

COUNTRY REPORT  
**FRANCE**



# Undocumented Migration

Counting the Uncountable. Data and Trends across Europe

Henri Courau

*Researcher at the Institut de Recherche pour le Développement (IRD)  
(translated in English by Francesca Broersma)*

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**CLANDESTINO**

**CLANDESTINO**  
**Undocumented Migration: Counting the Uncountable**  
**Data and Trends across Europe**

This interdisciplinary project is a response to the need for supporting policy makers in designing and implementing appropriate policies regarding undocumented migration. The project aims (a) to provide an inventory of data and estimates on undocumented migration (stocks and flows) in selected EU countries, (b) to analyse these data comparatively, (c) to discuss the ethical and methodological issues involved in the collection of data, the elaboration of estimates and their use, (d) to propose a new method for evaluating and classifying data/estimates on undocumented migration in the EU. Twelve selected EU countries (Greece, Italy, France and Spain in southern Europe; Netherlands, UK, Germany and Austria in Western and Central Europe; Poland, Hungary, Slovakia and the Czech Republic in Central Eastern Europe) are under study in this project. Three non EU transit migration countries used as key 'stepping stones' by undocumented migrants en route to the EU, notably Turkey, Ukraine and one Maghreb country, are also analysed. Where relevant, the project considers the factors affecting the shift between legal and undocumented status among migrant populations. The project work programme is complemented by two regional workshops with policy makers and academics, 12 fieldvisits each resulting in a series of meetings with key policy actors, NGOs and journalists working on migration in each of the EU countries studied. The CLANDESTINO database on irregular migration in Europe, the Project reports and Policy Briefs are available at: <http://clandestino.eliamep.gr>

Each country report reviews all relevant data sources on irregular migration (e.g. apprehended aliens at the border or in the inland, expulsion orders, people registered through health or other welfare schemes for undocumented immigrants, municipal registers, statistical estimates from national and European statistical services), assesses the validity of the different estimates given and where appropriate produces a new estimate for the year 2008 for the country studied. The country reports cover the period between 2000 and 2007 and the last year for which data or estimates were available when the study was finalised in 2009, notably in some countries 2007 and in other countries 2008. This quantitative analysis is complemented by a critical review of qualitative studies and by interviews with key informants with a view to exploring the pathways into and out of undocumented status in each country. It is noted that the non-registered nature of irregular migration makes any quantification difficult and always produces estimates rather than hard data.

The Hellenic Foundation for European and Foreign Policy (ELIAMEP) is the coordinating institution of the CLANDESTINO consortium. CLANDESTINO Partners include the International Centre for Migration Policy Development (ICMPD) in Vienna, the Hamburg Institute of Economics (HWWI), the Centre for International Relations (CIR) in Warsaw, the COMPAS research centre at the University of Oxford, and the Platform of International Cooperation on Undocumented Migrants (PICUM) in Brussels.

Henri Courau is Lecturer of social anthropology in the Institut de Formation et d'Aide aux Initiatives de Développement (IFAID), and the *Aide Humanitaire* Bourgogne University of Dijon, and researcher in the IRD (Institut de Recherche pour le Développement). He is a social anthropologist with special interest in the investigation of undocumented migrants.

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## LIST OF ABBREVIATIONS

Adn : Acide désoxyribonucléique  
 AGDREF : Application de gestion des dossiers des ressortissants étrangers en France  
 AME : aide médicale d'état  
 ANAFE : Association Nationale d'Assistance aux Frontières pour les Etrangers  
 APRF : arrêté préfectoral de reconduite à la frontière  
 BTP : bâtiment travaux publics  
 CADA : centre d'accueil pour demandeurs d'asile  
 CICI : comité interministériel de contrôle de l'immigration  
 CNAMTS : Caisse nationale d'assurance maladie des travailleurs salariés  
 CNCDDH : Commission nationale consultative des droits de l'homme  
 CNDS : Commission nationale de déontologie de la sécurité  
 CNIL : commission nationale informatique et liberté  
 CNIS : Conseil national de l'information statistique  
 CRA : centre de rétention administrative  
 CRR : commission de recours des réfugiés  
 DASS : Direction des Affaires Sanitaires et Sociales  
 DCPAF : direction centrale de la police aux frontières  
 DILTI : Délégation interministérielle à la lutte contre le travail illégal  
 ELOI : fichier des étrangers en instance d'éloignement  
 ESI : étrangers en situation irrégulière  
 GISTI : groupe d'intervention et de soutien aux travailleurs immigrés  
 IGAS : inspection générale des affaires sociales  
 INED : institut national d'études démographiques  
 INSEE : institut national de statistiques  
 MMI : mineur migrant isolé  
 OFPRA : office français de protection des réfugiés et apatrides  
 ONG : organisation non gouvernementale  
 TGV : train grande vitesse  
 Tns-sofres : Etudes marketing etudes de marché sondages d'opinion  
 UE : union européenne  
 Visabio : visa-biométrique  
 VTA : visa de transit aéroportuaire

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## **PART I: Understanding Irregular Immigration in France<sup>1</sup>**

### **Introduction**

This report aims to examine the phenomenon of undocumented migration - also referred to as irregular migration, illegal, clandestine or unauthorized - with regard to the 'stocks'<sup>2</sup> and the flows in metropolitan France. Similarly, it intends to study the administrative control mechanisms that may lead to the generation of foreigners in an irregular situation. Thus, we shall show that irregular migrants cannot be considered to be a homogenous group as they differ according to various categories: asylum seekers that were rejected, visas that expired, clandestine arrivals, etc. We shall see how the only possible analysis of this population is limited to the study of indicators whose contrasting evolution renders any interpretation difficult.

This report is based on a range of secondary sources and interviews with experts on irregular migration. The essence of these figures, of the interviews, and of the various documents is presented throughout the text. The bibliographical references can be found at the very end.

### **1. Framework of Migration**

In France, according to the definition of the (High Council Of Integration (Haut Conseil à l'Intégration), an immigrant is a person that is foreign born, abroad, and entered France this way with the intention to establish him/herself on French soil for a long-lasting period.

According to Michèle Tribalat - a demographic researcher at the National Institute of Demographic Studies (l'Institut national d'études démographiques - INED) in 1999 almost 14 million French citizens (=23% of the population) had a parent or a grandparent that had immigrated.

#### **1.1. Contextualization of the Migratory Phenomenon**

In March 1999, France had 60 million inhabitants, of which 26,5 million were economically active:

- a) 23,8 million people were born French (89.7%)
- b) 1,1 million people acquired French citizenship (4,3%)
- c) 1,6 million foreigners, i.e. 6%

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<sup>1</sup> Certain terms and expressions are difficult to translate from French to English while keeping their exact meaning. Some terms are often used with some ambivalence in either language. For this reason, we would like to note here how specific terms have been translated: *interpellation* = arrest ; *expulsion* = deportation ; *mesures d'éloignement, mesures de reconduite à la frontière* = deportation procedures, removal procedures ; *mesures, arrêtés préfectoraux de reconduite à la frontière* = deportation orders (issued by the Prefecture) ; *refoulement à la frontière* = refusal of entry ; *placement en centre de rétention administrative* = to be placed in custody (or in an administrative detention centre); *zones d'attente, centres d'enfermement* = detention centres, detention camps, waiting zones, holding centres.

<sup>2</sup> We use the term 'stock' in accordance to the Call For Expert of this research project, although it is entirely mediocre and unfit to refer to a population of human beings.

Amidst the economically active population that was employed (23,1 million) there were 20,9 million French by birth, 0.9 million French by acquisition, and 1,2 million foreigners. These figures indicate there was an unemployment rate amongst the foreigners of 20,8%.

Mid 2004, metropolitan France reached 4,9 million immigrants according to the national institute of statistics (INSEE) – i.e. 760 000 more than in 1999, and 8.1% of the total population. Of these, 40% had the French nationality, which they had been able to acquire through naturalization or through marriage.

In March 2005, the French population was deemed to be close to 63 million people, of which 94,2% were French : 91% of these were born in France and French at birth or by acquisition, while 3,2% (2 million) were born outside of France and became French by acquisition. There were also 5,8% of foreigners (3,6 million people), of which 3 million were born outside of France (4,9%) and 0.6 million were born in France (0,9%). Thus, there were about 5 million immigrants – 8.1% of the total population.

**Table 1** – *New Immigrants from Outside Europe*

Year	2000	2001	2002	2003	2004	2005
Number	97 083	106 656	123 477	135 395	-	134 800

Immigration towards France is currently mainly of African origin (the Maghreb and Black Africa). 1,5 million immigrants - i.e. 31% of the immigrants and 2,4% of the total population - originate from the Maghreb (see Blanchard & Bancel, 1998). 570 000 immigrants, i.e. 12% of the immigrants and less than 1% of the total population, come from sub-Saharan Africa. This number increased by 45% with respect to 1999. 2 Africans out of 3 come from historical French colonies (75 000 originating from the Ivory Coast). Note however, that of the 15 million Sub-Saharan Africans who live outside of their country of origin, merely 1 out of 30 goes to France. Yet, this number has also increased by 220 000 with respect to 1999.

Of the 210 075 immigrants that arrived in 2004 (source: INSEE):

- 100 567 came from Africa,
- 64 597 from Europe,
- 29 310 from Asia,
- 15 545 from America and Oceania

The origins of the migrants are rapidly changing: whereas 5 years ago slightly more than half of the migrants came from Africa, now close to two thirds come from Africa, in particular from Algeria and Morocco. The main countries of origin of immigrants that are headed towards France remain Algeria, Morocco and the historical French colonies in Africa.

1,7 million immigrants - i.e. 35% of the immigrants and 2,7% of the total population – came from one of the countries of the EU25. The progressive decline in the number of Italian, Spanish or Polish immigrants is compensated by the arrival of immigrants from other countries, most notably the UK. The number of Portuguese



immigrants is stable with respect to 1999. The migrants originating from European non-EU countries, at 250 000, are also growing significantly.

