, and imprisoned and tortured me. I was able to flee during a transfer and then I went to Chad, then to neighboring Libya where I lived through hell. In early February 2017, I was able to go to sea to reach Italy. I quickly crossed Italy to find myself in France, in Paris. From there, I was sent to a reception center in Guéret, and then I was the first to be sent to another centre in Limoges. I had been told that it would be better for me; I expected to be able to attend more French classes. I was totally surprised when, having arrived there, I found out that I was going to be sent back to Italy like all the other residents and I was deeply overwhelmed when the Prefecture notified me of this transfer.

At the end of October 2017, I was sent to Naples. The Italian police put me on the street without any explanation. I returned to Limoges, the only place where I have ties. I was in the street, homeless and without resources. The inhabitants of the village of Faux-la-Montagne opened their doors to me. I received a warm welcome from the people who came together to accommodate me, to give me French lessons, and to bring me financial support. I have built friendships, helped out at organisations, joined the football team, and started market gardening. In the village of Faux-la-Montagne which has 400 inhabitants, in addition to the collective Faux Solidarity,

a hundred inhabitants signed a commitment to facilitate our reception. The mayor, supported by his municipal council, took steps with the prefect to register our asylum application. Without success! In June, after the arrival of a new prefect, I was summoned to the gendarmerie for them to notify me of a new transfer to Italy and my detention in a CRA.

An initial demonstration of support by 150 people was held in front of the gendarmerie while I was inside. I went free for lack of places in the CRA.



© Manu Tourbez

Two weeks later, when I reached the end of the time period for my transfer to Italy, I was again summoned to the gendarmerie. This time, 300 people mobilised, preventing the exit of a vehicle that would have taken me to the CRA. At the end of the day, the police stormed the crowd, despite the presence of elderly people and children. Meanwhile, I was exfiltrated from behind, through the wire fence cut for this purpose, tied up, dragged and struck even though I did not resist, then locked up at the Mesnil-Amélot CRA (Seine-et-Marne). Two days later, once the transfer deadline had passed, on the advice of the teams of La Cimade, I refused to embark for Italy, and I was released. But the Prefecture immediately declared me as absconded and I had to hide, living in terror. Assigned to the administrative court of Limoges, the Prefecture, to avoid a conviction, acknowledged that there was a doubt about the expiry of the delay of transfer and that I was entitled to file my asylum application in France.”



Information on the end of the Dublin procedure and the final access to the asylum procedure, Troyes PRAHDA (10), Formule 1 hotel, November 2018. © Célia Bonnin

concerns *all* asylum seekers and not just those considered “vulnerable”. In this regard, the 2013 European Reception Directive is quite clear: when reception conditions have been limited or withdrawn due to departure from the accommodation or for not showing up to an authority’s summons, if the person is found or presents themselves, a decision must be made regarding the total or partial restoration of these conditions. So, how else can this internal OFII note be understood other than as a willingness, again, to punish people formerly under the Dublin procedure?

In addition, new anxieties begin, this time linked to the asylum procedure in France: long delays and waiting, whether or not one is recognized as needing protection, effective access to an accommodation, work prohibitions, etc. There are many reports and testimonies highlighting the difficulties faced by people seeking asylum in France⁹⁵.

Finally, these observations make way for an essential question: what is the purpose of implementing this system? Why maintain a machine so complex, burdensome, expensive, and violent, when ultimately 90% of those subject to it end up applying for asylum

in the country where they hope to stay? What is the meaning of a system that, in addition to not being “effective” (in the sense of States and deportation rates), undermines European solidarity and violates the rights of people seeking protection? It seems that the only explanation is deterrence. By making the European asylum system so cumbersome, complex and fraught with difficulty, the EU hopes perhaps to discourage a significant share of asylum seekers.

The reform proposal to move towards the Dublin IV Regulation, published by the European Commission in May 2016, goes in this direction. Without questioning for a second the philosophy of this text, it proposes instead to make it even harder for exiles: the expiration of responsibility after 6 to 18 months disappears and the State determined as responsible remains so in perpetuity. This is what could explode the machine and make those seeking protection in Europe even more invisible.

95. See for example: CFDA, *D'une réforme à l'autre, l'asile en danger*, February 2018 as well as Gisti, *Demander l'asile en France*, 2^e édition, December 2018 and Observatoire de l'asile à Marseille, *L'asile en exil - État des lieux d'accueil des personnes en demande d'asile à Marseille 2017-2018*, December 2018.

CONCLUSION

Following the path of a dublinised person in Europe and in France makes one fully assess the oppressiveness and the absurdity of this infernal machine. It also leads us to question the purpose of keeping such a system in Europe. Apart from deterring those in need of protection, it is difficult to see the reasons why national administrations continue to apply this regulation.

