

# PROTECTING YOURSELF FROM ARREST IF YOU ARE UNDOCUMENTED

## Possible strategies to avoid controls

### The most frequent checkpoints: transport and border areas



- The national police, the gendarmes and the border police (PAF) can carry out **identity checks** without any justification in SNCF railway stations, ports and international airports and within a 5km radius of these areas, as well as in "border zones" (30km from national borders). Checks in these areas are very frequent, as are checks in large metro stations.

In Lyon: Perrache station, Part-Dieu station

\*Metro stations: Guillotière, Part-Dieu, Bellecour



- if you take public transport, always carry a **ticket**. Increasingly, ticket checks are carried out in the presence of police officers. Ticket inspectors will also call the police if the person controlled is unable to pay the fine and does not have any form of identification.



- On public transport in large cities, get off **before the big stops**. If you're travelling by train in a large city, get off at a smaller station a little before your destination.



- **Carpool** rather than take the train or bus. Avoid taking international buses and trains as much as possible.



- By car, beware of the **major tolls**, particularly on the outskirts of major cities and at **border crossings**, where undocumented migrants are frequently checked and arrested.

## Identity checks in the street or in the car and "raids":



- In the street, the police are only supposed to check "persons suspected of committing an offence", which they can interpret as they wish.



- They can also carry out "raids", i.e. mass identity checks based on facial features, to arrest undocumented migrants. To do this, the police must have a **requisition warrant** from the public prosecutor, with precise times and perimeters. Ask to see it, and check the perimeter and the time: if you are arrested outside the defined times and area, this could prove that your arrest was illegal.



- if you are stopped in your **car**, only the driver is obliged to show their identity papers, except in "**border zones**" and unless the police have a **requisition warrant** from the public prosecutor. Ask to see it in paper form and check the date, time and geographical area.

## At the prefecture and in front of administrative offices:



- At the prefecture, arresting an undocumented person is legal if the person has come of **their own accord**. On the other hand, if the person turns up in response to a summons, the legality of the arrest may be challenged by the Juge des Libertés et de la Détention (JLD), but an arrest may still take place and be validated by the judge. In all cases, if the summons mentions "with a view to your removal or readmission", do not go, as you will be **deported immediately**. Similarly, if an Obligation de Quitter le Territoire Français (OQTF) or Dublin procedure is in progress, it is better not to go to the prefecture. If in doubt, speak to a **lawyer**.



- At work, at the consulate, or in front of government offices such as the CAF or Pôle Emploi, never hand over your **original** documents (even if they tell you it's to make photocopies), because sometimes they'll be run through a "false papers detector". Bring your own **copies**.



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## Possible strategies during an inspection

### Things you can do to prepare for a possible arrest



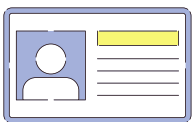
- **Prepare a file with all the documents in your name proving your presence in France and your ties:** AME entitlement certificate, bank account, tax return, prescriptions if you have been to the doctor, your children's school certificates, proof of address, civil partnership or marriage certificate, etc.



- **Keep a copy of all these documents in a safe and accessible place,** and let your family know where they are. It will be useful to be able to retrieve them quickly if you are arrested.



- **Memorise the name and bar of your lawyer or a trusted lawyer and the telephone number of someone close to you.**

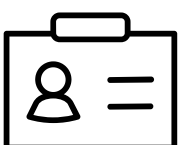


- If you plan to give a **false identity** in the event of arrest, **remember to tell your friends and family in advance.** This will prevent them from putting you in danger if the police phone police stations or the administrative detention centre to find you. In this case, avoid carrying documents that prove your identity.

### At the time of the control



- **Never show your passport to the police. It is very important never to carry it with you** (not even a photocopy) and to keep it in a safe place, ideally somewhere other than your home. **If the police come into possession of your passport, it will be very easy for them to deport you quickly.**



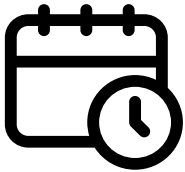
- **Never show your AME** (Aide Médicale de l'État) card to the police. It proves that you are a "foreigner in an irregular situation" in the eyes of the State.



- On the other hand, it's a good idea to carry documents with you at all times to prove your **identity** and your **ties** in France: a student card (even a fake one), work permit, civil partnership or marriage certificate.



- One possible strategy is to say to the police: "**I'm sorry, I haven't got my papers with me, I'm in a hurry, I'm on my way to work/university, here's my badge/student card**". This can sometimes be enough to dissuade the police from looking any further.



- In all cases, **make a note of the exact time and place of the check**, so that you can tell your lawyer and/or your family if you are arrested and look for **procedural flaws** that could enable you to be released. If the conditions of arrest are found to be illegal, they may invalidate the expulsion procedure.