830 000 people - i.e. 17% of the immigrants and 1,3% of the total population - come from the rest of the world, and then mainly from Asia. Asian countries, including Turkey, provide 14% of the immigrant population, a figure that amounted to 12,7% in 1999, and to a mere 3,6% in 1975.

## **1.2. Means, Methods and Plans of Irregular Immigration**

Since November 2, 1945 – the day that France introduced migration controls/regulations – a foreigner must meet several requirements to be able to enter and stay in France. Not all foreigners comply with these draconian demands and thus irregular immigration occurs. These could be foreigners that trespass the borders clandestinely, or that enter regularly but then do not ever intend to leave, or also whose asylum applications have been denied.

The various types of irregular immigration that follow below are not classified in a hierarchical order.

The first way to enter a country clandestinely is to cross the borders without the necessary documents: passport and visas. There are various ways to go about this journey: either by land, by sea or by plane. The majority of the irregular migrants that come to France by land come from Italy or Spain. Their goal is either to remain in France (asylum application or informal employment) or to continue on towards the North of Europe or the UK (transit).

Expired or misused visas or residence permits are another way to enter France clandestinely, although the granting of these visas is becoming more and more rigorous, both from an administrative as well as from a financial point of view (Cf. VISABIO). The same goes for marriages of convenience (as we shall see later).

As far as the plans/projects of the irregular migrants, it would be a delicate and dangerous matter to try and classify them as that would remove the intrinsic aspects of individuality of their intentions:

- to change life, travel, visit and settle in a new country
- to transit towards another country
- to get cured/medical care
- to reunite with the family
- to find protection (temporary or permanent)
- to finish studies before returning to the home country
- to find a job and send money home (before returning or not)

In this respect, it must be pointed out that (in comparison to the 104 billion dollars that were distributed in 2006 by the 22 countries of the OECD under the Help for Development Committee (Comité d'Aide au Développement) remittances - a term that describes the amount of financial transfers made by foreigners from the hosting country to their country of origin – are estimated to have reached 300 billion dollars in 2006 on a global scale.

### 1.3. Main Points of Entry of Irregular Immigration into the Territory of France

The main access point for irregular migrants wanting to come into France is the border. There are the terrestrial borders, where the undocumented migrants coming from the South of Europe tend to pass, and the airports of Paris. As far as the irregular migrants who are in transit, they mostly head towards the UK or the north of Europe. To get to the UK, they go to the Atlantic coast, from where they then attempt to cross the channel clandestinely by getting on to a ferry or the train. For Northern Europe, unauthorized migrants travel by train or by road, avoiding check points (for information on part of the journey from Sahel to Europe, cf. BENSAAD 2002)

#### The Border. Confinement in ‘Waiting Zones’: Definition and People Concerned

‘Waiting Zones’ are governmental premises or fall under its supervision. They are located in airports, ports (or close to debarkation areas), or in railway stations that handle international lines.

#### People Concerned

- a foreign national that is not authorized to enter French territory
- a foreign national that applies for asylum to be admitted to France
- a foreign national in transit if the transport company refuses to embark him/her towards another country of destination or if the authorities of the country of destination have denied him/her access and sent him/her back to France

#### Reasons for Confinement in ‘Waiting Zones’

The containment in ‘waiting zones’ is decided upon by the government:

- Purely during the time that is necessary until the departure of the foreigner, when:
  - \* No means of transport is instantly available to proceed with his/her deportation
  - \* He/she has no documentation to prove his/her identity or nationality
- If one requests asylum at the border, purely during the time that is necessary to examine if the request is not manifestly unfounded.

#### Length of Confinement in ‘Waiting Zones’

The confinement in ‘waiting zones’ is called upon by the government for a maximum of 4 days. Confinement in ‘waiting zones’ beyond this 4 day delay can only be decided upon by the *Juge des libertés et de la détention*.<sup>3</sup> This latter can authorize the prolongation of the confinement in ‘waiting zones’ for a maximum length of 8 days. Beyond these 12 days (4+8), only in exceptional cases or in the case the foreigner has deliberately shown not to intend to leave, the judge can decide to renew the measure for a period of time that cannot, once again, go beyond 8 days. In total, the length of stay in a ‘waiting zone’ cannot, in principle, last longer than 20 days.

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<sup>3</sup> The judge of ‘freedoms and detention’ is a special type of judge that exists only in France and who decides specifically on issues of detention of irregular entrants. The purpose of establishing this figure has been to comply with the requirements of the European Convention for Human Rights and to ensure that the human rights of the people detained are respected.

#### 1.4. Main Nationalities and Their Potential Links with the Hosting Country

Whereas it remains difficult to come up with a list of reasons that push individuals to migrate to a certain region in the world, one can still come up with several explanatory reasons (Courau, 2007). At a time of intense communication flows and satellite tv, the creation and the transportation of an *Epinal* image of Europe by the media seems to have a significant impact. Besides, diasporas also serve to convey the image of this Eldorado to those that remained behind in the country of origin. Fatou Diome' (2003) – an author who is originally from Senegal – shows the attractions of France in his book 'le ventre de l'Atlantique' (the belly of the Atlantic). Salie, a young woman from Senegal attempts to explain to her brother how his vision of the *Promised Land* is erroneous, yet the desire of the young boy to go there remains equally strong. A colonial past also affects certain migratory choices, tying preferential choices in with history. Ease of language, cultural connections, better/greater transportation towards these regions, but also the presence of organized national networks allow for enhanced understanding of the contemporary mechanisms and modalities of such preferential migration and the imprint of the old colonial powers on the colonized population (Blanchard et Blancel, 1998). Such a preferential orientation, or reverse migration, drains nationals from the ancient colonies towards the big metropolises: from the Maghreb and francophone Africa towards France, from the Commonwealth towards the UK, from Portuguese-speaking countries towards Portugal. Nowadays, similar cultural and historical connections also cause Russian-speaking people from the former communist bloc to go to Russia.

The main nationalities of irregular migrants in France thus spring from these categories. Yet the irregular migrants of Chinese origin also represent a growing population that is not tied to a colonial history with France but rather to the presence of a significant number of Chinese that facilitates the arrival of new migrants.

##### Nearby European Immigration

The enlargement of the European Union and the establishment of the principle of free movement have served to mobilize capital, allowing it to free itself of social and human regulations and obtain immediate profits. The mobility of people is different even though human regulations have also been enfranchised. In effect, the arrival and settlement of East European workers in extremely precarious conditions raises the issue of the construction of a Europe of work. Ghettos of Rom workers are establishing themselves in the surroundings of Paris. For example, the Bulgarian Roms that escaped from the ghettos in their own country now find themselves working in France for employers that are eager for dutiful and silent labor forces.

## 1.5. Pathways In and Out of Irregularity

One becomes irregular either voluntarily or involuntarily. Voluntarily is when a person decides to leave their country of origin, for whatever reason. Involuntarily is when the documents are no longer valid, which leads to the rubbing out of one's civil and public life.

A person is in an irregular situation in France as far as regards entry into France if:

- entry is conducted without the necessary documents
- the French authorities refused access but the person came in anyway
- a person entered France while he/she had been forbidden entry or expelled

With regard to residence in France if:

- a person stays in France without a valid residence permit
- the validity of the permit has expired

With regard to work:

- if a person works without prior authorization

What do people in an irregular situation risk?

- a conviction by the courts to be imprisoned and/or a fined
- to be subjected to a notice of expulsion. In this case, the person appears in a database that is consulted by the consulates for visa demands and any future applications highly risk to be refused.

By what means do we discover someone is in an irregular situation?

- at the prefecture (application for the renewal of a residence permit that has expired)
- with a denunciation
- during identity checks
- when the police inquires flagrant crimes: drugs, theft, etc.
- when requesting a marriage license at Town Hall.

Getting out of an irregular situation is the intention of most of the foreigners that find themselves in an irregular situation, but it is also, and especially, a labyrinth of administrative procedures and of risks of expulsion.

### 1.5.1. Regularizations

As we shall see, the numbers of the regularizations of irregular foreigners are not proportional to the efforts that are made to fight clandestine immigration.

The regularizations schemes that are periodically implemented in European countries give an idea of the extent of the irregular population that is present in the countries as these schemes quickly mobilize those who are interested. (Héran, 2004)

In 1982, France regularized some 150 000 migrants. In 1997-1998, France accepted about 80 to 90 000 applications out of 130 000 (not counting the applications that were submitted twice). A mistake that should be avoided would be to add these figures of stocks to the figures of flows. For both regularization schemes, in fact, it turned out that the length of stay of the irregular migrants covered about a decade,

which means these numbers should be added to the migratory balance of the past 10 years - that is, an annual increase of 13 000 migrants. Compared to the provisional balance that was estimated by the Insee (50 000 in an average year) it changes by a 25% increase. A significant remediation, without a doubt, which can be raised even more to set one's mind at rest, but which does not alter the extent of immigration, which remains mostly regular (Héran, 2004).

During 1997, 1998, and 1999, the government of Lionel Jospin (left) proceeded with the regularization of about 80 000 irregular foreigners. At the time, the government announced a 'regularization of the *sans-papiers*', yet in reality it turned out to be a 'regularization of the *sans-papiers* that had applied for them'.

In 2006 there was a small regularization scheme by Sarkozy: 30 000 files were submitted and the minister of interior at the time announced that about 6 000 people would be regularized by the end of this scheme (6924 were, only parents, no families), while the applicants that had been dismissed would be sent back.

A few months ago (spring 2008), massive strikes by irregular foreigners became newspaper headlines. This newly arising movement in France - which started on April 15, 2008 - in the catering, construction, and cleaning sectors in the Parisian area, has not stopped growing stronger ever since. Trade unions and associations warned they would continue until the promises of regularization would be met. The associations, the trade unions, and the informal workers defenders' claim they find themselves in an absurd juridical state. Despite the fact that they are residing on French soil irregularly, some of these employees are registered, they pay taxes, and their employers pay contributions for them. Yet, they do not benefit from any labor common law. The defenders also denounce the fact that there is an inconsistency between the migration policies that deny informal workers their documents, whereas the sectors in which they work are in serious need of labor forces. A few weeks after this movement of strikes started, which mobilized several hundreds of informal foreign workers, 10% of the 1000 files that had been submitted had been examined by the prefectures. This resulted in merely 85 regularizations, which, at the most, obtained a renewable permit for a year.