Leaving office after six years at the head of OFPRA and released from his obligation of confidentiality, Pascal Brice denounced the "complete bankruptcy of the Dublin system" and the responsibility of technocrats who stubbornly maintain a system that generates disorder and "terrible effects" for those affected⁹⁶. Increasingly, institutional voices are rising against this unjust, violent and ineffective system, thus taking up the long-standing criticisms by European civil society.

The reform of the Common European Asylum System initiated in 2016 could have been an opportunity to reassess the Dublin system and to acknowledge its failure in order to consider something else. Yet it seems that European States are not in a hurry to find a way out of the stalemate. The fact that the European Parliament has taken an opposing view of the European Commission's proposals and is considering a different approach, that of taking into account, in part, people's preferences in the choice of the host country, is a positive signal. However, many components of this text remain problematic, as for example, the notion of "safe third country". It will be up to the elected parliamentarians in May 2019 to continue to defend a more open-minded vision of asylum policies in Europe. Indeed, the adoption of a new Dublin Regulation under the terms laid down by the European Commission would have catastrophic consequences, since it will only further delegate responsibility for receiving asylum seekers to the countries in the South and East of the EU and reinforce the wandering and precariousness of people in search of protection.

Getting out of the Dublin Regulation means developing a uniform asylum system that is

considerably more advanced than it is now. This means not only dignified and similar material reception conditions in all States, but, above all, a mechanism that guarantees applicants the same opportunities to obtain protection throughout Europe. Contrary to current EU guidelines, it is more than necessary to harmonise, from the top down, the procedures and reception conditions for asylum seekers: every person seeking protection must have their application reviewed with care and impartiality and be welcomed into a European country with dignity. The EU must also abandon its policies of outsourcing, confinement and sorting at border.

On this basis, it would be possible to imagine a system that takes into account from the outset the choices of the person seeking asylum according to family ties, language skills or personal objectives. This would prevent the proliferation of wandering and exclusion situations. Moreover, the EU could consider a system of real solidarity, both in financial terms and in terms of expertise and human resources, between the Member States in order to compensate for the inequalities in the number of asylum seekers received. Pending the establishment of such a system, a pragmatic solution may exist: France and other European states should use the sovereignty clause to allow people wishing to apply for asylum to do so on their territory.

Today we need a real paradigm shift in Europe. After years of failed repressive policies, it is only by considering the asylum system through the lens of respect for fundamental rights and solidarity that the European Union will emerge from this political crisis on top. The welcoming of exiles by cities with a sense of solidarity and by civil society groups in all European countries shows that this is already happening, without waiting for the Member States. We should be inspired by this to propose truly ambitious changes.

96. *Ouest France*, « "The right to asylum needs to be safeguarded" declares the former head of OFPRA », February 11th, 2019.

Recommendations

La Cimade demands France as well as the European Union and its other Member States to:

1. Take note of the failure of the Dublin Regulation and set up a genuine European asylum system based on respect for the fundamental rights of people in need of protection and on European solidarity. To be effective and inclusive, this system must take into account from the outset the preferences of the person seeking asylum in accordance with their family ties, language skills or personal goals.
2. Harmonise asylum procedures and reception conditions for asylum seekers in all European countries from above.
3. Abandon the notions of safe third countries and safe countries of origin that transfer responsibility to third States and discriminate against people on the basis of their nationality.
4. Pending the establishment of such a system, make use of the sovereignty clause to allow people seeking protection to file their application in the country where they are.
5. Provide a reception system for asylum seekers that respects peoples' dignity, regardless of their family situation and their autonomy. Adjust the supply of accommodation to meet the need, avoid the piling up of ad hoc accommodation systems, and bolster the increase in permanent places that offer asylum seekers dignified living conditions.
6. Do not carry out any transfer of persons seeking asylum in France to another European State if there exists, in turn, a risk being returned to a country where they would be threatened. In the same way, put an end to referrals to other European states where the structural failures of their asylum and reception systems have been proven.
7. Open more legal channels of access to European territory and allow unconditional access to European territory for people blocked at the border.
8. Put an end to the externalisation of immigration and border control policies and the repression on both sides of borders against migrants wishing to enter Europe.
9. End the hotspot approach and close the border sorting points.
10. Put an end to all forms of detention and inspection measures of asylum seekers and in particular of families with children.

APPENDICES

A SMALL GLOSSARY OF ASYLUM AND DUBLIN JARGON

ADA: Asylum seeker allowance

Provided for in Article L744-9 of the CESEDA, this allowance is paid to all persons applying for asylum, regardless of the procedure applied, if they have accepted the place offered and have not been refused the material conditions of reception.

