



ILLEGAL IMMIGRANTS:

**GET ORGANIZED AGAINST
DEPORTATION**

WHAT TO DO IN CASE OF ARREST?

Don't hesitate to photocopy, distribute, use this brochure as generously as possible.

It's downloadable on the website :

<http://sanspapiers.internetdown.org>

And, for any commentary and getting in contact:

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2nd Version

This brochure, which finished at the end of 2007, was written from past years' experiences of struggles. At the present time, and since 2003, the time of detention can't exceed 32 days. In accordance with some European global policy, the French state wants to prolong this length by several months. A new law will be discussed this year.

Judicial procedures concerning deportation won't be necessarily modified. It means that what you will read in this paper about arrest, close watch and courts will probably remain valid.

The time extension –which will permit the administration to search for immigrants' identities and get consular *laissez-passer*, in a word: authority to deport– is the main consequence of a new law about deportation duration. Remain under false identity or convince some consul to do not sign laissez-passer will be tougher for sure, but not impossible.

Therefore, we have to think about new ways to fight, and share them.

Some websites

About foreigners' right:

[HTTP://SOS-NET.EU.ORG/ETRANGERS](http://SOS-NET.EU.ORG/ETRANGERS)

WWW.GISTL.ORG

To do better facing police and justice, with or without identity documents:

WWW.GUIDEJURIDIQUE.NET

The Réseau Éducation Sans Frontières (BorderLess Education Network), for information on the current events of fights and new laws:

WWW.EDUCATIONSANSFRONTIERE.ORG

About present and past fights around the undocumented (9ème collectif de sans-papiers, Collectif Anti-Expulsions, Le Quotidien des sans-papiers...):

WWW.PAJOL.EU.ORG

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LYON (ON THE AIRPORT AREA)

Poste de police aux frontières (police station on border), espace Lyon St-Exupéry, 69125 LYON AÉROPORT
Ph. num: 04 72 23 81 37 – 04 72 23 83 75

STRASBOURG

Rue du Fort, 67118 GEISPOLSHHEIM
Ph. num: Courtyard: 03 88 67 25 35 – 03 88 55 07 85
Women: 03 88 67 90 74
Men: 03 88 67 41 25 / 19 72 / 29 94 / 39 92 (only the last four figures change)

MARSEILLE

26 boulevard Danielle-Casanova, 13014 MARSEILLE
Ph. num: 04 91 67 94 06 – 04 91 81 53 12

NICE

Caserne d'Auvare, 28 rue de Roquebillière, 06300 NICE
Ph. num: 04 97 08 08 23

SÈTE

15 quai François-Maillo, 34200 SÈTE
Ph. num: 04 67 51 83 15 – 04 67 51 83 33

BORDEAUX

Commissariat central (central police station), 23 rue François-de-Sourdis, 33000 BORDEAUX
Ph. num: 05 56 99 61 86

GUADELOUPE

Site du Morne-Vergain, 97139 LES ABYMES

LA RÉUNION

2 avenue George-Brassens, Sainte-Clotilde, 97490 LE CHAUDRON

NÎMES

Rue Clément-Ader, 30000 NÎMES

Ph. num: men area: 04 66 27 79 77 / 04 66 27 79 71
women area: 04 66 27 79 79

ROUEN

École nationale de police (national school of police), route des Essarts,
76350 OISSEL

Ph. num: men area: 02 35 68 77 09 - 02 35 68 65 42 - 02 35 68 61 56
women area: 02 35 69 09 22 – 02 35 69 11 42

CORNEBARRIEU (NEAR THE TOULOUSE'S AIRPORT)

Avenue Pierre-George-Latécoère, 31700 Cornebarrieu

Ph. num: district A: 05 34 52 11 06
district B: 05 34 52 11 05 (women)
district C: 05 34 52 11 02 (families)
district D: 05 34 52 11 03
district E: 05 34 52 11 01

PERPIGNAN

Rue de Frères-Voisin, lotissement Torremilla, 66000 PERPIGNAN

Ph. num: 04 68 52 96 07 / 98 79 / 92 21 / 92 13 (only the last four figures
change)

RIVESALTES (NEAR THE PERPIGNAN'S AIRPORT)

Camp Joffre, route d'Opoul, 66600 RIVESALTES

Ph. num: 04 68 64 58 68 – 04 68 38 53 37

In the past ten years, arrests and deportation procedures have multiplied.

Beyond arrests of undocumented people during routine police controls, most are being controlled and arrested during raids (facial identity controls with big police deployment). And further more people are arrested at home. Figures grow up; and today, it's a willpower that the powers that be take complete responsibility for.

Theoretically, so as to deport, the State needs:

- the cops and the prefecture to respect several rules of procedures concerning the arrest and the conditions of imprisonment in the CRA (centre of administrative detention),

- a state to accept to receive the deported person.

Knowing the limits of legality is a way for each to prevent a deportation. If we can prove in court that the procedure hadn't been respected, and if the judge accepts it, then the person is released; in the same way, if at the end of the legal time of detention (32 days), cops have neither passport nor a consular laissez-passer, the undocumented person is released.

In that purpose, this brochure explains how the established powers deport undocumented people. It can help all undocumented immigrants as well as their circle of family and friends to get familiarized with juridical vocabulary and to know a better defendant procedure. It helps to think, in relation to one's own situation, the most appropriate defence after the arrest. It's really important not to remain a witness faced with the deportation machine, and entirely dependent on your lawyer without understanding a single choice he makes.

The defence isn't to play only on the judicial level. In order to face the State, we think the best is to be part of a group of undocumented people or at least to get organized with the circle so to be ready for immediate reaction after an arrest (find a lawyer specialized in the rights of foreigners, hide the passport, gather the documents, put the pressure on, etc...).

To send back someone to a foreign country, the French State needs either his passport in current validity or a laissez-passer delivered by the consulate of the suspect's country of origin.

If the passport is not valid, the cops have to have the real identity and have to bring the person to the consulate of the country from where he's from.

If the authorities have no idea which country the immigrant is from, cops will have to bring the person to several consulates that may acknowledge him.

We know two main types of defence:

- **if you want to give your real identity:** the defence strategy will revolve around your arrest and your close watch circumstances (procedure flaws) as well as around your administrative situation. In this case, you better have prepared a reliable file, whether it has already been laid at the prefecture or not.

- **if you prefer to give a fake identity** (name and/or nationality), for example because you think having no chance of being recocknized. In this case, you have to give the same fake name, each time, to avoid the discovery of other names with your prints. Your family and friends or your group need to know this fake name too. But still be careful, because if the cops hear about you giving them a fake identity, you could be prosecuted, but it's not systematic. Then you could get up to 3 years of prison, but most of the time 3 to 6 months.

In all cases, it's safer not to have the passport with you, even expired, as well as any document testifying of your real identity, so to have the time to organize against the deportation.

Indeed, the State tries to arrest the undocumented with their passport. For example, the cops stay close to the bank of Mali to catch people who need their passport to take out their money.

It's also safer to hide the passport at some friends' home, because the cops can go to take the passport directly from the undocumented person's place of residence.

To not have any paper is considered a crime («irregular residence»). At the police station, a public prosecutor can decide to send an undocumented who has been arrested to jail.

The sentence for irregular residence is mostly 3 months of prison plus an Injunction of French territory (ITF). The maximum sentence is one year of prison, a fine of 3 750 Euros plus an ITF of 3 years. If you still live on the French territory after have already been deported for less than a year or if you have a ban from French territory, you have a chance to be sentenced for 3 years of prison maximum. The imprisonment at the detention centre is then systematic in order to prepare the deportation. But for most of the undocumented people who get arrested, they are directly sent to the detention centre after 24h of close watch.

About the sentences, we will always distinguish the maximal sentence from the sentence which is often pronounced by courts. Indeed, the purpose of law texts is cause fear with threats of huge sentences, but the truth is that judges never apply the maximal sentences allowed by the law.