### Permanent Regularization

Automatic regularization of irregular migrants after 10 years of residence applied in France until May 2006. This mechanism followed the same logic as the taxation decree. Regarding migration, there was nothing of the sort before 1998. It was then decided that if a migrant had resided in France for more than 10 years, if he was ill or if he had children that were born in France, he/she would automatically be regularized. This meant there were more than 25 000 people<sup>4</sup> that had to be regularized each year (law 1998). Proving one's stay however turned out to be hard to do, especially as there were certain legal conditions that needed to be met: the presence of the foreigner could not constitute a threat to public order, nor could he/she be in a polygamous situation. The national assembly eliminated this automatic regularization of 10-year long unauthorized foreigners in May 2006 with the implementation of the Sarkozy law on migration.

Nevertheless, the main argument not to give residence permits to workers *sans-papiers* or with false documents maintains a persuasive stronghold: regularizing an irregular situation, in a way, is like recognizing that rules are there to be broken. It

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<sup>4</sup> Permanent regularization is now over.

is thus - according to the, by now, time honored expression - ‘encouraging new clandestine migrants’, which, in a broader sense, shows the French people that it is not necessary to respect the laws of the Republic (Herland, 2008). Is the rule of law in France such that we are able send out this kind of signal? Everyone will judge this in line with the importance that he/she attributes to the idea of living in a well ordered society.

### *1.5.2. Other Means to Get Out of Irregularity*

#### Opportunities for Employment (Adjustment since 2006)

Article 40 of the Hortefeux law (minister of Immigration, Integration, National Identity and Development in Solidarity – right) of November 20, 2007, modified the foreigners’ code of entry and residence and the right to asylum (CESEDA), allowing for irregular foreigners to be admitted only and exceptionally if they were exerting a ‘tense’ profession.

A series of documents emanating from the departmental directions of labor, of employment and of professional training thus promises documents to foreign nationals without residence permits, provided they have an employment, or even just a job offer. In the region of Seine-Saint-Denis (near Paris), a document thereby invites the irregular migrants to ‘present themselves to the prefecture of Bobigny or the sub-prefecture of Raincy with a job offer’, in exchange of which the government would grant them their permits<sup>5</sup>.

#### Reception of Foreigners (Adjustment since 2006)

The law provides the creation of a ‘competence and talent card’, granted to those foreigners that can provide a high-levelled professional experience. This card is valid for 3 years and is renewable. In addition, every foreigner that is admitted to reside in France for the first time or that has entered France regularly between the age of 16 and 18 needs to sign a ‘reception and integration contract’. This contract makes provisions for civic training and, if necessary, language education.

#### Family Reunion (Adjustment since 2006)

The conditions for family reunion have tightened: a foreigner can ask to be reunited with his family after 18 months of regular residence (instead of 12 months, as it was before). Additionally, he/she needs to comply with 3 requirements: earn a minimum income in accordance with the SMIC (excluding social benefits); he/she must dispose of a residence that is considered normal compared to a family that lives in the same geographical region of France; and he/she must conform with the fundamental principles that are recognized by the laws of the Republic.

#### Mixed Marriages (Adjustment since 2006)

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<sup>5</sup> It can be used by ESI to get papers if they have a job offer ; but, on the other hand this is also a good way to catch the ESI.

A foreigner or a stateless person married to a spouse of French nationality can receive a residence card after 3 years of marriage and continuous cohabitation in France (instead of 2 years, as it used to be). To acquire the French nationality, the length of the marriage and of the continuous cohabitation went from 2 to 4 years.

### 1.6. Issuance and expiry of visas

Another way to count the irregular migrants in France is to look at the visas that were issued and expired. However, there is no precise counting method. Yet, for the irregular Algerian population on French territory, for example, the only way to evaluate the number of unauthorized migrants in France in a systematic manner is to look at the number of those that did not return to Algeria after their visa expired. These represent the majority (close to 80%) of the undocumented migrants as other ways to enter illicitly are drying up (airport transit visa, asylum, and family reunion).

To be able to deal with this gap, the Fillon government (right) anticipates the deployment of the VISABIO system (biometric visa / database that all services responsible for the control of immigration can consult) during the year 2008. VISABIO is the French component of the VIS (Visa Information System), which will come to be the largest biometric database in the world that aims to centralize the photographs and digital fingerprints of the 10 fingers of anybody that asks for a visa in the EU. In the end, this database will be able to identify and categorize close to a 100 million people. The system will also allow a certain set of other national, European, and international databases to be consulted. Data will be stored in this system for 5 years, and will be accessible by police forces, the gendarmerie and customs, so as to be able to control at the border as well as for the 'identification of foreigners on the national territory'. Before VISABIO is introduced, the conditions to obtain entry visas for France are made more and more stringent. The deliverance of a reception certificate (which is necessary to apply for a visa) must be able to rely on checks of the assets and the housing conditions, because the number of these certificates (for the classic visa of 3 months) went from 150 000 in 1998 to 700 000 in 2002 (Report on the law concerning the control of immigration and of the stay of foreigners; Mariani, 2004)

Two examples allow us to see that the introduction of VISABIO pursues various objectives. The citations were taken from the websites of the embassies concerned:

Presentation of VISABIO to the French embassy in Oman<sup>6</sup>:

“The introduction of biometry for visas has the aim to improve our tools to struggle against irregular immigration by reinforcing control at the borders and on the national territory. Rather than it being an obstacle to movement, this procedure favors the circulation of people between the Schengen countries and other countries, of those people that have the good faith to abide by the obligation to obtain a visa.

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<sup>6</sup> Country that does not supply irregular migration to France

By identifying the identity of visa carriers, this procedure facilitates the return of irregular migrants to their country of origin and will allow a better prevention of terrorist acts.”

Presentation of VISABIO at the French embassy in Turkey<sup>7</sup>:

“What are the advantages of switching to biometry?

- More security. The shift to biometry will facilitate the identification of visa owners and will protect them against identity theft or document fraud.
- Faster control upon entry into European territory.
- Easier circulation within the Schengen area: by securing the identification of the people, biometry will make it possible to grant someone (long term) circulation visas more easily, which will be valid for more years (within the limits of the validity of the passport), and, when departing, it will be easier to exchange and to move.”

**Table 15:** *Statistics Concerning the Issuance of Visas*

	2001 – part of total issued	2002 – part of total issued	2003 – part of total issued	Change 2001 / 2003
Total Applications	2 913 202	3 044 004	2 508 052	- 13%
Total Issuance	2 125 055	2 036 282	2 024 179	- 4,7%
Schengen Visas (90 days including diplomatic visas)	1 944 940 91,53%	1 848 688 90,8%	1 850 463 91,41%	- 4,8% + 9,5%
National visas: Long term visas	131 161 6,17%	143 289 7,03%	133 791 6,6%	+ 2%
Of which students	57 883 2,72%	65 017 3,19%	69 568 3,43%	+ 20,18%
French overseas departments & territories Visa	36 220 1,7%	33 647 1,65%	34 254 1,69%	- 5,42%
Third Country Visas	12 734 0,6%	10 658 0,52%	5 671 0,28%	- 55,46%

<sup>7</sup> Country that does supply irregular migration to France



## 2. Discourse and Policies in Relation to Irregular Migration

### 2.1. How is the Topic of Regular and Irregular Immigration Perceived?

A study of 2007 conducted by the institute TNS-SOFRES (Sarah Basset, 2007) gives a first impression of the opinion of the French with regard to immigration and clandestine immigration. The way they perceive irregular immigration is related to the way in which they perceive regular immigration. They both feed themselves and each other with the massive arrivals or the deaths of irregular migrants at the gates of Europe.

However, public opinion is spoiled by fearful and erroneous images of a flood of irregular migrants, of an invasion, and of a form of religious fundamentalism that allegedly aims to insidiously convert the French population. Notwithstanding, public opinion about this issue remains divided. Concerning immigration, 46% of the French population trusts the Prime Minister François Fillon (right) to implement a suitable policy, while 45% of the population does not. As far as the principal problems associated with immigration, religious fundamentalism represents a problematic issue for 45% of the population; 36% of the people consider unauthorized immigration to be a problem; and 16% believes the integration of migrants appears to be a difficult process.

However it may be, for a quarter of the French people immigration is either an advantage or a threat, but for one French person out of two it is neither one nor the other.

**Table 2 – Public Opinion on Immigration**

	In General	For Culture	For the Economy	For the Identity
Immigration is an Advantage	25%	42%	30%	26%
Immigration is a Threat	24%	22%	29%	28%
Immigration is Neither an Opportunity Nor a Threat	44%	32%	35%	40%

*Source: Tns-Sofres*

In the end, it is with regard to culture that the advantages of immigration are most visible, as 42% of the people that were interrogated upon this issue deemed it to be an advantage, whereas concerning the economy only 30% thought it was an advantage.

Since Nicolas Sarkozy got to power, immigration and identity are intrinsically tied, and not only from a semantic point of view. The ministry of immigration is also the one of national identity. In this regard, 40% of the French believes that immigration is neither an opportunity nor a threat. Instead, 28% of the French population perceive it to be a threat and 26% believe it is an advantage.

According to the same study by the TNS-SOFRES, problems are especially associated to the concentration of migrants in specific neighborhoods or in certain suburbs and the creation of ghettos and concentrated poverty zones (68%), as well as to irregular immigration (66%).