CADA: Reception centre for asylum seekers

Applicants who have lodged an application for asylum with OFPRA based on OFII’s decision (Dublinised people are thus excluded) can remain there during the review of their asylum application for asylum. An additional stay of three months renewable is prescribed if the person has obtained international protection, and one month for those whose claim has been rejected. Its missions include accommodation and social and administrative support.

CAES: Reception and situation examination centre

Created by the authorities in August 2017, these centres are intended to provide temporary accommodation (up to eight days) and to examine the administrative situations of exiles on the spot. They are then directed to another type of centre according to their situation.

CAO: Reception and orientation centre

Hosting structure set up in October 2015 to accommodate people wishing to leave the La Lande encampment in Calais in all regions except Île-de-France, Corsica and Alpes-Maritimes. Originally having 2,000 places, the system was extended to 10,000 places to ensure the dismantling of this camp in October 2016. The missions are accommodation, social support and, where appropriate, food. People can stay for a period of three to six months and while waiting for admission to another facility of the national reception system.

Compulsory order to report to the authorities

An administrative measure that restricts one’s freedom to come and go. It obliges the person to reside in certain places fixed by the administrative authority, and to check in up to four times a day, most often in a police station. The law of 10 September 2018 also allows that a person may be required to stay at home for

a maximum of three hours. For a person placed in the Dublin procedure, the measure is possible for a period of 45 days with the possibility to renew three times, or 180 days maximum.

Ceseda : Code of Entry and Residence of Foreigners and of the Right to Asylum

Chum : emergency reception centre for migrants

This type of centre is similar to the CAOs but it is specific to the Ile-de-France region. The Chum have turned into the Huda since January 2019.

CRA: Administrative detention centre

Place of deprivation of liberty where foreigners who are subject to an expulsion order or the Dublin procedure are detained for the time necessary for the Prefecture to organise their departure. The maximum period of administrative detention is 90 days. An interministerial decree sets the list of the 25 administrative detention centres in France.

Determination of the responsible State

Procedure implemented by the French authorities to determine the State responsible for processing a person’s asylum application in its territory. To do this, the Dublin Regulation III sets out a series of criteria such as the presence of nuclear or extended family members (for minors only), the issuance of a visa or a residence permit, and the first EU country that they entered.

Dublin Regional Offices

Set up in 2018 on a test basis with the objective of making the Dublin process more effective in France, the Dublin regional offices have jurisdiction over the entire region for the whole Dublin procedure (determination, referral and transfer, and assignment). They have now been set up in all regions.

Dublinised

A person placed in the Dublin procedure who therefore cannot file their asylum application in the country where they are located.

GUDA: one-stop counter for asylum seekers

Structure that brings together the Prefectures and OFII services that allow the registration of the application, within three working days after passing through a SPADA, the Eurodac statement, the issuance of a certificate and the orientation by the OFII. 39 GUDAs have registered about 78,000 adults (nearly 100,000 including minors). In 2017, the time period to go through a GUDA was on average 27 working days at the beginning of the year and was reduced to 4.5 days at the end of the year.

Hit (EURODAC)

EURODAC is a European regulation that aims to facilitate the application of the Dublin Regulation. It provides for fingerprints to be collected and sent to a database for a number of people (asylum seekers, those with irregular EU border crossings, irregular residents of the EU). The fingerprints taken during an asylum application are compared to the records in the database. If the fingerprints are identical, then it is a positive comparison or a “hit”.

Huda: Emergency shelter for asylum seekers

A global term used originally to describe accommodation provided when the CADA were full. This type of shelter is also used for the accommodation of those subject to the Dublin Regulation. It includes accommodation in dedicated centres, in flats or in a hotel. There are in all about 30 000 places.

Material conditions of reception

These are the minimum reception conditions reserved for asylum seekers and regulated by European legislation: financial aid (aid for asylum seekers, ADA), a place in an accommodation centre and health insurance cover.

OFII: French Office of Immigration and Integration

Public institution responsible for implementing various immigration policies. As regards asylum, it is responsible for the reception by paying the ADA and coordinating in the national system of reception. It is located in Paris and comprises territorial directorates.

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

Public institution responsible for processing asylum applications and ensuring the administrative protection of beneficiaries of international protection. It is located in Fontenay-sous-Bois, but branch offices are open in Basse-Terre (Guadeloupe) and Cayenne.

PRAHDA: Reception and accommodation program for asylum seekers

System created by a call for tenders launched in September 2016. This is an emergency shelter that welcomes asylum seekers or those who wish to make a request for asylum, with priority given to those who are unaccompanied (50% of places). Dublinised persons may be assigned there as their residency. The Adoma society won the contract for running of 5,351 sites.