CHOISY-LE-ROI (DETENTION ROOM)

9 avenue Léon Gourdault 94600 CHOISY-LE-ROY

Ph. num: 01 48 92 73 06 – 01 48 90 15 53

PLAISIR

889 avenue François-Mitterand, 78370 PLAISIR

Ph. num: 01 34 59 35 30 / 30 86 / 49 80 (only the last four figures change)

NANTERRE (DETENTION ROOM)

167-177 avenue Joliot-Curie 92000 NANTERRE

01 41 37 04 62 or 01 40 97 27 36

NANTES

Hôtel de Police (police sation), place Waldeck-Rousseau, 44000 NANTES

Ph. num: 02 40 37 22 68 – 02 40 14 30 42

CALAIS

Hôtel de police (police station), boulevard du Kent, 62903 COQUELLES

Ph. num: Cimade 03 21 85 28 46

LILLE (NEAR THE AIRPORT)

Route de la Drève, 59810 LESQUIN

Ph. num: 03 28 55 19 81 – 03 28 55 19 85

RENNES (NEAR THE AIRPORT)

Lieu-dit Le Reynel, 35136 SAINT-JACQUES-DE-LA-LANDE

Ph. num: 02 99 35 28 17

METZ

Quartier Devallières, rue de la Ronde, 57050 METZ-DEVANT-LES-PONTS

Ph. num. men area: 03 87 66 79 03 – 03 87 32 59 82

Detention centres phone numbers in France

Here are the phone numbers of booths inside the detention centres. Those phone numbers may change.

These are the detainees who answer. Some centres are divided into several buildings; you sometimes need to call several booths to find the detainee you're looking for.

PARIS

Vincennes 1 and 2 site:

École nationale de police de Paris (national school of police in Paris),
avenue de l'École-de-Joinville, 75012 PARIS

Ph. num: 01 48 93 69 47 - 01 48 93 91 12 - 01 48 93 96 62 - 01 43 96 59
39 -

01 43 76 50 87 - 01 48 93 99 80

Law courts of Cité site (only the women are detained in this centre): dépôt
(cells), 3 quai de l'Horloge, 75001 PARIS

Ph. num: 01 44 07 39 53 – 01 56 24 01 72 or 00 92

MESNIL-AMELOT: (NEAR THE ROISSY'S AIRPORT)

1 rue Périchet, 77990 LE MESNIL-AMELOT

PH. num: 01 49 47 02 46 / 44 / 45 / 46 / 47 / 48 / 50 (only the last two
figures change) - 01 49 47 02 84 – 01 49 47 02 40 / 50

CERGY (DETENTION ROOM)

Commissariat (police station), 4 rue de la Croix des Maheux 95000
CERGY

Ph. num: Cimade 01 30 31 96 85

PALAISEAU

Hôtel de police (police station), rue Emile-Zola, 91120 PALAISEAU

Ph. num: Cimade 01 69 31 65 09 – 01 60 13 58 93

BOBIGNY

Hôtel de police (police station), 45 rue de Carency, 93000 BOBIGNY

Ph. num: 01 48 95 86 86 / 87 86 - 01 48 96 08 54 / 64

CHAPTER 1 – THE ARREST

The laws surrounding the identity control are not really clear. The truth is that police can arrest anyone, at anytime. But to know the law can save persons from deportation. If the arrest conditions are judged as unlawful, the deportation procedure can be repealed.

1 – In the street:

TO AVOID GETTING OUT WITH THE PASSPORT

According to the law, there are two types of identity control :

- **the control is in principle linked to the investigation of an author of some violation.**

The cops can control the identity of « anybody suspected of being the author of a violation or about to commit one, or able to give information about a violation » or of anybody they think could be sought.

- **the massive control to search for persons in irregular situations.**

This is the raid principle, to control as many people as possible. This control can happen :

- Continuously, in some classified zones, like harbours, airports, international road and rail stations, or less than 20 km from a border zone, etc...
- To prevent a « blow at public order, in particular at goods and persons security », a person can be controlled « whatever his/her behaviour is ».
- Arrests at business places, sites controlled within the context of moonlighting work repression. Sometimes employers call the cops themselves at pay time so they don't have to pay the workers.
- When the public prosecutor gives written instructions to proceed at identity controls in some specific places and looking for specific violations. It's in that judicial context that the raids are made.

THE RAIDS

The raids are massive facial controls (only the foreign looking people are controlled). Sometimes, according to the seats left in the planes, the cops control only Asians or north Africans. The raids exist since the government applies a quota policy to deport.

They are ordered « on the Republic prosecutor demand ».

The raids take place in more or less visible and massive ways :

- visible police bus and vans parked at streets crossroads,
- police keeping under tight control at subway station exit, staying in the corridors, and often at the stations near immigrants' centres, with sometimes the help of RATP men and women on duty,
- police raid on sites,
- discreet cop controls in the stations (for example, the Gare du Nord and the Gare St Lazare in Paris),
- express interventions in cafés, taxiphones, supermarkets, McDonald's...

Those kinds of devices are often put in place at peak hours, very early in the morning and at the end of work time.

The raids are taking place in working-class areas, and in zones of obvious exploitation of undocumented workers (for example, at the Lena subway station, in the 16th district, in Paris, for cleaning women).

Telephonic chains have organized in many Parisians areas in order to show the opposition of the population to these methods and to deportations. They are useful to quickly gather at a raid scene. The public prosecutor can make his request to the cops already on site, which permits to know the place and time of the intervening. **At the time of those interventions, gatherings can make cops go away and really prevent arrests.** Whether few people are present on site, it's still possible to inform the passers-by that there is a police control in progress. Longer and more visible the raids are, better are our chances to oppose them. That's why the police act faster and faster and in a moving way. Some have already seen cop trucks patrolling areas, waiting for someone to arrest.

In other times, under the Jospin government, most of the arrests were made by RATP inspectors who, in case of shortage of ticket and identity documents, called the cops. But at present collaboration between the RATP and the police has grown stronger, we can say that the RATP never forgot to execute some of its public utility functions!

Police carry off, ANAEM deport, State makes political figures

Supporters of the Rumanian and Bulgarian shanty towns' inhabitants of the Parisian region occupy that day, Friday, October 26 of 2007, the ANAEM offices – North Paris [52/55 rue Hoche - Bagnole - M° Gallieni].

By their presence in that place they wish to openly denounce the part that the National Agency of Foreigners' Reception and of Migrations (ANAEM) plays nowadays, within new processes of deportations of Rumanian and Bulgarian populations.

For several years the Roms from Rumania and Bulgaria have become deportation fodder for the French State and thus allow the government to reach its figures objectives of 25.000 deportations per year: Those populations represent 25% of the year 2006's deported.

Since September 2007 new practices of massive deportations of those populations are being introduced, and the ANAEM serves as the humanitarian backing for the French State to justify its actions.

Indeed several times the shanty towns' inhabitants of Saint-Étienne (two in September and one in October), Bondy (September 26), Saint-Denis (October 10), Pierrelaye (October 17), Bagnole (October 24) have been evacuated from their grounds by the police, leaving behind all their personal effects, which are then systematically destroyed. After, they've been summoned to go up in vans specially chartered for the occasion, being distributed OQTF (Recognizance of Leaving the French Territory) attaching no importance to their personal situation and leaving them without the opportunity to exercise their right to a suspensive juridical appeal. Then, under police pressure, they've been «invited» to climb immediately in the vans to their countries of extraction within the framework of the humanitarian return trip procedures of the ANAEM.

The way the State carries out these «Voluntary return journeys» (absence of translators, «Invitation» to immediately accept the voluntary return trip under the police pressure...) is a farce.

It is in fact a matter, here, of collective and massive deportations (per hundred each time) organized by the State under cover of voluntary and humanitarian return journeys.

We demand:

- **The immediate end to those practices of forced «voluntary return journeys» orchestrated by the State and the ANAEM !**
- **The end of raids and deportations !**
- **The legitimization of all illegal immigrants !**
- **The liberty of movement and of residence for all !**

93 coordination of support committees to the Roms, Bulgarians and Rumanians from shanty towns

From the Arenc scandal to the legalization of the detention centres

article from the Anti-Deportation Group (CAE), May the 7th of 2004

In 1975, in Marseille, a flyer was distributed revealing that: «Since 1964 there exists in the middle of the north districts an underground prison, entirely controlled by police, where immigrant workers are illegally confined ».

This underground prison is located on the quay of the Arenc's harbour station, in a depot. A demonstration for Arenc was organized on the 14th of June 1975 to demand the immediate closing of this illegal prison. The illegality came from the fact that foreigners were locked up in it without any judicial authority knowing about the existence, the length, or the causes of this imprisonment. So the foreigners were locked up in it on a single administrative decision, in this case on the police authorities' decision. The prefect and the secretary, who started by denying the acts, declared that it was actually a «sheltering centre» for foreigners without residence permit. The disguise of this place as «sheltering centre» not being really convincing, the right-wing government from that time then tried to legislate and legitimize the situation.

Indeed in the order that rules the foreigners' residence in France since 1945, nothing authorized the administrative detention of an undocumented person for lack of documents. The last law allowing this dates from 1938, and it's the law that allowed for the imprisonment of illegal immigrants in internment camps, a law that was after expanded, during the war, to include the administrative detention of any other undesirable French and legal immigrants, in particular with the intention of deporting them to Germany.