## If you are a witness to a control, and you do not run any risks yourself by talking to the police



- In the event of a **raid**, ask to see the **prosecutor's requisition warrant in paper format**. Check the date, times and geographical area.



- **Knowing the law on racial profiling** can help you keep your composure if you decide to talk to the police:

Article 434-16 paragraph 1 of the Internal Security Code requires that "when the law authorises an identity check to be carried out, the police officer or gendarme shall not base himself on any physical characteristic or distinctive feature to determine the persons to be checked, unless he has a precise description justifying the check". This article expressly prohibits facial checks.



- You can also **address the person being checked**, asking them if they're OK, if they need **translation**, what their name is, or even pretending that you know each other (without putting them in danger).



- **Note down the name of the street and the time of arrest and try to find out where the police are taking the person.**



# ADMINISTRATIVE DETENTION OR CUSTODY OF AN UNDOCUMENTED PERSON: YOUR RIGHTS



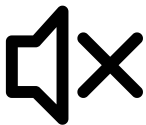
- Once you have been arrested, the police may take you either into **administrative detention** (in order to "check your papers") or into **police custody** (in the event of a suspected misdemeanour or felony, but during which the police will also check your papers).



- While in administrative detention or police custody, **you have a certain number of rights that the police must remind you of** (in theory). In practice, the police do not always do this.



- **If one or more of your rights are not respected** (in particular, the fact that you were notified of your rights on arrival), **this may allow you to be released**. This is known as a "**procedural irregularity**". Knowing your rights in advance to check that they are respected will therefore be very useful!



- **In any case, do not tell the police that you are refusing deportation, as judges could use this argument to lock you up in a detention centre on the pretext that there is a "risk of escape".**

## Administrative detention



- The police must tell you that you have been detained for up to **24 hours** (maximum 4 hours identity check + 20 hours detention).



- The police must immediately inform a public prosecutor that you have been administratively detained.



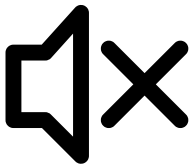
- The police must inform you of **all your rights, in the language you understand** (if you do not specify a language, your rights will be notified to you in French). If you can read, it is possible to have a written form. If not, you should ask for an interpreter who will assist you in person or over the telephone.

## Police custody

**Maximum duration: 48 hours (except in certain cases)**  
**you have the same rights as those in administrative detention, except :**



- You can only notify one person in addition to your employer: father, mother, grandparent, brother, sister, child, person you live with (but sometimes the police don't respect this right!).
- You cannot keep your phone



- As in administrative detention, **you have the right to remain silent**. This strategy is sometimes difficult to maintain because of the pressure exerted by the police, but it is often advisable, as **talking will probably not get you out any faster and what you say may be used against you or others**.

## As a relative of the person being arrested



- Try to find out **where the person has been taken**. Call the police stations and/or the prefecture, or if possible **ask a lawyer to do so, as this will carry more weight**.
- Did the person give the police a **real or false name** (and which)?
- **Prepare all the documents that can show that the person has links in France.**



- **One possible strategy is to organise a rally, a petition or media coverage.** Showing that the person is **surrounded and supported** can play a part in their release, especially if they are arrested for a vague reason. The police and/or the prosecutor may think that the case is difficult for them to defend legally, and that the person is likely to be well defended, so it is better to release them.



- **Attending the first hearing before the Juge des Libertés after a detention centre placement in large numbers can also influence the judge's decision.**



# THE POSSIBLE CONSEQUENCES OF AN ARREST

## AND DIFFERENT RECOURSES



- Most of the time, after an arrest, the police issue an **Obligation de Quitter le Territoire Français (OQTF)**. The most common appeal period is **48 hours**.



- The **OQTF** is sometimes combined with **house arrest**. These are two separate decisions, subject to two separate appeals. In such cases, the person concerned will be required to go to the police station to "**sign**" the decision on a more or less regular basis. **The strategies to adopt vary depending on the case: seek advice from a trusted lawyer.** In most cases, **going to the police station is only worthwhile if there is a chance that your OQTF will be completely annulled.** Otherwise, it is better not to go to the police station, as you risk being **arrested again**.



- The OQTF is sometimes accompanied by **placement in a detention centre**. Here too, these two decisions must be appealed.



- There are also other deportation decisions, such as the **Interdiction de Retour sur le Territoire Français (IRTF)** or being placed "on the run" in the case of a Dublin procedure.



- **In all cases, it is always worthwhile and important to appeal against any decisions taken against you.** Time limits are often **very short**, so you should contact legal experts or associations as soon as possible to help you. You can also appeal on your own or with the help of someone close to you (citizen tele-appeal) or with the help of association staff at the detention centre if you are in the CRA.



# PLACEMENT IN AN ADMINISTRATIVE DETENTION CENTRE (CRA)

## The Administrative Detention Centre (CRA) :



- **Administrative detention centres are prisons where the state locks up people it considers to be in France illegally.** Officially, they are not prisons, but in practice they are the same thing, except that you can be held there without having committed **any offence (just not having the right papers)**.