**Table 3:** *The Elements that Can Transform Immigration into a Problem Are:*

The concentration of migrants in specific neighborhoods	68%
Irregular immigration	66%
Unemployment and economic deficiency	45%
That they are too numerous	42%
The differences of religion and ways of life	35% and 31%

*Source:* Tns-Sofres

When asking the French people about the migration policies they would like to see implemented, they show enthusiasm for 2 very diverse types of measures: to favor the development of the countries of origin (79%) and to regularize the irregular migrants that have set up their lives in France (75%).

Other policies appear to get less support: 40% believes further entry of new migrants into France should be hampered, 40% deems quotas must be set for each of the countries of origin of the migrants that come to France, and another 40% believes economic migration should be encouraged while family reunion should be impeded.

Finally, the least popular policies are deportation, and especially, opening up the borders: 27% of the French people wishes to send a large number of migrants back to their country, and 16% would like to see the borders of France to be more open than they are at present.

**Table 4:** *Public Opinion on Border Management*

Encourage the development of the countries of origin	79%
Regularize the irregular migrants that have set up their lives in France	75%
Obstruct the entrance of new migrants	40%
Favor economic immigration	40%
Slow down family reunification	40%
Favor deportation	27%
Open the French border even more	16%

## 2.2. How is Informal Work / Employment of Foreigners without Working Permits Tolerated?

Along with refoulements and expulsions, the fight against informal labor is a crucial condition for public forces to pursue policies that control the migratory flows and struggle against irregular migration. So as to be able to improve the instruments that are used throughout this struggle, the legislative organ has made the penalties more severe and increased the procedural means that are at the disposal of the controlling services.

Whether one is an irregular foreigner or an asylum seeker, it is not possible to obtain the authorization to work. Besides - since the law of July 24, 2006 - the employers are obliged to verify that their employees (or future employees) are in possession of a working permit. Nonetheless, whether one is irregular or an asylum seeker, these situations compel people to make a living, and thus to work, but then to work 'under the table'. Hence, informal work implies the absence of any social coverage, a precarious status, and the impossibility to make any demands or to turn against his/her employer if one were not to be paid.

Be that as it may, finding a job is not the most difficult challenge that irregular migrants are facing. Certain activity sectors are always looking for them: construction, public works, catering, the hotel business, the clothing industry, and personal services. Recruitment occurs easily, on the one hand because these sectors do not find the personnel to fill these often strenuous and underpaid vacancies, and on the other hand because these highly competitive sectors employers are seeking flexible workers that do not fuss about the working conditions and the salary.

The means of repression attack both the employers as well as the employees. The Border Police (PAF – Police aux Frontières) has accused 1 676 employers in 2003, 1 025 in 2004 and 1 442 in 2005, amongst which 1,94% were irregular foreigners. Concerning the employees, the PAF accused 1 642 persons in 2003, 1 204 in 2004, and 2 653 in 2005, of which 40,48% were irregular foreigners. As was to be suspected, the number of irregular employers is relatively meager compared to the number of employees. In 2007, 30 000 controls took place, which led to almost 900 employers that were hiring workers *sans papiers* to be arrested, as well as more than a 1000 foreign employees that did not have a working permit.

Regardless of the arsenal of repressive measures and the inspections, working 'under the table' and employment of irregular migrants is going pretty well and the current situation of the French economy even foresees an increase of this kind of practice. According to the association GISTI (Groupement d'Intervention et de Soutien aux Travailleurs Immigrés – Intervention and Support Group for Immigrated Workers), the state itself, being the prime national employer, indirectly resorts to informal workers. By organizing calls for tenders for the main construction sites it is favoring the employment of undocumented workers by the subcontracting companies (the Atlantic TGV, the tram of Bordeaux, the François Mitterrand Library, the Tunnel crossing the Channel, the Grande Arche de la Défense).

Finally, it must be noted that the combination of rightful working regulations, successive subcontracting, and other provisions of services makes it very difficult to

carry out checks. In the end, numerous companies employ undocumented foreigners (voluntarily or not), but it is always those at the bottom of the chain that get caught.

### **2.3. Concerns Related to Irregular Immigration in the Scientific Field: Biometry and Camps**

#### Use of Biometry

French scientific experts are especially concerned about the treatment of irregular migrants at the borders or in the retention zones. With the introduction of the ELOI<sup>8</sup> database and the development of biometry in the procedures of control, what is taking place is truly a filing - an enumeration of the foreigner's body - under the pretext that it is national integrity or the threat to security that needs to be protected. The use of biometry keeps extending: visa applicants, but, according to the French researcher Meryem Marzouki, soon also the applicants of residence permits, the irregular foreigners, and – since the adoption of the new law on immigration – the people that received a repatriation grant. In this attempt to rationalize procedures, resorting to biometry risks to be extended to all practices related to foreigners. On the other hand, the figures of the databases risk to be intermixed and centralized in the VISABIO database. Thus, the entire journey of the foreigner from his/her country of origin to the county of destination could be bio-controlled. Meryem Marzouki therefore talks about bio-police; the obsession with permanent and infallible control is occurring on a large scale: by the reification of bodies to better label, control, and select them. Bio-police of foreigners is industrializing, just like their expulsion has been industrialized with the ELOI database. We shall return to this important issue in part III.

#### Multiplication of the “Camp-Forms” and Holding Centers

Among the objectives displayed by the policies of the European Union, the struggle against irregular immigration and the control of the flows of refugees figures most prominently. In the current political discourse, these refugees - formerly seen as victims in need of assistance – become potential threats to security. In the pursuit of these goals of ‘control’ and ‘struggle’, the European Union has come to multiply the devices for the relocation of foreigners both within its frontiers as well as with its neighbors (Caloz-Tschopp, 2004).

If Sangatte<sup>9</sup> no longer exists and there will never be another Sangatte (COURAU, 2007), the judicial-humanitarian devices that had at that time been put into place to face an exceptional situation are now used as a point of reference to describe these holding centers. The main effect of the magnitude of Sangatte has been that the name itself has now become eponymous for these kinds of locations. Since its

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<sup>8</sup> This database – which has been named Eloi (as in éloignement = distancing/expulsion) – gathers the ‘personal data of foreigners that have been subjected to expulsion procedures’ so as to allow ‘the follow-up and implementation’ of these expulsion procedures; Cf. III 3.3.3.

<sup>9</sup> From Summer 1999 to the end of 2002, over 76 000 foreigners without proper travel documents passed through a French Red Cross-managed humanitarian emergency unit in Sangatte, northern France. This gate, on the Channel sand, portrays a sort of open camp managing on a daily basis a situation of exception : the repeated traffic of people in search of asylum, for whom France is just a transition in their journey.

closure in 2002, the installation of establishments that receive a similar population are now portrayed in the media under the titles: ‘a second Sangatte’, ‘a new Sangatte’. The same semantic construction is used to qualify the camps that are turning up on the borders of Europe, a succession of ‘mini Sangatte’. Sangatte, by its form and by the populations that it received, thus appears to be a sort of beta-version of the new range of locations that are reserved for foreigners who are not admitted onto the territory.

Once gathered in these camps, the foreigners represent a floating population for the States, devoid of a normal order, twisting the ensemble of norms and rights. If the focus of socialization is on relational issues, in the case of these camps such as the one of Sangatte, these relational issues require the declination of otherness as well as a questioning of humanity. To be more precise, one needs to wonder about the mechanical management of human relationships such as those emerging within these camps that receive refugees or irregular foreigners. Claire Rodier from the GISTI association considers these camps as tools that are related to the application of the migratory policies (Rodier, 2003; and Rodier & Blanchard, 2003)

#### **2.4. The deflection of the responsibility of centre Schengen Countries to guard EU borders to surrounding Countries.**

Today, the struggle against irregular immigration constitutes one of the priorities of the policies of the countries of the European Union. Political Europe has a particular way of handling its current efforts to multiply the devices of forced relocation of exiles, whether they are asylum seekers, refugees, *sans-papiers*, or irregular...European states do not hesitate to delegate the task of guarding their borders to the neighboring countries of the Schengen area. Hence, for example, the evolution of European migration policies is relying more and more on the countries of the Maghreb. By way of cooperation, Europe is imposing upon these countries the subcontracting of surveillance tasks, of dissuasion, and of eviction of migrants, as has been witnessed at the end of 2005 with the events in Ceuta and Melilla.

This externalizing project of procedures seems to be an idea that started in 2003 in England<sup>10</sup>. Today, it appears to have been abandoned, or at least notably modified. This project consisted of the creation of camps of ‘immigration gateways’ in the bordering countries of the Schengen area so as to avoid the influx of irregular migrants. These projects of filtering-camps were still being debated at the end of 2005 and fed numerous polemics, as this was truly a way for the Union to ‘keep’ or to ‘expel’ individuals by stocking and selecting them outside of their borders. Thus, these adjacent countries became areas of advanced experimentation with the logics of repression and confinement of those that attempt to escape towards Europe. The project seems to have failed, although there are stories (without any verifiable sources

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<sup>10</sup> According to a declaration that dates back to 9 March 2004 of the press agency Belga, the British authorities intended to propose the establishment of confinement camps in Albania to the European Union to transfer the immigrants that requested asylum in Great Britain to. The asylum applicants would be sent to these retention centers in Albania by plane during the time that their files would be examined. “*We want to dissuade the asylum applicants to come to Great Britain and we would like to install a center for that in Albania*” is what a British governmental official explained according to the Sunday Telegraph. “*We would prefer for this to be part of a plan of the European Union to which everybody contributes, but we are ready to do it on our own if it is necessary*”, he added. According to the same newspaper, Albania – the poorest European country – would be happy to accept the lodging of asylum applicants in exchange for financial help. Cf. Sunday Telegraph, 7 March 2004.

at the moment) coming from Libya that seem to indicate that there are similar projects in operation there.

## 2.5. Political Responses to Irregular Immigration

### Establishment of a Migration Police Force

In January 2006, the PAF had 8164 employees – that is an increase of 900 officers since 2001. By the beginning of 2007, it had reached 8964 officers. On the site of the airport of Roissy there has been a 25% increase in their personnel: from 1356 public officials in 2002 it went to 1689 in 2006.