After several attempts to legislate, the Peyrefite law of February 1981, known as the «Security and Liberty Act», legalizes the administrative «detention» of undocumented people, with a view to their deportation.

Once in power in May 1981, Mitterand and the socialist party, far from questioning the Peyrefite law, openly endorsed the administrative detention and in the course of their term in government opened 12 new detention centres, and lots of detention rooms in police stations, police halls, etc. The socialists, from 1975, were part of those who denounced the Arenc's prison, and asked for its closing. The betrayal was huge for many even if it was not surprising...

The experience of the struggle against the Arenc's prison is however very instructive.

In particular, it shows that the real point is not the legal angle (or rather *illegal* in that case) of the imprisonment of undocumented people, but the imprisonment of undocumented people in itself.

2- At home:

*DON'T OPEN THE DOOR TO THE COPS, TALK TO THEM THROUGH THE DOOR
LEAVE THE PASSPORT AT A FRIEND'S*

Arrests directly at home have already happened according to accounts of neighbours but also in case of a regularization refusal after depositing of file to the prefecture. For example, the Sarkozy circular of June 2006, promising the regularization of the parents of schooling kids, has been an open door to the massive filing of those families with their address.

What's a home? "Home" is a broad term. It's about any possible place of residence (it can be a hotel room or an office), where the person, « living in there or not, has the right to call him/herself at home, whatever the juridical status of possession and the assignment given to the place » (jurisprudence : crim. January the 14th of 1914).

In every place that can be considered as a residence, the entry is prohibited to the cops if nobody opens to them, except for a search directed by a judicial police officer, a public prosecutor or a judge. Still be careful, the cops will always find a pretext for someone to open the door. **The best thing to do is to always refuse to open the door, no matter what they say.**

In the immigrants' centres, the hotels or the hospitals, only rooms are considered as residence. For collective spaces in centres and hotels, the manager of the place is at home and can decide to let the cops come in or not. If arrests take place in collective spaces, you have to check, for the trial, if the manager effectively gave the authorization, in judicial terms: « his consent on purpose ». So, this consent has to be repeated at each occasion, and listed in procedure. There cannot be any standing authorization for cops or gendarmes. The consent can take the form of an official paper on which the manager has to have written in his hand first name, last name, residence, date and hour with the mention « read and approved », preceding the signature.

3- In the headquarters of the prefecture:

GO TO THE PREFECTURE WITH SOMEONE

Arrest of undocumented people in the headquarters of the prefecture is perfectly legal if the person comes by themselves.

On the other hand, when the person is summoned by a notification to attend, legality of arrest can be questioned. In that hypothesis, Sarkozy's circular from February the 21st of 2006 reminds that «the prefect has to be loyal by asking the foreigner to attend» and that «the motives of the notification to attend must not be ambiguous». The terms being themselves some or others, this is the Judge of Liberties and Detention (JLD, in the «35bis» room. Go to chapter 4 about courts) who will decide whether the notification was «clear», but the truth is that it's never clear: we never know what to expect with the prefecture.

For the arrest to be legal, the prefecture has to carry out an « effective examination » of the situation « of which the reality can be clearly demonstrated, in particular by the length of the foreigner's interview » (Sarkozy's circular of February the 21st of 2006).

Thus, the European Court of Human Rights (CEDH in French) has judged as legal the arrest of a person who already had a Prefectural Order of Escort to the Border (APRF). After receiving a notification to attend for an examination of his situation, specifying to come with his passport, he came at 10 am. At 1:30pm, the policemen announced to him his placement under close watch. For the CEDH, the arrest is legal.

That's why you need to be very careful when you go to the prefecture, and don't go alone. When we are the subject of a deportation order* (APRF or Recognizance of Leaving the French Territory) that is still valid, even if we have made an appeal, we would rather not go to the prefecture at all.

4- Other places of arrest:

At the town hall: It happens sometimes that undocumented people are being arrested at their wedding day at the town hall. The prefecture can be automatically informed of undocumented person's wedding dates by the town council. So it's preferable to take one first date when you deposit your wedding file and to change

*Be careful, all along the text, we will use the expression «deportation order» to speak of the Prefectural Order of Escort to the Border (APRF) and of the Recognizance of Leaving the French Territory (OQTF). For the State, a deportation order is a particular order which applies for the foreigners in regular situations charged for breakdown of law and order or threat to the safety of the State.

APPENDIXES

CLOSE-WATCH AND COMING UP AT PENAL

During the close-watch, **avoid signing any police report mentioning you refused to board or that you have been violent. Call someone who can organize support outside.**

The coming up in immediate appearance means that the administration intends to send the undocumented person in prison and then to put him back in detention so they can deport him. Refusing to board is an offence that is not necessarily prosecuted, particularly when there is external pressure. Generally, the sentence is of 3 months behind bars and 3 years of ITF. According to the law, this offense is punishable by maximum 3 years of prison and by an Injunction of French territory (ITF) of maximum 15 years.

If the passengers intervened in the plane and/or if the close ones intervened at the airport, you have to try to demonstrate to the judge that it's them who made the deportation fail. If no one intervened, neither in the plane, nor in the airport, you will have to try to show the legitimacy of the refusal to board (ties in France, possible regularization procedures, juridical appeals unfinished...).

If you have been condemned, at the end of the prison punishment, you are transferred back to detention.

it to the town council some time after. Usually, the town council doesn't inform the prefecture about the changing of wedding dates. **Stay vigilant the day of the ceremony, come well surrounded and leave your passport with a friend who is present in the wedding room.** Legally, the mayors can't refuse a union. However, some do it and, in the worst case, they call the cops themselves on the pretext of paper marriage.

At the bank and at the post office (La Poste): Some cops don't wear uniforms: **some bank employees sometimes report undocumented people to the police** and use multiple tactics to detain them until the cops' arrival (for example, keeping the documents or refusing to give the money). **Try to be with someone during your administrative procedures.**

To know these various legal justifications of control do not spare one of being controlled when has done nothing: the cops can do anything they want. That being said, **it remains important to know if there are procedure flaws** (go to insert p.25): in the 3 days following his arrest, the undocumented will come up before the JLD («35bis»). This one will decide whether the arrest was unlawful or not and whether to release or maintain the custody of the person (go to chap. about courts). **Sometimes the JLD («35bis») judged the arrest as illegal: it's one of the main chances of getting through and of being released.** How the close watch goes is just as important, because the cops do not always respect procedure there either.

CHAPTER 2 – THE CLOSE-WATCH

1- Rights and potential flaws

When a person is being ID'd, the identity check can last up to 4 hours without him/her being put under close-watch.

For the undocumented people, the close-watch begins, most of the time, as soon as the cops are certain the person doesn't have identity documents, that is to say from the start of the questioning.

In close watch, **you don't have to answer the cops' questions, or sign the statement.** Generally, the questioned ones give a first name, a last name, a date and place of birth, an address. If you live with other undocumented people, you are better not giving your real address.

The time of the beginning of the close-watch is important because the cops must respect some time limits:

- **Inform the prosecutor:** the cops must inform the public prosecutor about the placing under close-watch of the person (Art. 63 CPP). This must be done « immediately » or within « the shortest possible » time (one hour, according to the jurisprudence). If there is a non-justified delay by some « insuperable circumstances », which means a delay due to some cause separate from the cops' willingness, it brings about procedural ineffectiveness. So, it's always good to mention this procedural flaw, even if it's to the Judge of Liberties and Detention (JLD, « 35bis » room) to say whether the cops' justifications are valid or not.

- **Notify the rights:** any person placed under close-watch must be « immediately » informed the reason why he/she is under close-watch and of his/her rights: tell a friend or a family member, a doctor and a lawyer (Art. 63-1 paragraph 1st CPP). The cops must inform the person of his/her rights **in the language he/she understands**, so with an interpreter or with the aid of a form

Very important:

When passengers intervene or show their disagreement, they risk being disembarked from the plane, put in close watch and summoned for «hindrance to the traffic of an aircraft». It's preferable if you don't hide it from the passengers, while clarifying that until now the passengers who were well surrounded got out of it pretty well, with fines in the worst case. Exchange contacts (phone or e-mail) with people we feel ready to intervene in the plane: in case of subsequent problems, **we can organize a support and prepare a defence with the other passengers' testimonies.**

We can also **get in touch with the staff at the airline trading post (reception)** and ask to **see the stop chief** (in charge of the flight organization at the airport). This way, the captain is informed of your presence and that the flight might be disrupted.