Request to take charge or take back responsibility

When a State makes a referral to another European State to send a Dublinised person, it can do so by means of a take-charge request (for those seeking asylum for the first time without the

countries applying the Dublin Regulation) or a take-back request (applies to those who have already lodged an application for asylum in another State, irrespective of the stage of processing of that application).

Being absconded

A Dubliner is considered to be absconded if they have not respected their obligation to check in the context of a compulsory order to report to the authorities, or if they have not reported several times to the Prefecture in response to a summons. The Council of State defined it in 2006 as a “systematic and intentional evasion of the transfer measure”.

Secondary movements

Term used by the European institutions and the EU Member States to designate the movement of persons seeking asylum within the European area. In the European texts of recent years, we find the permanent goal of “fighting against secondary movements”.

Sovereignty clause

The Dublin Regulation leaves the possibility for the state in which the Dublinised person finds themselves to review their claim for asylum at any time by making use of the sovereignty clause. Germany notably used it in the summer of 2015 only for Syrian people, while France applied it in 2017 in the context of Calais.

SPADA: Reception platform for asylum seekers

Financed by the OFII through a public contract, it is responsible for submitting the application (i.e. completing a form and giving notice to the GUDA) and for helping find accommodation for those without lodging, assistance in completing the asylum application, gaining eligibility for social rights, orientation towards accommodation, and taking into account of vulnerability.

Systematic asylum failures

In several States applying the Dublin Regulation, systemic failures in their asylum procedures have been identified by national or European courts. This is the case in Hungary, Italy and Greece, where material reception conditions and asylum procedures do not respect the minimum standards set by the European framework.

Transfer

Euphemism used in the context of the Dublin Regulation to designate the return of a person from a European country to the country designated as responsible for processing the asylum application. In practice, it is an intra-European deportation.

Transfer time

Refers to the period during which a European State may implement the deportation of an asylum seeker to the State determined as responsible. This period, which starts from the implicit or explicit response of the responsible State, is 6 months. It can be extended to 12 months in the case of detention and to 18 months when the person is determined to have absconded.

FURTHER READING

- ASSFAM Groupe SOS Solidarités, Forum réfugiés-Cosi, France terre d'asile, La Cimade, Ordre de Malte France et Solidarité Mayotte, *Centres et locaux de rétention administrative, Rapports 2017 et 2018*.
- La Cimade, *Dubliné-e-s : une page ressource*, January 2019. On this page, find the practical and legal guide to understand the Dublin Regulation « Dubliné-e, vous avez dit dubliné-e ? », Cimade's position on the Dublin system, European country factsheets and other resources.
- Clinique du droit de l'école de droit de Sciences Po Paris, *Dubliné-e-s en rétention, Des demandeur.se.s d'asile privé.e.s de leurs droits par une politique d'éloignement à tout prix*, February 2019.
- Gisti, Note Pratique, *L'accompagnement des demandeurs et demandeuses d'asile en procédure « Dublin »*, April 2018.
- Francesco Maiani, « Le rapport du Parlement européen sur la réforme du système Dublin : une proposition audacieuse mais pragmatique ? », in *Droit et Politique de l'Immigration et de l'Asile de l'UE*, January 2018.
- Marie-Sophie Vachet, « Proposition de refonte du règlement "Dublin" : quelle efficacité pour quels enjeux ? », in *La Revue des droits de l'homme*, 13 | 2018, January 2018.



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- Partners from different European States applying the Dublin Regulation and who regularly share their national realities and get involved with us.
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With the support of



La Cimade

To assist migrants and defend their rights

Every year, La Cimade receives and advises more than hundred thousand migrants, refugees and asylum seekers in various places in France. It also provides housing to two hundred refugees and asylum seekers its two shelters located in Béziers and Massy.

To act for detained foreign nationals

La Cimade works in eight Administrative Retention Centres and provides legal support to foreigners, assisting them in accessing their rights. La Cimade also support foreigners in about a hundred prisons.

To build International Solidarity

Together with partner associations in Southern countries, La Cimade takes part in projects for the defence of migrants and refugees' rights in various countries along the migratory route. It also promotes the construction of peace especially in Israel-Palestine.

To bear witness, inform and mobilize

La Cimade leads advocacy actions towards decision makers; it informs and raises awareness on migrations among the public opinion: demonstrations, press work, website, social networks, Migrant'scène festival. La Cimade makes propositions for a change in the migratory policies.

Some figures in 2018

- 100 000 persons receiving advices, support or housing every year
- 115 places where legal advises are provided
- 2 500 volunteers in 90 local groups
- 65 partner organisations in France, Europe and in the world



All these actions are possible thanks to our donors; they guarantee the independence of our association and its freedom of speech.

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