Since 2005, the French government introduced a migration police force (decree of August 23, 2005), the aim of which is to serve the control policy of the migratory flows, and is entirely dedicated to the struggle against irregular immigration. The members of this police force are active in the domain of border controls, in the struggle against irregular immigration, as well as in the expulsion of irregular foreigners that have been arrested in France. Likewise, the migration police force has a mandate to fight informal employment of foreigners. It coordinates the struggle against all forms of organized irregular immigration, and executes the deportation of unauthorized foreigners. In addition, it is in charge of the analysis of the migratory stocks and flows. Finally, the government has made it responsible for the optimization of the tools that are used to detect false traveling documents. It is partially assisted by the OCRIEST (l'office central pour la répression de l'immigration irrégulière et l'emploi d'étrangers sans titre = central office for the repression of irregular migration and the employment of undocumented foreigners) and the railway brigade, which assures the surveillance of transnational controls more specifically - especially cross-channel – as well as the flows of irregular migration that travel by rail. Its coordinating mission is guaranteed on a national level by the unit of the coordination of the struggle against irregular immigration (UCOLII - l'unité de coordination de la lutte contre l'immigration irrégulière), and on a local level by the unit of operational zoning coordination (CCOZ - cellule de coordination opérationnelle zonale).

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As we have seen in this first part, the methods to count the irregular foreigners are obviously not yet finalized at the moment. The phenomenon of irregular migration is gaining strength, or at least it is more and more known by the general population and picked up by the mass media that are greedy for these kinds of events. This same population admits its feelings are divided about these irregular migrants. The term itself refers to very diverse cases of irregularity: the child that is in school, the youngster that wants to go to the UK, the worker that sends money back to his/her family in his/her home country, and, finally, those that are accused to belong to unauthorized terrorist networks. For its part, the French state multiplies the repressive measures against irregular migrants as well as their smugglers and employers, and introduces a migration police force - a way of criminalizing the fact of migration in itself.

## **PART II: Estimates, Figures, and Analysis of the Size and the Composition of the Irregular Population**

This part will deliver several analyses of the calculating methods and of the estimates of the size of the population of undocumented foreigners in France. It is not possible to talk about proper methods of headcount of the irregular migrants (Xavier, 2008; Delaunay & Tapinos, 1998). The estimates are often based on ‘by default’ or ‘by subtraction’ calculations, and even when the figures do exist, they are not always reliable or comparable to those of other countries. It would also be a good idea to put the numbers published by governmental institutions into perspective in view of the fact that when they seek to present a quantification of the irregular population, they also tend to justify the work that has been accomplished by these very same institutions.

### **Introduction**

As there is no precise estimate of the undocumented population, irregular immigration must be understood from two aspects, which are their entry and their stay, most commonly referred to as flow and stock. Nonetheless, these 2 aspects can also be considered as 2 stages of a single journey since the foreigner is part of a flow before it becomes part of a stock.

- Stay (*cf.* part II.2)

It is the irregular stay that is subject to the largest number of preventive actions and struggles, especially as far as irregular entry and informal employment are concerned. Several indicators allow for an identification of the significance of the population of undocumented foreigners that are staying unauthorized: rejected asylum applications; interpellations; legislative infractions; placement in retention; non executed deportations; state medical aid – detail of which is provided in part II.2.

- Flows (*cf.* part II.3)

In France, the flow stage is considered to be a ‘migratory pressure’ exerted on the borders. It is possible to evaluate this flow/‘pressure’ thanks to various indicators: the placement in ‘waiting zones’ of people attempting to enter France clandestinely (mainly at the international airports), the immediate refoulement to the border in the direction of the previous country of origin, and the asylum application. We shall also seek to evaluate the flow in demographic terms, in terms of transnational flows, and in terms of changes of status.

It should be stressed that since the year 2000, in France, in terms of interpellations, placements in retention, and refusals of entry, we have been witnessing an increase in the mobilization of the police forces and the gendarmerie (sometimes private companies to verify visas of upstream air transport: see Guiraudon, 2002). Since 2005, France has established a migration police force that is entirely dedicated to controlling irregular migration. The current calculations and the counting methods essentially apply to the number of refoulements of irregular migrants.



Until now, the figures on irregular immigration have only been deduced from indirect sources. Some attempts have been made to count the numbers on the basis of administrative sources but they only provide fragmented and imprecise data on the stocks and flows.

The minister of interior that is in charge of these issues of irregular migration mentions various indicators that may give an idea of the irregular presence as far as the aspects of both entry and stay (flows and stocks). Concerning the entry onto the territory or the migratory pressure, he refers to the placement in ‘waiting zones’ (15 876 in 2006), to the number of refusals of entry (34 127) and to the number of asylum seekers at the border (2 984) – that is 52 987.

Regarding the stay, he counts the asylum applications that have been rejected (31 700 in 2006), the pronounced prefectural notices of expulsion (64 600) but especially not executed (meaning the people that still reside on national territory despite a notice of expulsion): 16 600. I.e. 48 300.

That is 101 287 (A) persons.

Other estimates on the irregular population in the country add by administrations in charge of :

The number of interpellations of foreigners<sup>11</sup>: 67 130 in 2006.

The number of placements in administrative retention centers<sup>12</sup>: 32 817

The number of State Medical Aid beneficiaries<sup>13</sup>: 191 100

That is: 291 047 (B) persons.

An approximate measurement for 2006, which is a sum of the ministers’ estimates, would thus imply the sum of ‘pressure’ + ‘stay’ (A+B): 392 334. This number however is not truthful/accurate as all these indicators are fluctuating and little precise as we shall see in what follows below.

## 1. Most Significant Studies on Irregular Immigration

One other significant studies remains, with the Diccilec, BIT, minister of interior and State Medical Aid one’s, the one EUROSTAT asked Delaunay & Tapinos (1998) to carry out. The study lists the principal counting methods that are, in fact, used very little in France as they concern the stocks more than they do the flows, and have not proven to be reliable. According to the demographer Xavier Thierry (2008) “the insufficient quality of migratory statistics remains an obstacle for knowledge and

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<sup>11</sup> Interpellation refers to a notice addressed to a person by the police to explain oneself about a fact, an act, his/her identity. It can be accompanied by a search. It can take place at the residence of the person, in the street (randomly or not), and/or in an administrative compound.

<sup>12</sup> If the interpellation reveals that the person is irregular, he/she is immediately placed in police custody for 24h. The prefect then issues a notice of expulsion along with placement in an administrative retention center. This placement lasts 48h, after which containment is ordered by a judiciary judge. Deportation then follows.

<sup>13</sup> In France, since 1999, irregular foreigners can benefit from State Medical Aid (AME - Aide Médicale d’Etat). There are 2 conditions that need to be met: the foreigner must prove he/she stayed in France for at least 3 months, and he/she cannot have a monthly income that exceeds 606 euros; Cf. II 2.7.2

political action. For the new European regulation not to stay dead letter, it devolves upon the States the reformation of their administrative and statistical rules. Important changes are expected in France”.

In addition, the study conducted by the journal *‘Population et Société’* confirms the fact that France issues rather vague statistics as far as the arrival of irregular migrants on its territory. This vagueness, close to ignorance, generates the publication of mixed numbers: “as it is, the document claims, the flow of migrants in 2005 is estimated to be 254 000 persons. This new estimate is much higher than the 135 000 that is reported in the table on which international comparisons are generally based – a number that does not account for all entries.”

In 2005/2006, a parliamentary commission conducted a large number of hearings concerning ‘clandestine’ migration. In this context, the minister of Interior forwarded an estimate that was discussed by other discussants (Commission d’enquête (1) sur l’immigration clandestine 2006).

### Methods

- Surveys with employers that work in sectors which tend to be more affected by informal employment,
- The comparison of various statistical sources (census, demographic municipal records, welfare regime databases, lists of children enrolled in schools, general information...),
- the so-called ‘residual’ method, which is popular in the US and the UK, and consists of bringing together figures of alternating time frames that are related to the significance of the population of foreign origin – measured by the census – and evaluating irregular immigration by isolating the variations that can be explained by the regular migratory flows.
- Even though statistical biases exist all the same, another evaluative tool of the size of clandestine immigration is the analysis of the regularization schemes, which also allows for an improved understanding of the population at hand,
- Instead, the ‘Delphi’ method - which consists of gathering specialists and actors of the field for them to conduct a consensual evaluation - appears not to be very reliable.
- The insufficient contribution of the demographic sample from the national institute of statistical and economic studies (INSEE - Institut national de la statistique et des études économiques). This is a 1/100 sample of the population for which the Insee has the right to keep the census reports of the same people since 1968, as well as the certificates of their civil status and that of their relatives. This source needs to be interpreted with caution as their entry date into France is not always known and the absence of an individual at the time of a census may result from an accidental omission as well as from elusive behavior or a temporary or definite stay abroad. Jean-Michel Charpin, general director of the Insee, turns the attention to the residual method and the analysis of regularizations, both of which provide an evaluation of the stock of irregular persons. However, when considering long periods of time, they would not be able to provide an evaluation of the annual entries of irregular migrants.

Charpin suggests: “*another approach would be to conduct surveys among the general population. These surveys – the only goal of which would be the retrieval of statistical evidence – would obviously have to guarantee absolute confidentiality. Investigative protocols have been elaborated to gather sensitive information through surveys, in a confidential and reliable manner. They anticipate asking the points of*

*interest to a random fraction of the surveyed sample, without the interviewer knowing. In the context where the presence of irregular migrants remains rather marginal, as far as statistics, an accurate evaluation would need a very significant sample. Moreover, the representativeness of such a survey appears to be rather hard to assure and to verify. As far as the juridical level is concerned, a law would probably be required to rule out any chances that statistical secrecy may be lifted.”*

There has not been any study of this kind as: *“until this day, neither the national council of statistical information (CNIS – Conseil national de l’information statistique), nor the European Union, nor the authorities – whose advice, regulations and demands strongly direct the operating program of the Insee and the entire French statistical system – have ever asked for an assessment or a characterization of irregular migrants in France. Thus, the Insee does not formulate an evaluation of undocumented immigration.”*

In reality, there is no statistical source that is able to quantify the population of irregular foreigners in France. That said, it is possible to find certain sources that better describe this group than others and to compare them so as to find a difference. However, this scheme needs to be put into perspective as it first implies the ability to quantify the regular foreign population with accuracy. A partial estimate can nevertheless be constructed through the studies that focus on specific segments of the foreign population. This fragmentary method remains more reliable than a direct quantification, which is definitely more delicate of a matter and less reliable.