Try to **reach the airport's trade unions** (insist, pester them by phone or fax) and ask that they mount pressure too. In Orly, the CGT displayed efficiency by threatening of not going up to the plane gangway, of not filling up, not cleaning up, not restocking food nor carrying up the baggage in the holds.

2- The deportation fails: the undocumented person is disembarked

When an undocumented person succeeds in opposing his deportation, either he's taken back to the detention centre, or he's put in close-watch and then handed over to immediate appearance for refusal of boarding (generally in less than 48 hours).

But sometimes, with a little touch of optimism, on the administration decision, the undocumented person is released (maybe because the end of the detention approaches or the centre is full...: the administration has its internal grounds).

ESCORT BACK AT THE DETENTION CENTRE

The administration intends to try a deportation again and this time will be twice more vigilant (no information on the date, physical intimidations...).

However, you can't lose heart: some could resist several attempts of deportation during their detention, others have been released.

The detainee can give to his co-detainees the phone numbers of his friends or family outside, asking them to warn them immediately if the cops come pick him up to take him to the airport.

Once the deportation date is known, we must find as quickly as possible by which flight and from which airport the undocumented person will be deported. In the Parisian region, the ADP guide of plane schedules () generally permits the finding of this information. Be careful, for Roissy, it's necessary to know the terminal. We can also search on websites such as «expedia» or «opodo», which are quite useful to know when the flights are not direct from Roissy and when they stopover in other European countries.

AT THE AIRPORT

As soon as we know the time and place of departure of the plane, we have to go to the airport.

Ideally, it is best to be on the spot 3 hours before the departure so as to talk to the passengers before they check their baggage. But, in practice, we can find latecomers even half an hour before the flight.

It's important to **talk with each passenger so as to explain to them the situation, and tell them to refuse to travel with a deported person.** Explain that **the captain possesses whole power and can decide to not take off with a deported person in his plane.** Indeed, the pilot is the only master on board. The passengers can talk to the air hostesses, the stewards, and the captain explaining why they refuse to travel under those circumstances. Besides, trying to limit the disembarkations decided by the captains, in September 2006, the national director of police asked Air France to put pressure on those who refuse to take the undocumented on board of their plane.

The deported are often placed at the rear of the plane behind a curtain, shackled, sometimes even gagged. **The passengers can show their refusal by remaining standing and by refusing to fasten their seatbelt.** If the passengers want to react collectively, encourage them to stay down the gangway until the prisoner gets off. **The refusal of getting on the plane will have more success by being massive.**

We have to specify to the passengers that the cops will generally get on the plane to intimidate them and to convince them to shut up. Remind them to avoid any verbal contact with the policemen. It's not up to them to decide the disembarkation and that may lead to a charge pretext (the sadly notorious «insulting behaviour and rebellion»). **It's better to speak only to the plane staff.**

(Art. 63-3 paragraph 3 CPP), this is what we call the rights notification. If it has been done late, or if it hasn't been translated for those who don't speak French, the procedure may be repealed.

- **Apply the rights:** the cops must do it, if the accused asks for it, « **at the latest within the time limit of 3 hours** », « except in case of insuperable circumstances » (Art. 63-1 paragraph 5 CPP). Thus, within the time limit, the cops must :

- **Phone a friend or family member**, that is « a person with whom [the undocumented] usually lives or one of his/her parents in direct line, one of his/her brothers and sisters or his/her employer » (Art. 63-2 CPP). You can inform just one person. It can be anyone whether you tell the cops he or she is family or lives with you.
- **Call a doctor.** The visit can happen beyond the 3 hours time limit.
- **Call a lawyer.** Either a chosen one or a public defender. If the chosen lawyer can't be reached or cannot come, we can ask for a public defender. The talk with the lawyer can last above the 3 hours time limit. As already said, it's preferable to know a lawyer specialized in the right of the foreigners before a possible arrest. The persons outside will then can make contact with him (go to « what to do outside » p.16). After the close-watch, it's possible to change lawyers to prepare for the trial.

The close-watch for an undocumented in illegal residence mustn't exceed 24 hours, according to the jurisprudence (App. Mixed Ch. July the 7th of 2000). Indeed, the close-watch cannot last more than the strictly necessary length of the investigation. In this case, they must check « the perfect identity » of the questioned one (first name, last name, nationality, parents' names) and of the statements compendium. If the close-watch exceed 24 hours, you may put it forward before the JLD.

If the time limit isn't abided, that constitutes procedural flaws (go to chapter about the JLD, «35bis», p.24), which can be held by the 35bis judge and consequently lead to the detainee's release.

You have to be watchful with everything written in the statement: place of arrest, time, etc. **The slightest error can allow the lawyer to point out a procedural flaw.** If you notice any mistake in the procedure that could be useful in court, don't tell the cops: they could correct it.

Beware, while the person is released after the close watch, the deportation order* remains valid. Only the administrative court can repeal it.

2- The deportation orders*: the Prefectorial Order of Escort to the Border (APRF) and the Recognizance of Leaving the French Territory (OQTF)

From the moment an undocumented is under close-watch, the prefecture can deliver an APRF or an OQTF (what the State calls « removal measures »).

PREFECTORAL ORDER OF ESCORT TO THE BORDER (APRF)

The APRF can only be issued after an identity control on the public highway or from an administrative step to the prefecture (never by mail based on the law from December 2006).

The APRF was the most current before December the 29th of 2006. Since then, it can only be delivered to:

- those who came into France illegally, or came legally but who stayed on the territory more than a month after their visa expired, without ever having done any application for sorting out,
- those who obtained a temporary residence permit but didn't ask for its renewal and stayed on the territory more than a month after the end of validity of their residence permit,
- those who came into France illegally and who were the objects of a decision of refusal or of revocation of the residence permit before December the 29th of 2006,
- those who got an OQTF more than a year before (since the law of nov.2007),
- those who were the object of a decision of refusal or of revocation «because of a threat to law and order» or because of a sentence for «counterfeiting, faking», notification of fake identity or for being on the territory without residence permit.

The APRF, unlike the OQTF, allows placing the person immediately in detention in order to deport him/her. It's valid for 1 year. Beyond the time limit, the prefecture delivers a new APRF during the close-watch.

The Order of Escort to the Border can't be acted upon before the time limit of 48 hours after its notification (its transmission) which happens at the end of the close-watch. You can only be deported 2 days after the close-watch.

During this wait, you can **make an appeal before the administrative court (TA)** to repeal the APRF. If you file an appeal, **you cannot be deported before the magistrate returned a decision on your appeal** (we call this appeal "suspensive"). Whether you are placed in detention or not, you will be summoned to the administrative court as quickly as possible, generally within 72 hours.

TO REFUSE THE DEPORTATION

Be careful, it's useless to show the cops alone that you don't want to be deported, if it means receiving blows prematurely. **It's better to save your strength for the moment when there will be other witnesses, such as passengers, who could be prompted to react.** Most of the time, the undocumented is brought to the plane before the other passengers.

It's preferable to make your refusal to be deported visible and to show it loudly. But quite often the cops try to prevent the undocumented person from talking. Each person who refuses to board has to expect to suffer acts of violence. **To wait for the last moment to resist may permit these acts of violence to be «decreased» thanks to potential witnesses.** Moreover, if the cops expect the deportation to be disrupted at the airport, they can decide to send the person back by boat or by train.

You must also be very scrupulous to not accept any food or drink the day of the deportation (whether you know the date): it's not rare that the detention centre administration mix painkillers or sleeping pills in it which deprives of all will and consequently of any possibility to oppose the deportation.

TO KNOW THE DEPORTATION DATE

The first difficulty is to know by which plane the undocumented will be deported. **Theoretically, the detainees must be informed in advance of when and how they will go.** In some detention centres, it's possible to know the date and hour of the deportation by a billposting system. We have to call regularly the undocumented person at the detention centre to ask him if he knows the date and to tell him to inform us if he knows about anything else.

But, in practice, when the administration considers that there is a risk of boarding refusal and/or of external mobilizations, either the detainee is not informed, or they give him false information.

The Cimade is normally aware of the departure, but it can also be misled by the cops. It isn't bound to convey this information outside (the Cimade's wage-earners who usually do it are the ones kept under the most surveillance and are the most misled).

Be careful, the administration can deport the last day of the detention. You have to remain watchful until the end. If the detention ends at 2 pm, you can even be wriggled out the centre at 1 pm and deported at 4 pm. It's absolutely legal from the moment you've been taken out the centre before the hour of the end of the detention.

