



HOW CAN YOU OBTAIN THE DOCUMENTS YOU NEED TO RESIDE LEGALLY IN FRANCE?

Whether you entered France legally or illegally you may be able to regularise your situation. None of the methods described can guarantee this regularisation - which will always depend on the attitude of the Prefecture. Therefore it is important that you weigh up the risks and benefits of starting the process. In fact, any steps taken with the prefecture in order to regularise your situation, will also give the authorities all your personal information - thus allowing them to identify you as an undocumented person. Thus

it is very important to submit a very well presented application file, which will eliminate the risks of your being issued with a deportation order. Bear in mind, that if you have already been refused the right to stay, you can always submit another application and the authorities will be obliged to re-examine your application. Then you will need to show how your situation has developed. However if you are already under a deportation order to leave the Country, you had better wait for a year from the date of notification.

HEALTH REASONS

In France, if you have a serious health condition (HIV, Hepatitis, cancer, diabetes etc) which means that you need regular care and treatment, this can justify regularisation on medical and humanitarian grounds.

Beware! Increasingly, prefectures are refusing to agree residency permits on grounds of health, arguing that you can access care and treatment in your country of origin. Therefore it is important to have with you detailed evidence which will help you to show that quality of care, or access to treatment will not be satisfactory there thus showing that being deported will constitute a risk to your health and life. Because the prefectures take arbitrary decisions, there is no guarantee of regularisation and we strongly discourage you from contracting a serious illness in the hope that it will help you to obtain documentation. Don't let despair ruin your health or lead you to take risks with your life.

THE RIGHT TO A PRIVATE FAMILY LIFE

You can get regularised if you are a concubine, in a civil partnership (PACS), or married to a French or European

Union partner. You will need to prove that you live together as partners and importantly, you will need to go with your partner to the prefecture regularly and over a long period to demonstrate the long-term nature and stability of your relationship.

In many cases intrusive enquiries are made in order to verify the genuineness of your relationship. So make sure that you don't depend on someone who could take advantage of you and abuse your vulnerability.

Likewise it is possible to get regularised if you are in a PACS, a concubine or cohabiting with a foreigner who is already regularised. The prefecture will be more demanding in such cases. You will definitely need to show a minimum of five years' stay in France in a long-term and stable relationship (1 year for PACS, 8 months for marriage or concubinage) as well as being strongly integrated into French society (children, resources).

It is also possible to become regularised if you are married to someone who receives subsidiary protection or has a right to asylum, on condition that you can show that this marriage took place with at least one year of living together since the asylum claim.

Beware! Sometimes people organise scams, offering to acknowledge paternity of your child or to marry you with the sole aim of taking your money. This will lead you to take a huge risk, as these people con many migrants and more often than not the authorities end up finding out what's going on.

Likewise, you can become regularised if you have a child who has been at school in France for at least 3 years. If your child was born in France, or has one French parent, he/she can have French nationality. However this doesn't automatically lead to regularisation for you. You will also need to prove continuous residence on French territory of at least 5 years and that your child has been at school during the whole of that period.

You will also need to show that you contribute to the support and education of your child.

When you make an application for the right to a family life you can also include evidence showing your integration into French society (academic success of your children, lack of any family links in your country of origin, the presence of other family members in France, medical treatment needed, etc....).

If you are a young adult you can also consider applying for a "student" permit. The prefecture can in fact give you this status if you have received l'ASE between 16 and 18 years of age and that you are studying, or, if you have been studying in France since you were 16. You will have to prove your dedication and seriousness towards your studies, as well as the fact that you have been studying in France at least since you were 16 alongside having sufficient means to support yourself. In any case, the length of this permit is only for the duration of your studies, so a claim for the right to a family life might be a better option if you can do so.

LENGTH OF STAY

You can become regularised if you can prove that you have lived on French territory for more than 10 years. The longer you have stayed, the better your chances of success. It's a good idea to speak good French, to be able to prove that you work, that you are financially independent and that you are fully socially integrated in France with many friends and French family members or that you have been living on France for a long time.

It doesn't matter what kind of status you are claiming if you can show evidence of a long residence.

WORK

You can get regularised through work if you can produce a work contract, or a promise of employment as well as proof of 8 months' pay slips in France over the last 24 months or over 30 months during the last 5 years (along with residence in France of at least 5 years).

If you have been in France for 3 years you need to produce 24 pay slips eight of which (not necessarily consecutive) must have been from the last 12 months. These pay slips must cover at least half the months in the relevant period. Ideally, you should be able to demonstrate that you have at least been earning minimum wage (SMIC).

For this, your employer will need to have opened a provisional account with the URSSAF and you should be working on the books. Be aware that your employer will also have to take part in the regularisation process, as he will have to fill in a number of documents which will go to DIRECTE which can then authorise you to be employed legally alongside your application for a residency permit (the CERFA) and his obligation to declare a tax to OFII (55% of gross monthly salary with a limit of 2.5 of the minimum wage (SMIC)).

If your employer doesn't understand your situation and becomes anxious, you can reassure him, because, in practice, it is very rare for the administration to chase up an enterprise about illegal work whilst the worker is applying for regularisation. In addition the Work Code doesn't prohibit retrospective pay slips.

If your employer refuses to declare you as a worker, we recommend that you get in touch with a trade union such as CGT Migrants which will try to help you advance your case.

BEWARE!

If you work in a massage parlour, hostess bar, or any other establishment where you carry out sex work, it is essential that the sexual part of your work is kept hidden. Otherwise the police are likely to close the establishment for pimping and you will not be able to apply for regularisation through your work. Since this strategy is quite risky, we advise you to seek out a day-job, such as cleaning-lady, childminder, or any other job which would allow you to apply for the regularisation process.

If you are an independent worker, you can apply with the status of self-employed, but for this you will need documentation. This can be useful if you are renewing your residency permit to prove that you work and that you are financially independent. Unfortunately up till now we know of no successful case of regularisation for independent workers.

Since the law of 13th April 2016, it is now possible to get a 6 month temporary residency permit if you engage with the French authorities in a "process of quitting prostitution". This means that an association will follow your activities and that you will have to prove that you have stopped sex work. In exchange the State can grant you a payment of roughly 300 euros a month. However, for the moment we haven't enough information to judge the efficacy of this process. It appears that very few people have benefitted from this up to now.

BEWARE!

If you are caught continuing to do sex work you risk losing all the help you have had, and being identified by the authorities as someone who can be easily deported. The residency permit can potentially be renewed but each time it will be at the discretion of the prefecture.

You can apply for asylum if you have fled your country because of fear of persecution, or if you are likely to be mistreated if you return to your country of origin. For example, if you fled your country due to threats because of your sexuality, or if you or an underage child fear FGM.

BEWARE!

It is best to make an asylum application quickly, as soon as you have arrived on French territory. If your application is turned down, the prefecture will automatically take the decision to deport you.

Romanians and Bulgarians have the right to remain in France for 3 months without a residency permit. They must have adequate financial means and health insurance. In practice that means: in order to find a job - so they can stay in France without necessarily holding a residency permit.

BEING IN THE PROCESS OF QUITTING PROSTITUTION

THE RIGHT TO ASYLUM

ROMANIAN AND BULGARIAN EUROPEAN CITIZENS



Whatever your situation, we advise you to speak to the STRASS legal service in order to evaluate your chances of gaining regularisation. Your chances of success could be limited, but to acquire a residency permit will be helpful in relation to other rights.