## **2. Estimates, Figures and Quantitative Evaluations of the Irregular Population in France**

### **2.1. Total Stock**

The numbers that were announced in 1998 by the Jospin government (left) stated that there were 200 000 to 400 000 irregular migrants. In 2005, Dominique de Villepin (right), prime minister announced the same range<sup>14</sup>. In November 2005, Nicolas Sarkozy (right), at that time minister of interiors, announced the same range of figures in front of a parliamentary commission on irregular migration (Commission d’enquête (1) sur l’immigration clandestine 2006:43), and added to this that between 80 000 and 100 000 new migrants came in on top every year. Does this mean that between 1998 and 2004 the population of irregular migrants did not evolved? Or rather that few efforts were made regarding the counting methods ? Francois Héran from the National institute for Demographic Studies stated to the same commission that the central value of the Sarkozy estimate (300 000) implied a net inflow of 30 000 to 40 000 per year, a flow number which is more compatible with calculations of the INED (Commission d’enquête (1) sur l’immigration clandestine 2006:43).

Throughout this second part we shall list the elements that are necessary to obtain estimates according to the fragmentary method, without any pretensions to be publishing peremptory figures regarding the stocks and flows of irregular migrants.

Below, the background of the minister’s estimate is explained in more detail. Basically, the number of foreigner receiving medical aid is considered as minimum number and different flows are taken into account for calculating the maximum

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<sup>14</sup> Interview to Le Figaro, 2005, may, 11<sup>th</sup>.

estimate. The minister of interior in charge of these issues of irregular migration mentions various indicators that can give an idea of the extent of irregular migrants as it is understood under the double aspects of entry and stay. Concerning the entry into the territory or the migratory pressure, it refers to the placement in 'Waiting Zones' (15 876 in 2006), the number of refusals of entry at the border (34 127), and the number of asylum seekers at the border (2 984): that is 52 987.

Regarding the stay, it counts the rejected asylum applications (31 700 in 2006), the pronounced prefectural notices of expulsion (64 600) but especially not executed (meaning people that are residing on the national territory): 16 600: i.e. 48 300. That is: 101 287 (A) persons.

Other administrative estimates on the irregular population in the country take into account:

The number of interpellations of foreigners<sup>15</sup>: 67 130 in 2006.

The number of placements in administrative retention centers<sup>16</sup>: 32 817

The number of State Medical Aid beneficiaries<sup>17</sup>: 191 100

That is: 291 047 (B) persons.

An approximate measurement for 2006 would thus imply the sum of 'pressure' + 'stay' (A+B): 392 334. This number however is not truthful as all of these indicators are fluctuating and little precise, as we shall see in what follows below.

### *2.1.1 State Medical Aid (AME - Aide Médicale d'Etat)*

In France, irregular migrants can benefit from State Medical Aid (Aide Médicale d'Etat - AME). This healthcare system for irregular migrants has been introduced in 1999. Two conditions need to be met: the foreigner must justify his/her stay of at least 3 months in France and cannot have a monthly income that exceeds 606 euros. They are then covered for free, without having to pay up front, for all sorts of care except for prostheses. According to a study of the NGO 'Médecins du Monde' (Doctors of the World), those who come to be cured by their doctors do so after staying irregularly on European soil for more or less 2 to 3 years. 'Médecins du Monde' counts that 80% of irregular migrants should have access to this system, yet there are less than one fourth of them that possess the documents that are necessary to open a personal file. On the one hand, all those who are eligible to be covered by the AME do not initiate the procedure to open a file, either because they lack information, or because they wish to remain anonymous and undocumented. On the other hand, the difficulties that come up to collect the documentation that is necessary to open a file serves to explain why irregular migrants rarely resort to AME before they ever need any care.

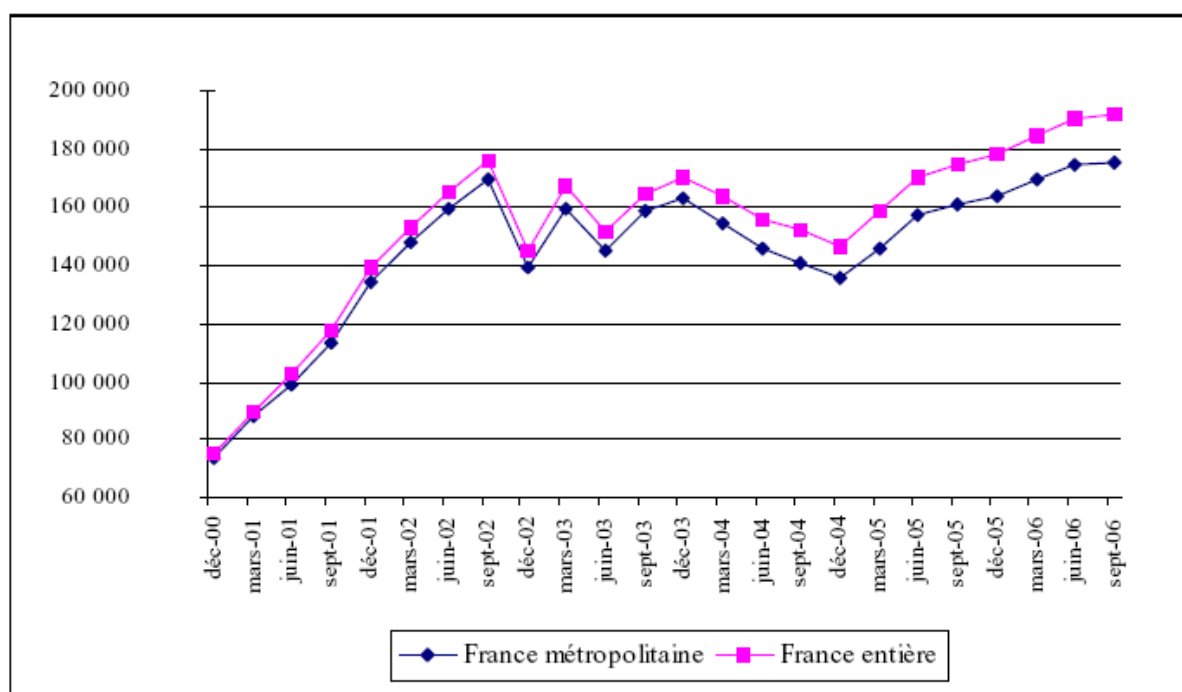
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<sup>15</sup> Interpellation refers to a notice addressed to a person by the police to explain oneself about a fact, an act, his/her identity. It can be accompanied by a search. It can take place at the residence of the person, in the street (randomly or not), in an administrative compound.

<sup>16</sup> If the interpellation reveals that the person is irregular, he/she is immediately placed in police custody for 24h. The prefect then issues a notice of expulsion along with placement in an administrative retention center. This placement lasts 48h, after which containment is ordered by a judiciary judge. Refoulement then follows.

<sup>17</sup> In France, since 1999, irregular foreigners can benefit from State Medical Aid (AME - Aide Médicale d'Etat). There are 2 conditions that need to be met: the foreigner must prove he/she stayed in France for at least 3 months, and he/she cannot have a monthly income that exceeds 606 euros; Cf. II 2.7.2

Graphique 1 : Évolution du nombre de bénéficiaires de l'AME



Source : CNAMTS

**Graph 1:** Evolution of the Number of AME Beneficiaries

**Table 16:** Number of effective AME beneficiaries per year, 2002-2006

Year	Effective on December 31
2002	145 000
2003	170 000
2004	146 297
2005	178 689
2006	192 000 (effective in September)

Source: cnamts

To benefit from AME, one must:

- be of foreign nationality;

- reside in France since at least 3 months;
- have an income that is less than a certain limit;
- be irregular.

To be able to benefit from it, one must also provide at least one form of identification, namely:

- a passport;
- an identity card;
- a translation of the birth certificate by a sworn translator;
- a translation of the family record book by a sworn translator;
- a copy of the permit of stay that is no longer valid;
- any other document that may prove the identity of the person.

So as to justify one's residence in France since a minimum of 3 months, one must provide at least one kind of documentation, namely:

- a copy of the housing rental contract;
- a receipt of his/her rent;
- an electricity, gas, water or telephone bill from more than 3 months ago;
- registration with tax office
- a receipt from a hotel for more than 3 months;
- an invoice in the name of the person that is hosting the applicant free of costs;
- a certificate of an authorized organization;
- any other document that can prove his/her residence in France

## **2.2. Gender Composition of Migrants**

There is not really a classification of gender of irregular migration. If we take Sangatte as an example, which is certainly not representative of the French situation but that was, at the time, the only holding center of irregular migrants in transit in France and are therefore countable, 95% of the 76 000 people that transited through this center were young males. According to the moreless study by Lauby and Stark (1988) and the 4 rules that they derive from their study on migration in the Philippines, we can come up with the following scheme:

Rule 1: a migrant that moves from a rural area towards an urban area is very often single.

Rule 2: they send a significant part of their income to their parents

Rule 3: Parents check on the women more than they do on the men

Rule 4: With comparable amounts of human capital, the salaries of the women are lower than those of the men.

It is possible to learn a few things from these rules, and see how they apply to Sangatte:

- One must rely on one's youthful assets and strengths so as to be able to embark on a clandestine, often dangerous, journey.
- one must represent a labor force that brings capital to a family and men generally earn more than women. Due to such economic rationalities, men are expected to migrate more than women.
- Women are more taken care of / take more precautions, it is especially men that leave; or women once they are married.