CHAPTER 6 - THE AIRPORT

1-When all the juridical appeals have been exhausted, intervene against the deportation at the airport

Most of the time, the deportation is carried out by plane. The deportations by train, police car, or boat, common for the Algerians and Moroccans, are more difficult to stop either for the detainees or for their friends outside (even though deportations by boat are often stopped at Marseille because of the mobilization of the SNCM's sailors, but, for now, those unfortunately just help families followed by Réseau Éducation Sans Frontière). Here, we will only mention the deportations by plane.

If you want to resist the deportation, you have to inform your circle or the groups outside, and, if you have the date, to convey it to them as fast as possible. At that moment, the balance of power can play to prevent the deportation: **the more people there are at the airport, the better the chance you have to be disembarked from the plane.**

Nowadays, some undocumented people escape from their boarding and are even sometimes released. **It happens that some passengers refuse to travel in the presence of a deported person, which can lead the captain to decide to disembark the undocumented person.**

In 2006 and 2007, the mobilizations of the high school pupils and of RESF gathered hundreds of people who went to the airport and succeeded in stopping deportations.

THE RECOGNIZANCE OF LEAVING THE FRENCH TERRITORY (OQTF)

It has been created by the law of July the 24th of 2006 and stated by the decree of December the 23rd of 2006. The OQTF is replacing the Invitation of Leaving the French Territory (IQTF) and, in some case, the Prefectorial Order Escort to the Border.

The prefecture can only deliver an OQTF if you requested putting in order and were refused. The OQTF and the refusal must be delivered at the same time.

But in fact, the prefecture delivers OQTFs during the close-watch without proving a refusal of residence permit. **This practice is illegal** and so contestable at the administrative court (go to the paragraph about the administrative court, p.29).

Legally, **the placing in detention can only occur one month after the OQTF delivery. During this month, you can walk around freely**, but you are supposed to leave all by yourself. You cannot be deported.

An appeal is possible at the administrative court during the same time limit of one month (go to the paragraph about the administrative court). To make this appeal, it's possible to ask for the jurisdictional help (AJ) to pay the lawyer (go to chapter 4 about courts, p.23).

To file the request for an AJ extends the time limit to make the administrative appeal. However, it doesn't extend the time limit in the course of which you cannot be deported. Once the reply from the Bureau of jurisdictional help is obtained, whether it is positive or not, a new extension of one month opens up to refer you to the administrative court. Thus, it can be interesting to make that request at the end of the first time limit, because it gives more time to prepare the appeal file. Be careful, in every case, you can be placed in detention once the time limit following the OQTF delivery elapsed. If you are arrested before you could file the appeal at the administrative court, the lawyer or yourself has to deal with it as quickly as possible as soon as you arrive in the detention centre. If you've already filed an appeal, it will be adjudicated as quickly as possible within a time limit of 72 hours with or without reply from the Bureau of AJ.

Particular case:

In the case that you made a request for an AJ without making the appeal at the TA (Administrative court), whether you come up before the penal judge or not for refusal to board, you need to insist on the fact that you have a request for an AJ in progress. If the judge takes it into account, you can be released, it happens frequently.

The OQTF is valid for one year. Once this time limit passed, since the Hortefeux's law of November the 20th of 2007, if you are arrested, the prefecture can deliver an APRF at the time of your placement under close-watch.

3- Police pressure and questionings

If you decided to not give your true identity (first name, last name, origin) and that the cops have a doubt, they can put you through a questioning at the police station. They can, for example, threaten to send you to prison or pressure you: refusing to give you food, banning you from going to the bathrooms, refusing to give you a drink, racist insults, threats of any kind, etc. That kind of pressure can happen again in the detention centre.

It's possible that you are known by the political police services, if you are part of an undocumented's group for example. In this case, the prefecture may give itself the authority of a special questioning in its headquarters (in Paris, at the 12th branch of general intelligence). The cops will then ask questions about your political activities.

What to do outside the police station?

- **to know in which police station the person has been taken.** Mof the time, a close parent or friend is informed by the police station of the placing under close-watch, at the arrested undocumented person's request. If there's no phone call and the arrested person already knew a lawyer, we can contact him/her to know whether he/she has been informed. If the undocumented doesn't know a lawyer, we can ask any lawyer to call all police stations in order to find him or we can try to call ourselves, knowing we will have to insist for the cops to tell us if he's indeed in their police station.

- **to inform a maximum of people** and contact undocumented people's groups in force in your region. If the person is part of a group, this one will participate at the mobilization's organization. If not, at least, the groups can give some advice.

- **to organize a gathering before the police station** as soon as possible to show that the person is well surrounded and supported, and to make his arrest public.

- **to pester the police with phone calls and fax.** In that purpose, spread widely the police station's phone number and the name given by the arrested undocumented.

It may happen, when the groups are pressuring, that the undocumented comes out of police station at the end of the close-watch. The release of an undocumented at

example, Moroccans and Tunisians nationals have been acknowledged by the Algerian consul and have been deported to Algeria.

It's hard to know in advance if the consulate representative is going to help you or not. It may depend on diplomatic agreements, external pressure, bribes (Bakchich \$) or even on the individuality of the vice consul you meet with...

The cops' job will be more complicated if they don't know your real identity. So they will have to make you come up before the consuls of various countries until they find a country that acknowledges you. Then, if the consulate of the country that acknowledges you collaborates with the French State, it will still have to find your real first name and last name before it can deliver a laissez-passer. **If you conceal your identity, it's better to avoid talking with the consul in language other than French: they could recognize your origins by your accent** and report it in order to send you before the proper consul. If they know nothing about you (extraction, last name, first name), the cops cannot deport you.

The arrested person's close ones can put pressure on the consulate to try and prevent the signing of the laissez-passer. That can happen through fax, visits, consulate sit-in. The circle (family, life partner, co-workers, friends...) and groups can come forward before the consulate and bring proofs of ties in France. This external pressure can be decisive so that the laissez-passer is not signed. Aware of the consulate part in the deportation machine, some groups lead political struggles against the States that collaborate with France on the immigration issue.

Beware, the laissez-passer has a limited duration of validity which varies depending on countries. For example, in Tunisia, it lasts 3 months. **If you're being arrested again and that the laissez-passer is still valid, the cops can deport you quickly** (just like when they have the passport). If it's not valid anymore, they will still have your real identity. But, in order to deport you, they will have to get a new laissez-passer and the «benevolent» consul will probably have more difficulties waiting for your release to deliver a new one.

CHAPTER 5 - THE CONSULS

THEY SHOULD NOT SIGN THE LAISSEZ-PASSER

At the detention centre, if the cops don't have a passport, they must compulsorily obtain a consulate laissez-passer to deport. They have to find a consulate that accepts to acknowledge the detainee as one of its nationals.

At this stage of the deportation procedure, if the appeals at the administrative court and at the 35bis (JLD) didn't go well and if external pressure didn't get anything, **to convince the consulate representative to not sign the laissez-passer is the last chance to obtain the release.**

When this one refuses to collaborate with the French State, you come out of the centre at the end of the 32 days time limit (sometimes even before when the centre is over-crowded and new detainees are brought in). Either the «benevolent» consul delivers a laissez-passer only after your release or no laissez-passer is passed on.

Representatives of some consulates come straight to the detention centre for interviews with the undocumented; others get somebody to bring the prisoners at the consulate.

Whether you gave your real identity or not, it's necessary to try to convince the consul to not sign the laissez-passer. When consuls refuse to sign the laissez-passer, they protect above all the persons who have a lasting life in France (family, work), and even more those who send money up country. So this is **the «integrated immigrant» story you have to make the consul hear**, if possible with supporting evidence (close ones, living partner's accounts, engaging assurances, contract of employment, proof of residence...). Inside the detention centre, you can find out from other prisoners a little more about the consul they have seen. Some have been known to hand out laissez-passer arbitrarily. For

the end of the close watch also depends on the State's bodily resources (for example, lack of places in detention centres or in police stations...) and on the administrative machinery mysteries.

At the same time as the mobilization, **contact the lawyer:**

- **if the arrested person appointed a lawyer**, then this one can come to see the undocumented person right from the beginning of the close-watch (something few lawyers accept to do). In that case, we can get news about the arrested person, know about the circumstances of the arrest, and know which document has been delivered by the prefecture, which permits us to prepare the plea before the courts (go to the chapter 4 about courts).