- **You can be locked up for up to 90 days.**
- **While you are in detention, the prefecture tries to organise your deportation. They try to determine your identity, find your passport or obtain a laissez-passer from the country to which they wish to deport you, and find a flight to that destination.**



## Arrival at the CRA



- **Go and see the members of the association present in the ARC as soon as possible so that they can help you with your case.** Give them the name of your lawyer or ask for the name of the duty lawyer for your hearing, so that they can be given the information in your case. **Throughout your detention, you will appear before different courts, with different lawyers. You will have to give them your case file each time.**

In Lyon, the association present in the two CRAs is Forum Réfugiés.



- If your case can be "defended" (in the eyes of the State) to have your OQTF annulled, it may be in your interest to give your identity or even your passport to have yourself placed under house arrest rather than remaining in the CRA. **If you have little chance of having your OQTF annulled, it would be better for you to conceal your identity and, above all, not to give your passport to the Préfecture.** Your only chances of release lie in procedural flaws and the fact that the prefecture is unable to deport you. **Seek the advice of a reputable lawyer when choosing your strategy.**





- In all cases, contact the **Juge des Libertés et de la Détention (JLD)** as soon as possible to contest your placement in the CRA. Members of the association present in the CRA should help you do this. Even if this hearing is obligatory and will in all cases take place within 48 hours of your arrival in the CRA (at the prefecture's request), **make the appeal yourself beforehand** to provide the judge with more information. The aim is to point out any **procedural flaws** that may have occurred during your arrest and placement in the CRA.



- At the same time, you must also lodge a complaint with the **administrative court to contest the deportation decisions taken against you** (OQTF, IRTF, etc.). If you have no other option, you can write a letter yourself with the phrase "I contest all the decisions taken against me" and give it to the CRA clerk's office. An outside person can also write this letter for you. **During this hearing, the aim is to show that you have ties in France.**



- **You will appear before the JLD again after 28 days, 56 days and then 71 days in detention.** The aim will be to show that the prefecture is not really putting measures in place for your deportation. You can appeal against any of these decisions. Your family and friends can attend all your hearings, which can be useful in showing the courts and the prefecture that you have their **support**.



- If you are not deported, you will be released after **90 days** at the latest, sometimes less. **This does not mean that you will be regularised.** If appeals have failed, your OQTF is still valid. When you leave the CRA, the police will give you a piece of paper that protects you for 7 days against being arrested again for "lack of papers".

## Practical information on the CRA

- CRAs are often located far from city centres and close to airports.
- In Lyon, there are two, next to Lyon-Saint-Exupéry airport.
- Normally, you will be allowed to keep your SIM card, but **not your mobile phone if it has a camera**. There are sometimes telephone booths in the CRAs, but they rarely work.
- The CRAs are run by the **border police** or the **gendarmerie**. Most of the testimonies attest to **numerous incidents of police violence and racist insults**.
- There are also doctors and nurses in the CRA, but many testimonies explain that most of the time the medical teams **just give sedatives and painkillers**.
- You have the right to receive **visits** and have things brought to you (tobacco, food, clothes). In Lyon, you need to make an appointment by telephone no later than the day before.



# DOCUMENTS TO KEEP IF YOU RISK BEING ARRESTED

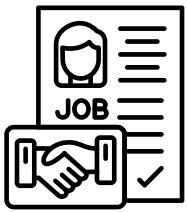
It's important to set aside documents that explain why you are in France and show that you are doing things here. This file can be used to request your release before the Juge des Libertés (JLD) if you end up in the CRA. Caution: If your real name is on these papers, the cops can use them to find out your real identity and request a laissez-passer from the country to which they want to send you. It's up to you whether you want to use your real name (some of these papers may be false, depending on your strategy).

## Representation guarantees

Guarantees of representation are proof of your **integration** into French society, to prove to the police and judges that your life is in France.



- Proof of **address**, accommodation certificate (to prove that you have somewhere to stay, or that you have been living in France for a long time).



- **Work contract**, promise of employment (to show that you can earn money), school leaving certificate, etc.



- Proof that you belong to an **association** or club: French lessons (FLE), sports lessons (e.g. boxing, football club, etc.), voluntary work, association, collective, etc. (to show that you are involved, that you have friends in France).

*In Lyon: there are free classes in French, yoga and boxing at the Île Égalité (Cusset), and the Collectif des Sans Papiers 69 (CSP 69) is present there on Sundays from 2pm to 6pm.*

## Medical records



- If you are in France for **medical treatment**, or if your state of health is incompatible with confinement, it is **very important** to be able to prove this to the judge in order to obtain release (or house arrest). Make photocopies of the papers you are given at the doctor's or hospital.