Still, the proportion of women that are placed in Administrative Retention Centers balances between 7 and 9%. Likewise, 8% of the arrests of irregular migrants are women. .

A survey by DREES in 2007 indicates that 50% of all people seeking State Health Care Services (Aide Médicale d'Etat AME) are women. In his survey, women represented 66% of the respondents because the majority consulted a doctor for a follow-up of their pregnancy or giving birth<sup>18</sup>.

	Man	Woman	ensemble
Age			
18 to 19	1	1	1
20 to 29	23	37	32
30 to 39	38	36	37
40 to 49	25	17	20
50 and more	14	9	10

Source : DREES Survey: Public Health Care Service (AME) seekers 2007

The presence of 'young single men' in the clandestine networks of migration is also strongly supported by the written and oral press. Every show, every interview that addresses the issue almost categorically focuses on these 'young single men', thereby suggesting their overrepresentation and the potential danger that they represent for the 'young single French men' that are seeking employment.

Nevertheless, we are witnessing a semantic change concerning the image of the '*sans-papiers*', which used to be seen as a clandestine delinquent and is now often considered to be an 'undocumented worker'. The notorious inactivity of the irregular migrant (that used to raise annoyance rather than nonchalance) is now replaced by a focus on their work, which is one step closer to integration. At the same time that these semantic changes are taking place, we are also witnessing more and more mobilization by civil society in favor of irregular migrants. In first instance, regarding children that are going to school. It has occurred that police forces went to pick up

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<sup>18</sup> Survey made by DREES includes effective and potential Public Health Care Service (AME) seekers at the health care system in three departments of Île-de-France : Paris, la Seine-Saint-Denis et le Val-de-Marne which represent 60% of all beneficiaries in metropolitan France. The time periode of the survey was two weeks between January and March 2007 in following health care centres: external consultation or hospitalisation services, conventional centres with health assurance, associate health care centres, and during one month at liberal general practitioners being consulted by at least 500 AME-seekers a year. It includes 1 236 interviewees, 92% of them are effectively served by AME.

Caused of the methode used with certain bias in the selection, this survey is not representative for all AME seekers, but for the region Île-de-France. The bias in the selection are marked especially by the service centres overfrequented and the people more frequently consulting medical care with a higher probability being interviewed. Also the socio-economic characteristics of persons asked can influence the probability of their participation in the survey.

children *sans-papiers* at the end of their school day so that they could bring them home to their parents, who would then be arrested and deported. Nonprofit organizations that started this mobilization rely on the mobilization of the *sans-papiers* themselves, in particular through visible hunger strikes.

### 2.3. Age composition

The age of irregular foreigners is not the object of a systematic study either and the statistics that are published with regard hereto are often 'vague and contradictory' according to Angelina Etiemble (2004). Nevertheless, following the same line of reasoning as the previous paragraph, we can assume that the majority of the migrants are in their strongest years and range somewhere between 20 and 50 years of age, although we cannot be any more precise at this point even the composition of regularized migrants cannot give an idea of the remaining undocumented migrant population.

According to expert estimates quoted in the report of the commission on clandestine immigration (2006:44), the number of undocumented children in school is between 10 000 (Armelle Gardien, representative of network for education without borders) and 20 000 (Jacqueline Costa-Lascou, director of observatory on immigration and integration statistics).

One category in particular should capture our attention – that of the isolated migrating minors (MMI - mineurs migrants isolés). The presence of these minors in France is a known fact, their numbers are unquestionably growing, but they have not yet been counted (Etiemble, 2004). The methods to count the MMI remain random. They are located in 'waiting zones' when they submit an asylum application at the border, while they are awaiting the verdict concerning the assistance they will receive, or when criminal charges have been filed against him/her. In 2000, the judiciary authorities knew of about 2700 isolated minors. 60% of them were older than 16 years old and 80% were male. In 2001, the administrating authorities of the 'waiting zone' of Roissy received 1152 asylum applications at the border (of which 42 were rejected). In 2004, 728 MMI arrived by plane and 563 were deported (i.e. more than 77%).

According to sources related to their activities, OFPRA (Office Français de Protection des Réfugiés et Apatrides - French Office for the Protection of Refugees and Stateless), the Ministry of Immigration and the PAF (Police aux Frontières = Border Police) deem there are about 4 to 5 000 MMI that enter the French territory every year, a number that va crescendo.

The association CIMADE claims that in 2007, 242 children had been held in Administrative Retention Centers (CRA - Centre de Rétention Administrative)



**Table 5:** *Average Age of Children Placed in Administrative Retention Centers in 2007*

Age of Children	Number of Children	Percentage
Between 0 and 2 years	74	30,58 %
Between 3 and 5 years	53	21,90 %
Between 6 and 10 years	56	23,14 %
Between 11 and 17 years	51	21,07 %
Unknown	8	3,31 %
TOTAL	242	100 %

Source: CIMADE

## 2.4. Composition According to Nationalities

The networks of irregular migration drain foreigners from various regions of the world, whose reasons to leave can be of an economic or a political nature, or both. There is perhaps no classification of the irregular migrants according to nationality, but we can still split the pressure at the border according to various nationalities (Regnard, 2007).

Example with the nationalities placed in ‘waiting zones’, meaning people coming by plane.

**Table 6:** *Nationalities of Which Most Foreign Nationals Were Placed in ‘Waiting Zones’ in 2006 : total 9207.*

Chinese	3 549
Bolivian	1 537
Brazilian	1 125
Colombian	641
Moroccan	519
Algerian	433
Rumanian	390
Nigerian	349
Paraguayan	346
Indian	318
Total	9207

### 2.4.1. The Chinese

The Chinese perhaps represent the main nationality of persons that are held in ‘Waiting Zones’, but France is also the country in Europe with the largest Chinese community (ca. 450 000 foreign nationals in France in 2006 and about 60 000 irregular Chinese migrants according to the geo-politician Pierre Picquart), while migratory pressures coming from China continue to grow. These networks either enter the country regularly - and then overstay the validity of their visas - or they enter the country clandestinely with false documents. Despite the fact that the Chinese are the

first in terms of being denied entry into the country, in terms of the actions taken against irregular migrants, they are not even classified within the first 10. Hence, Chinese networks appear to be well established and efficient in taking care of its nationals, thereby reducing their statistical visibility.

#### *2.4.2. The Indian Subcontinent*

Statistical resources indicate that undocumented migratory pressures coming from this part of Asia are increasing. The irregular flows are mainly composed of Pakistani, Indian, and Sri-Lankan foreign nationals. Pakistan is the gateway towards Iran, Greece and Turkey for the foreign nationals of the Subcontinent. Other routes are developing through Eastern Europe. Once there, these migrants eventually aim to reach France, Spain, or the UK (Regnard, 2007)

#### *2.4.3. Africa*

A considerable part of irregular migrants is composed of foreign nationals from the North of Africa, who target France as their main final destination. This is a traditional flow of migration, historically anchored, which turns the Maghreb (Morocco, Algeria, and Tunisia) into the prime supplier of undocumented migrants coming from Africa. Regarding sub-Saharan Africa, Congo for example ranks 10<sup>th</sup> in terms of non-admissions. The migratory flows that originate from the Horn of Africa mainly come from Eritrea, and they do not cease to grow.

The Morroccans are still an important sending country of irregular migrants and rank seventh in the waiting zones, and second in non-admissions, first in simplified readmissions, and third in apprehensions of irregular residents.

Maliens rank sixth in waiting zones (343 persons in 2005).

Les maliens quant à eux, figurent au sixième rang des nationalités placées en zone d'attente (343 personnes en 2005).

#### *2.4.5 Turks*

Since the introduction of the Schengen area, Turkey has come to be an exterior boundary of the Schengen countries. By itself it is already a supplier of irregular migrants, but it also acts as a gateway for migrants coming from the Indian sub-continent and Central Asia. With 2380 procedures against Turkish nationals in 2006, Turkey is by now ranking 9<sup>th</sup> amidst the countries that are supplying immigration.

#### *2.4.6 Iraqis*

Iraqis are a very significant source of clandestine flows of migration towards France and then towards the UK. Pressure is therefore exerted both upon arrival on the territory as well as upon departure. During the first semester of 2007, Iraq ranked 4<sup>th</sup> in terms of the legal actions that were taken against its nationals with regard to breaches of the foreigners' legislation, while in 2006 it was still ranking 8<sup>th</sup>. Half of the asylum applications from the Middle East in 2007 were made by Iraqis (155/298 files, source OFPRA). To reach Europe, these asylum seekers do not have any other

choice but to leave their country clandestinely. We do not have data on the number of Iraqis that transit in France, but close to a 1000 Iraqis asked for asylum in the UK in 2006 (2375 Iranians and 2400 Afghans).

**Table 7: Number of Interpellations of Irregular Migrants (Regnard, 2007)**

<b>RANK</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>First 6 months of 2007</b>
<b>1</b>	Iraqi (6 425)	Algerian (4 863)	Iraqi (7 416)	Pakistani (8 264)	Pakistani (3 729)
<b>2</b>	Algerian (6 425)	Iraqi (4 239)	Somali (5 589)	Rumanian (5 881)	Moroccan (2 665)
<b>3</b>	Moroccan (4 542)	Moroccan (4 130)	Moroccan (5 148)	Iranian (5 782)	Iraqi (2 641)
<b>4</b>	Rumanian (2 662)	Rumanian (2 706)	Algerian (4 493)	Moroccan (4 692)	Iranian (2 229)
<b>5</b>	Indian (2 612)	Turkish (2 143)	Rumanian (4 092)	Somali (4 136)	Algerian (2 018)
<b>6</b>	Turkish (1 863)	Indian (1 951)	Afghani (3 779)	Algerian (4 014)	Tunisian (1 591)
<b>Total</b>	24529	20032	30517	32769	14873

## 2.5. Economic Sectors Resorting to Irregular Foreigners

The statistics concerning the employment of irregular migrants are equally hard to interpret. On the one hand because they derive more from repressive governmental organs (labor inspectorate, police, customs, etc) than they do from independent scientific research, and on the other hand because we must question the issue they set out to describe: reality, or the fact that police control is more important in this sector than anywhere else.