- **the arrested saw a public defender in close-watch**, but another lawyer can provide the defence before the courts. We then have to try to find a good lawyer specialized for the undocumented. Knowing that most ask for a lot of money, do not hesitate over negotiation. Any undocumented person who is the object of an APRF or of an OQTF and who fulfills the resources conditions can get the Jurisdictional help (AJ) (go to insert p.23). Otherwise, we will have to prepare ourselves the file that we will submit to a public defender at the moment of the coming up before the courts (go to paragraph in chapter 3: « What to do outside? », p.21).

CHAPTER 3 – IN THE DETENTION CENTRE

DO NOT REMAIN ISOLATED, TRY TO ORGANIZE COLLECTIVELY WITH THE OTHER DETAINEES, KEEP A LINK WITH YOUR CIRCLE OF ACQUAINTANCES SO THAT IT CAN GET ORGANIZED OUTSIDE

APPEAL AGAINST THE DEPORTATION ORDER AT THE ADMINISTRATION COURT*

APPEAL THE PRESERVATION IN DETENTION AT EACH COMING UP BEFORE THE JLD

FIND OUT FROM THE DETAINEES ABOUT CONSULS IN ORDER TO PREPARE FOR INTERVIEWS

After the close-watch, the undocumented person is sent to the detention centre for a maximum of 48 hours before he comes up before the Judge of Liberties and Detention («35bis»). It's within this period of time that you have to make the appeals at the administrative court against the OQTF or the APRF by means of forms available in the centre. Be careful, if the prefecture got your passport or a laissez-passer on a current validity, you may be deported even before you come up before the JLD (the 35bis), this may be because:

- you've got an APRF on a current validity which dates front the close watch and the prefecture didn't deliver a new one (the appeal time limit of 48H is over),
- you've got an OQTF of which the time limit of one month during which you can't be deported is over.

That generally happens when the arrests have been scheduled in advance (example: notification to attend the prefecture, arrest at residence, targeted raids by nationality...) and the prefecture has already reserved seats in a plane.

WHAT IS A DETENTION CENTRE ?*

Even though the State denies it, a detention centre is a prison for undocumented people. The detention purpose is to give time to the administration so it can gather the documents required for deportation. The undocumented are locked up for a period of maximum 32 days, under the permanent watch of cops or gendarmes. There are also isolation cells. If the detainee hides his identity, the police permit themselves to do the questionings.

*For an historical background, go to the CAE article in the appendix

3- The second appearance before the JLD («35bis»)

Fifteen days after the first appearance before the 35bis, the undocumented is resat at the JLD to decide whether the detention is lengthened by 15 days or not.

The lawyer must also search for procedural flaws.

- He can plead the lack of summons to the tribunal.
- Keep an eye on the time of appearance before the judge: the administration cannot hold an undocumented person more than 15 days. For example, if the first appearance before the JLD happens at 10 a.m., the second trial must happen before 10 a.m. the fifteenth day.
- Try to plead the «improper detention»: if the judge considers that the prefecture didn't take any steps to discover the undocumented person's identity, then he can release him or lengthen his detention by 5 days. However, that is rarely pronounced..
- If there has been a transfer during the detention, the cops may once more commit a procedural flaw. A few examples: check that the cops have informed the public prosecutor and judge of liberties about the transfer (if there is subdivision change, the public prosecutors of each prefecture must be informed); that the time of departure and arrival are noted in the file; that there has been a new notification of rights, etc.

The detainees who are not deported come out after 32 days, sometimes before, for example, if the detention centres are over-crowded. But that will happen less and less, given the constructions of new detention centres nearly everywhere in the French territory.

AGAINST THE APRF

The appeal against the APRF must be done within the 48 hours following its notification, at the end of the close watch. At first, you just have to send the appeal without any certificate by faxing or by directly leaving it at the tribunal within the 48 hours. **Be careful: it's the receipt of your appeal that matters, and not its sending, this to say that the administrative court must have received your appeal within a 48 hours time limit.** Then you will have to leave the complete file at the clerk's office of the court. You can also bring it the day of the hearing.

AGAINST THE OQTF

The appeal against the OQTF must be done within a time limit of maximum one month. During this month, you cannot be placed in detention. The hearing will happen only three to six months later. If you're being arrested before the date of the trial and more than a month after the OQTF delivery, you can be placed in detention. Then the court rules within a 72 hour time limit. If you are free, the trial will happen before three judges. If you are in the hands of the police, one judge only will rule on.

A pattern to make the appeal is available online in the brochure «*Que faire après une OQTF*» (on the GISTI website).

Most of the time, the arrested undocumented person comes up before the administrative judge and the JLD on the same day.

To try against the OQTF:

Some undocumented persons can find themselves with OQTF «deprived of legal basis», which means they can be repealed by the administrative court.

Indeed, legally, **the OQTF can only be delivered at the same time as a refusal of stay pass or a refusal of stay pass renewal.** If it's not the case, you have to try to raise this question before the judge to repeal the OQTF.

The Recognizance of Leaving the French Territory (OQTF) is valid for one year: if no new request for regularization has been done, it's out-of-date and the prefecture cannot legally deliver a new one. Before the Hortefeux's law of November the 20th of 2007, the prefecture couldn't give the APRF in some cases. Nowadays, that juridical vacuum doesn't exist anymore. One year after the creation of the OQTF and so even before than an undocumented falls into the compass of this juridical vacuum, the law has been modified. From now on, the prefecture can always deliver an APRF when the OQTF is out-of-date.

In some centres, several undocumented are locked in the same cell during the night. The centre's doctors often offer sedatives to the detainees. Sometimes, the cops can mix them with the food without detainees' knowing.

Any place can be converted by the State into an Administrative Detention Room (LRA), often in police stations. There are three permanent LRAs in the Parisian region (Nanterre, Cergy-Pontoise, Choisy-le-Roi). The foreigners arrested in a border zone (without a visa or if the documents presented are suspected as fake) can also be detained in the Waiting Areas, in airports, international stations...

WHAT ARE YOUR RIGHTS ?

At the detention centre, you can **call who you want to** from the centre phone boxes (beware, in some centres cell phones are forbidden, especially if they are equipped with a camera). You can **see who you want visiting**. You have the right to **see a doctor** and to **see your lawyer** permanently. Usually, in all centres, clothes are at the detainees' disposal, but you have to ask for them, they are never offered. You are in a position to ask for the political refugee's status or the subsidiary protection (former "juridical sanctuary") in a time limit of 5 days from the beginning of the detention. The request is studied in emergency in 96 hours time limit. While awaiting the reply, the State cannot deport you. The centre must give you the form for those requests. Either the file has already been put together, or the people outside gather the many necessary pieces. The passport is often demanded: know that you don't have to give it. The refugee's status can be obtained by proving that you are threatened by the State of your country of extraction and allows you to get a residence permit for 10 years. For the subsidiary protection, you have to prove that you are threatened by a group other than the State. It gives a permit for 1 year.

Beware, you need a very complete file that will be followed with a thorough interview, and **the replies are rarely positives. The problem is that if you give your passport in order to make the request, the State can deport you very quickly after a refusal.**

WHO WILL YOU BE FACING ?

You must trust neither the police, nor the ANAEM (National Agency of Foreigners' Rest and of Migrations), former OMI (Bureau of International Migrations): they are part of the deporting machine. Be careful too, the Cimade, the humanitarian face of this machine, is not in the centre to prevent the deportations but to make sure that the detention and the deportations are made in «humane» and legal conditions.

• **Police** are in charge of the centre management (transfers, visits, detainees' files, meals...). Responsible for the «smooth progress» of the detention, it puts down any kind of resistance. Besides the questionings, they pressure any detainee they consider as too « annoying » or « rebel »: the cops threaten with prison or immediate deportation, or lock up in isolation cells.

The cops will always tell you that, if you stay calm, everything will be alright. Don't believe what police say: **it's by talking among detainees, organising pressure inside and outside centres that deportations fail.**

• **The ANAEM** takes care, from inside the centre, of the deportation organisation body: they reserve plane, train or boat tickets and get baggage back outside. This State organism is also in charge of foreigners' work in France: it manages special work contracts (« Rest and Integration Contract ») that allows French bosses to hire foreign workers for the slightest cost. At the end of their contract, those workers have to leave the French territory. (Go see tract « *Police carry off, ANAEM departs, State keeps up an appearance* » on appendix, p.41).

Potentially, anything said to the ANAEM can be conveyed to the Police. For example, all the calls given from their office by the prisoners are filed for the cops.

• **The Cimade** is an association commissioned by the State inside the centre in order to uphold undocumented people's rights and to deal with detainees' administrative and judicial steps (appeals at the court, requests for sanctuary...). It has access to the administrative files and sometimes to the penal ones; it's possible to call them to get information on your file. It's supposed to give juridical advice and deliver forms for the appeals. **In the Cimade's offices, you can send and receive fax.** The association is not present every day of the week; it's closed on the week-end and on public holidays. Most of the time, it's possible to receive fax in other offices, preferably at the infirmary. **Be sure to be present when you receive documents by fax, the police can help themselves.**

The Cimade is a humanitarian association that helps undocumented people assert their rights inside the centre. Its humanitarian association status induces the detainees to put their confidence into the association's advice. It can make some files progress: if you fit with some criterion: have children, be extremely sick..., you have to draw the Cimade's attention, they might be more sensitive to your case and could alert people outside (humanitarian associations, RESF...). If the detainee's circle asks for it, some wage- earners from the association take over between the inside and the outside.

By supporting only those who they think have a chance to be regularized or who are defended by groups, people of the Cimade make a selection in the files. Through this practice, they can discourage the other detainees to use every resort possible:

2- The administrative court (TA): appeals against the APRF or the OQTF

The TA hearings, as those before the JLD, are dispatched in a few minutes. There too, crowding the room pressures the judge to pay more attention to the files.

The administrative court tries only the validity of the deportation order*. It checks out its validity by:

- **the form:** if the deportation order* matches the undocumented person's administrative situation, roughly if the prefecture could deliver a deportation order* and if it has delivered the good one, APRF or OQTF (go to the chapter 2 about the close watch, p.12); if the document is legible enough, the name properly written...

- **the substance:** according to the European Convention on Human Rights, the deportation mustn't «affect excessively and disproportionately the private and family life» of the undocumented person, for example if he has French children or if he is married, the same goes if he is seriously ill. We can also plead the years of attendance on the French territory, his «integration» (with contracts of employment, tax bills, close friends or relatives' accounts, engaging assurances, motivated letters from employers...), or more, real threat in the country of return.

It's possible to plead the repeal of the order that set the country of return, which doesn't repeal the deportation order. That can delay procedure because the prefecture must find another country of return.

Before the administrative judge, it's only the APRF or the OQTF legality that is put into a study. The circumstances of arrest can only be questioned before the JLD.

Even though the deportation orders* are rarely rescinded, **appeal offers the chance to delay the deportation.**

What are the documents to attach to the appeal?

- the deportation order* copy
- any document supporting your argument (familial situation in France, risks in the country of extraction, etc)
- **Be careful** : keep your original documents and just address photocopies to the court
- you will find appeals patterns and examples of arguments on the website of the GISTI [<http://www.gisti.org/spip.php ?article224>]

For instance, the public defenders often insist for the undocumented to give their passport though the placement under forced residence is hard to obtain. Through this practice, they in fact contribute to the deportation procedure itself because they give the authorities the opportunity to gain time and money by avoiding to bring the person to the consulate.

If you are kept in detention, it's necessary to systematically appeal the JLD decision (read about the JLD, p.24) within the 24 hours, either through your lawyer, or by yourself from inside the centre where you can ask for the form. That gives you a second chance to be released.

What to do outside the court?

For the friends, the family and the groups who want to help in preparing the appearance at the 35bis (JLD), the ideal thing is to know the detainee's situation.

- Before the appearance at the 35bis, if you have the time, it's possible to meet the detainee at the detention centre, which permits you to discuss the situation together. The state of confinement and the fear of being deported at any time sometimes change the persons' purpose. Therefore, seeing a close one can help them reach an agreement more particularly concerning the placement under forced residence and the passport issue. If not, try to get them on the phone.
- the 35bis court room is often empty and the hearing lasts five minutes per person on average. Consequently, **be as many as you can be** in order to show that there is support at the person's back, to pressure the judge and constrain him to have a closer look to the files.
- **talk to the lawyers about the possible procedural flaws.** If some external persons were there during the arrest, they can explain how it went on and what can be considered as a procedural flaw.
- **keep the passport in the court room** and avoid letting it fall into the hands of the prefecture or of the judge.
- **bring the production's guarantees** in case of request of placement under forced residence (written proofs of residence or lodging certificate with a photocopy of the identification paper and a written proof of residence from the landlord...).

Note that the discussion with the lawyer may be most difficult because many don't accept that we step in « their work » and don't think they have any advice to receive from anyone. But **talking with the lawyer can prompt him to look closely at the file and to question well the undocumented person about his choices.** The public defenders have two hours to make a study of all the daily files. Even for the most motivated lawyers, to find the good juridical arguments in such a short time is not always that simple.

less work for the prefecture and the tribunals to reach their quotas. If some wage-earners are ready to help the detainees to prevent their deportation, others are favourable in the deportations «if they are made in humane conditions».

That's why it's always necessary to take the matter strongly with the Cimade in order for them to assist you in your steps. Don't let them make decisions for you.

The visits at the detention centre

Once we know where the arrested undocumented person is, we can come visit him, bring them stuff, cigarettes, newspapers, phone cards, money... Visits have precise timetables which vary depending on the centres (you have to call the centre to know them), but in principle they are possible every day. The cops can keep visitors waiting several hours before they admit them. In some centres, consuls' representatives come out, each week, to recognize the detainees. Those days, visits are adjourned for several hours and sometimes cancelled.

Before you see the detainee, **you have to know the name he gave to the cops.** Generally the visitors are searched and go through the metal detectors. The police demand I.D. or a currently valid stay pass. Be careful, if the detainee chose not to give a fake name, do not introduce yourself as a family member. Also, through small talk, the police can try to collect information on the identity of the person you visit (name and nationality).

Know that a file on the detention centre visitors is held for a long time. That list was transmitted to the ELOI file since 2006 so to have the supporters' names at disposal within the framework of the «helping to prohibit stay» repression. Officially, that list was deleted. Since December 2007, the ELOI file, as removal, centralizes for 3 years information on persons who have a deportation order*. It should be known that it centralizes and keeps for 3 months the names and contact details of the persons who provide an address for a placement under house arrest.

WHAT TO DO OUTSIDE THE DETENTION CENTRE ?

Generally, the undocumented are placed in detention centre upon the end of the close watch waiting for the coming up before the JLD. Right from his arrival, the detained person can call the people outside to say in which centre he's held and when he comes up before the JLD.

BEFORE COMING UP BEFORE THE JLD

At first, it's good to see the detainee to support him and prepare with him his plea before the trial:

- for the JLD: ask him the accurate conditions of his arrest, his close watch and if he wants the placement under forced residence (go to paragraph about the JLD, p.24),
- for the administrative court: gather all the documents required for the appeals against the APRF or the OQTF (go to paragraph about the administrative, p.29).

Then, whether it's not already done, we can find a lawyer who accepts the jurisdictional help and go see him to hand over the file pieces to him and discuss pleas.

ORGANIZE PRESSURE

If the undocumented person is held in detention after his coming up before the JLD («35bis») and the administrative court, the administration just has to get a consular laissez-passer (in the case they don't have a passport on a current validity). **A mobilization outside is very important at this moment.** It's often the only way, beyond pressuring the consul, to make the undocumented person get out even before the end of the detention period.

We have to show in every way that as long as the detainee or detainees won't be outside it will be the mess. The ideal is of course to be numerous and to have time. It's possible, for example, to organize **gatherings in front of the detention centre**, making as much noise as possible, for the people inside to hear. Try to talk to them through the windows if the centre's architecture permits it (it's still the case at the Vincennes centre, for example).

We can also distribute communiqués and a flyer about the situation, as well as the stories of the people inside: **try to create as many bonds as possible between the inside and the outside.** It's always the opportunity to talk about the existence of the detention centres and what life is like for the people inside.

If a collective uprising is taking place inside the centre, we can **pay collective visits**; exchange information with the maximum of people inside and try to build a common and coordinated mobilization. It's also possible to pay several visits to a single person, which permits to show to the policemen and to the prefecture that the person is surrounded and supported.

It's thanks to those offensive struggles that the detainees are released, sometimes really fast, the prefecture preferring to avoid the bloody mess created by the mobilization.

It's necessary to struggle in the duration to build a balance of power with the prefecture. For example, the groups that have been leading offensive struggles for years and maintain the pressure on the state, prevent a lot of deportations and extract regularization agreements from the prefecture.

The placement under forced residence can be determined under **three conditions**:

- **the undocumented person supplies his address of residence**: the cops have a place where they can find him if he doesn't leave the French territory. **The court appreciates the reliability of the «productions' guarantees» (read insert annexed) to accept this address,**
- he supplies **his currently valid passport** to the prefecture. According to the judges, an expired passport may suffice for Algerians,
- **he commits himself to leave France within the time limit set by the judge.**

The placement under forced residence allows the undocumented to come out of the detention centre. But, **be careful, the judge demands the passport** before he studies the request. So it involves a very high risk: **if the placement is denied**, you will go back to the centre and, thanks to the passport, **the authorities simply need to find a seat on a plane.**

To avoid that danger, you have to **insist with the lawyer that he doesn't turn in the passport.** He can show it and say that he will deliver it only if the placement under forced residence is granted. If you don't trust your lawyer, the safest thing is that the **passport stays in the hands of friends or family** present in the room. They can show it to the judge (without giving it) in due time.

The public defenders often say that they don't see any procedural flaws and that they can only plead for the placement under forced residence. The truth is that they often didn't have the time to study the files to disclose procedural flaws (hence the interest of having a lawyer with whom we can talk about the defence).

The production's guarantees

In every case, you need a **relevant currently valid document, with a photograph, and a written proof of residence** (lease, rent receipt, lodging certificate, EDF (Electricité De France) or telephone bill).

Constituents related to your familial life play in favour of your request:

- marital life with a French partner
- to be parent of a child, born in France, in your care
- to be born in France from a couple of foreigners in legal situation
- to have your home in France at your parents' who provide for your needs...

Constituents related to your medical condition can also be taken into account.

its delivery is compulsory to obtain the placement under forced residence. The passport mustn't be given to the prefecture until the placing under forced residence is granted. **So it is necessary to ask the lawyer to show it without giving it in.**

OBTAINING THE RELEASE DUE TO PROCEDURE FLAWS: THE CIRCUMSTANCES OF ARREST, OF CLOSEWATCH AND OF DETENTION

The lawyer must talk about procedural flaws before anything else: they permit the obtaining of immediate release. All deportation procedures are made in emergency. In almost all the files, we can find flaws by looking closely.

OBTAINING THE RELEASE ON MEDICAL GROUNDS

The JLD can decide to release a detainee on medical grounds without a passport and without even placing him/her under forced residence. It can also order a medical expertise to take a decision. While you are in the centre, you can lay before the judge under simple request, but this can be refused.

The prefecture can also decide to release a detainee on medical grounds.

OBTAINING THE PLACEMENT UNDER FORCED RESIDENCE

Nowadays, it's rarely pronounced, as the judges favour prolonging the detention instead.

Placement under forced residence is meant to allow the undocumented person to return «his country» through his own means within a time limit defined by the judge, generally 15 days. It consists in constraining the undocumented person to reside in a place known from the administration (private or a close friend/family member's residence for example).

Within this time limit, the judge can constrain the undocumented person to report to the police station. If the decision isn't respected, it's considered an offense and can lead to a maximum 3 years of prison, but, as long as we know, nobody has been sentenced so far. If the undocumented person declares to be living with somebody, the latter can be considered by the administration as a placing bail. In case of non respect of the placing, the bail can in theory be sentenced for «helping an illegal stay» on French territory. He risks up to 5 years of prison and a 30 000 Euros fine. So far, only the «frontier runners» have been sentenced for «helping an illegal enter the country», the «helping an illegal stay» hasn't been pursued.

CHAPTER 4 – THE COURTS

GET IN TOUCH WITH AN EFFICIENT LAWYER, EVEN BEFORE ANY ARREST

TRY TO PICK OUT A MAXIMUM NUMBER OF PROCEDURE FLAWS DURING AND AFTER THE ARREST

AND TALK TO THE LAWYER ABOUT THEM

*MAKE ALL THE APPEALS AS FAST AS POSSIBLE (APPEALS BEFORE THE JLD, APPEALS AGAINST THE DEPORTATION ORDER*AT THE ADMINISTRATIVE COURT)*

DO NOT HAND OVER THE PASSPORT BEFORE BEING SURE YOU OBTAIN THE PLACING UNDER FORCED RESIDENCE

OUTSIDE, GATHER THE DOCUMENTS REQUIRED FOR THE UNDOCUMENTED PERSON'S DEFENCE TO BE NUMEROUS IN THE DIFFERENT HEARING ROOMS

Within the 3 days following the arrest, you will compulsorily come up before a **judge of «liberties and detention» (JLD)**, also known as the judge of the «35bis».

If you appealed against the deportation order*, you will come up before another judge: **the administrative judge.**

The jurisdictional aid

The jurisdictional aid (AJ) is a financial aid to pay for a lawyer. Undocumented people have a right to jurisdictional aid to defend themselves within the framework of deportation procedures (for more details, go to the website). An AJ request form can be downloaded on the Justice Office website () or can be withdrawn from any tribunal.

Be careful: **do the jurisdictional aid request before you file the appeal** (if you want the lawyer to draw up the appeal), or on the same day (if you draw up the appeal by yourself and just want the lawyer to plead). **If you do the request after, they will deny it.**

For each jurisdictional steps (appeals against the APRF or OQTF, pleas at the court), you can choose a public defender or a lawyer of your choice. At the detention centre, you can ask the Cimade for a list of lawyers specialized in foreigner's right and their fees. In order to pay the lawyer of your choice, you have the right to the jurisdictional aid (AJ). **Beware, not all lawyers accept the AJ**, and some might ask for an additional fee.

1- First appearance before the Judge of Liberties and Detention (35bis room)

After 48 hours maximum at the detention centre, you will pass by 35bis, a court room where the undocumented are tried to decide whether they should be kept in detention or not. **The hearings are open**; they proceed in the presence of a judge, of yourself, of your lawyer and of a prefecture representative who most of the time will plead for your remainder in detention.

You have the right to a translator and a public defender if you don't have a lawyer. Beware, the lawyer doesn't always have the right answers. It is necessary to insist that **he look for procedure flaws and plead the release**. If you noticed a flaw (confusion in times, on the place of arrest, no interpreter, no phone...), you have to report it.

The JLD can deliver four decisions:

- release due to procedure flaw,
- release on medical grounds,
- placement under forced residence,
- extension of detention.

To obtain the release, the lawyer must show the judge that there were procedural flaws at the time of the arrest, during the close watch or during the detention. If the submitted file shows that the Penal Procedure Code's rules haven't been respected, **the lawyer must refer to it before anything else, that is to say he has to talk about it from the beginning of the trial.** Then, the judge may agree with the lawyer and repeal the procedure: the undocumented person is released.

If the undocumented person asks for it, the lawyer pleads **the placement under forced residence** next. Upon this point the issue of **giving the passport to the authorities has to be well-thought-out** and much discussed with the lawyer:

What's a procedural flaw?

The cops, in order to do an I.D. check, to take in for questioning, etc. must respect the Penal Procedure Code rules. The rules can change if a new law is voted for. When they aren't respected, we say there is **a procedural flaw**. If he admits it, so a judge can repeal the procedure: the arrested person is released. For an undocumented, the procedural flaws, pleaded before the judge of Liberties and Detention, are the main way to get out of centre. **The courts generally only take into account the procedural flaws that are in the file.** Which do not keep you from talking about other procedure flaws even without having written evidence. These procedural rules are meant to guarantee the rights of the persons in the hands of police. They are quite vague, especially regarding the identity control and the placement under close watch. So, they give the cops room to manoeuvre. Eventually, it's the judge who will determine case by case whether the procedure has been respected. For example, the cops must notify the accused of his rights immediately after his/her placement under close watch « unless [there are] insuperable circumstances ». It's the judge who will decide whether the reasons for the delay given by the cops are indeed « insuperable circumstances ».

IMPORTANT: all the procedure flaws that seem to exist must be referred to at the 35bis. Because at the time of the appeal, only those mentioned at the time of the first appearance at the 35bis can be discussed.

Procedure flaws examples:

- not being informed of one's rights at the time of the placement under close watch or in detention,
- refused the right to an interpreter,
- the police control isn't justified well enough. For example, several controls have been deemed illegal because the cops said they controlled a group of people simply because the people in the group were leaning against a wall,
- the cops didn't write down the time of a transfer departure or arrival...

To be tried: any person standing trial must be informed in writing and in advance of the hearing day and time. Until now, no undocumented person has received such a notification to attend. To plead this procedural flaw at each attendance is what's working according to the judge.

If a procedural flaw is admitted by the judge, the procedure is repealed. You will be freed, but you have to wait four hours before you can be released, this is the time limit the State has to appeal the decision. If no procedural flaw is admitted, the judge can keep you in detention for 15 days, or else place you under forced residence.

The rules of procedure the cops must apply are mentioned previously in the chapters «the arrest» and «the close watch».