In its report on informal employment in France in 2001, the DILTI (Délégation interministérielle à la lutte contre le travail illégal = interministerial delegation for the struggle against informal employment) writes:

*“the employment of foreigners without working permits, after a steady decline, has started to increase again these past few years: it represented 7,1% of the total number of violations in 2001, while in 1992 the comparative figure amounted to 13%, and in 1997 to 4%. [...] The number of employers hiring foreigners without working permits is rising (198 in 2001 instead of 169 in 2000) whereas the number of foreign employees without working permits declines (316 in 2001 instead of 348 in 2000).”*

It is a relatively delicate matter to set up a table with the kinds of jobs taken on by irregular migrants as, for a large part, they are also done by regular foreign

workers. Diverse sources of information that address this issue especially show that the informal foreign workers are relatively young (less than 40 years old). The sectors that use this form of labor forces most are construction/public works (= BTP - Bâtiment-Travaux Public), hotels/catering, and trading businesses (these 3 sectors represent more than 55% of the verbalizations laid out by various State services). Then come the clothing industry (especially in the Parisian region), agriculture, small industry, tourism, and (domestic) services (Dilti 2001).

**Table 8:** *Informal Immigrant Work* (Dilti)

	Total Violations 2005	Of which use of foreigners without working permit (in %)
Agriculture	520	14,6 %
Construction – Public Works	2 788	12,8 %
Hotels, Cafés, Restaurants	1 685	9,1 %

The increase of employment in the tertiary sector goes hand in hand with an increase in employment. In France, as in other countries of the EU, the undocumented workers are more and more present in those employment sectors that are shunned by natives: activities related to healthcare and hygiene. Seasonal tourism, retailing, and hotels/ catering – sectors in which the working hours are particularly long – also resort to informal work forces. The increase in services provided to companies (maintenance and care of equipment, gardening) and to households (child care and other domestic services) also offers job opportunities to such kind of labor forces.

**Table 9:** *Distribution of the Violations Related to the Employment of Foreigners Per Line of activity - in 2004*

Economic Activity	Employment of a foreigner without working permit	Entry and stay of an irregular foreigner	Assisting a foreigner to enter and stay irregularly	Total
Agriculture	53	4	4	61
Industry	32	3	5	40
Construction-Public Works	261	9	31	301
Trade	86	5	5	96
Hotels-Cafés-Restaurants	126	3	5	134
Transport and communications	77	5	6	88
Other	55	1	6	62
<b>Total</b>	<b>690</b>	<b>30</b>	<b>62</b>	<b>782</b>

Source: Délégation Interministérielle à la Lutte contre le Travail Illégal (DILTI)

In any case, any attempt to evaluate the number of informal workers through an estimate of the significance of the black economy would not give satisfying results. The crimes that are registered concerning the employment of foreigners without working permits cannot, in any way, be related to the total numbers, neither in percentages nor in proportions. The registration of crimes solely depends on the pressure of the police and the targeted economic sector.

'Local Outsourcing' or "On-The-Spot Relocation" (*Délocalisation Sur Place*, see Terray, 1999)

The extent of foreigners without working permits engaged in the black market is relatively weak compared to the total numbers of people employed in it. From the point of view of an economist, the employment of irregular migrants is comparable to 'local outsourcing', in as much as it provides the same financial benefits yet avoids the expatriation costs, the transportation costs, etc. The employment of irregular migrants thus presents the advantages of relocation without any of its disadvantages. Also, in France, the employment of irregular migrants assures the survival of those activities that would otherwise disappear following true relocation. After all, Terray (1999) states that: "local outsourcing is a very advantageous operation, for the individual employer as well as for the collectivity that is considered a countable unit." Nevertheless, 2 situations characterize local outsourcing: on the one hand, the administrative vulnerability of irregular migrants that depend on the demands of their employers, besides the fact that they risk to be sanctioned by the legislation that represses irregular stay and employment. On the other hand, and this is where the second situation arises: in the end, the implementation of the law appears to be relatively selective and allows for the perpetuation of the employment of irregular migrants.

## **2.6. The Rejected Asylum Seekers**

Any person whose request for asylum has finally been denied by the OFPRA (Office Français de Protection des Réfugiés et Apatrides = French Office of Protection for Refugees and Stateless) and the CRR (Commission de Recours des Réfugiés = Commission of Appeal for Refugees), and that has exhausted all possible means to appeal, is rejected from the application procedure. Hence, unless a new investigation is opened, those that have been rejected have no other choice but to remain in the country irregularly or to leave. Only those who ask for a reexamination of their request are no longer considered as 'rejected' during the time of the investigation.

Once rejected, individuals *de facto* lose their temporary right of stay and the other pertaining rights and must, in principle, leave the French territory. On this matter, there is no precise information at all on the number of rejected applicants that effectively leave France. Apart from those who received a repatriation grant, voluntary departures are not counted by any private or public organization. Before 2005, the repatriation grant was merely given to a few people. This regulation, however, has extended its application and between September 2005 and December 2006 around 2 000 people received a repatriation grant (source OFPRA): 331 persons went back to Bosnia, 276 persons to China, 180 to Algeria, and 156 to Moldavia. The

first semester of 2007 showed a decline in the execution of this regulation – only 769 beneficiaries – mainly due to the hopes to be regularized after the presidential elections. In May 2007, the ministry of immigration, integration, national identity and development set the objective of 2 500 beneficiaries for the entire year of 2007, which was then attained through a firm action with the rejected asylum seekers that were housed in CADA (Centre d'accueil pour demandeurs d'asile – Reception Center for Asylum Seekers).

According to the statistics of the OFPRA, 181 504 individual asylum applications have decisively been rejected between 2002 and 2006, i.e. 28 000 people in 2006. Below follow three tables presenting the rates of asylum applications from 2001 to 2006 - accepted and rejected:

**Table 10:** *Asylum Applications 2001-2002*

	2001	2002	évolution 2002/2001 %
Premières demandes	47 291	51 087	8,0%
Réexamens	1 369	1 790	30,8%
<b>Total demandes hors mineurs</b>	<b>48 660</b>	<b>52 877</b>	<b>8,7%</b>
Premières demandes mineurs*	7 000	7 900	
<b>Total demandes</b>	<b>55 660</b>	<b>60 777</b>	<b>9,2%</b>
Accords	5 049	6 326	25,3%
<b>Taux accord ofpra %</b>	<b>12,4%</b>	<b>12,6%</b>	
Rejets	35 730	43 880	22,8%
<b>Total décisions O.F.P.R.A. (hors mineurs)</b>	<b>40 779</b>	<b>50 206</b>	<b>23,1%</b>
Accords suite annulation C.R.R.	2 274	2 169	-4,6%
<b>Total accords</b>	<b>7 323</b>	<b>8 495</b>	<b>16,0%</b>
<b>Taux global d'admission %</b>	<b>18%</b>	<b>17%</b>	

**Table 11:** *Asylum Applications 2003-2004*

	2004	2003	évolution 2004/2003 %
Premières demandes	50 547	52 204	-3,2%
Réexamens	7 069	2 225	+ 217,7 %
<b>Total demandes (hors mineurs)</b>	<b>57 616</b>	<b>54 429</b>	<b>+ 5,9 %</b>
moyenne mensuelle	4 801	4 536	
Premières demandes mineurs accompagnants	7 998	7 564	+ 5,7 %
<b>Total DEMANDES</b>	<b>65 614</b>	<b>61 993</b>	<b>+ 5,8 %</b>
Accords	6 358	6 526	-2,6%
<b>Taux accord ofpra %</b>	<b>9,3%</b>	<b>9,8%</b>	
Rejets	61 760	59 818	+ 3,2 %
<b>Total décisions O.F.P.R.A. (hors mineurs)</b>	<b>68 118</b>	<b>66 344</b>	<b>+ 2,7 %</b>
moyenne mensuelle	5 677	5 529	
Accords suite annulation C.R.R.	4 934	3 264	+ 51,2 %
<b>Total accords</b>	<b>11 292</b>	<b>9 790</b>	<b>+ 15,3 %</b>
<b>Taux global d'admission %</b>	<b>16,6%</b>	<b>14,8%</b>	

**Table 12:** *Asylum Applications 2005-2006*

	<b>2005</b>	<b>2006</b>	<b>Evolution 2006/2005</b>
First Application	26 269	42 578	- 38,3 %
First Application accompanying minors	4 479	7 155	-37,4 %
Reexaminations	8 584	9 488	- 9,5 %
Total flow excluding minors	34 853	52 066	-33,1 %
Total decision OFPRA excluding minors	37 986	51 391	- 26 %
Of which granted	2 929	4 184	- 30 %
Rejected	34 785	47 088	- 26 %
withdrawal of application	271	119	128 %
Total grants OFPRA in %	7,8 %	8,2 %	
Total decisions OFPRA	47 634	64 588	- 26 %
Granting following cancellation CRR	4 425	9 586	- 54 %
Total grants	7 354	13 770	- 47 %
General Rate of Admission	16.6%	18,4%	

The balance of the asylum applications in 2007 in France shows a net slowdown of the submitted applications (Julien-Laferrere, 2002). OFPRA in fact recorded ca. 35 520 asylum applications, which is a 9,7% decrease compared to 2006 (which was, in turn, 33,6% compared to 2005). Instead, we notice an increase of more than 24% of the applications by accompanying minors which shows up in a systematic registration of the minors born in France by the OFPRA. Such augmentation in minors is especially manifest amongst the Russian, Sri Lankan, Guinean (Conakry), Malian, and Mauritanian nationalities.

The average age of the applicants is 32 years old. The youngest are the Afghanis, Sierra Leonean, and Guineans. The oldest are the Azerbaijani, Armenian and Chinese applicants.

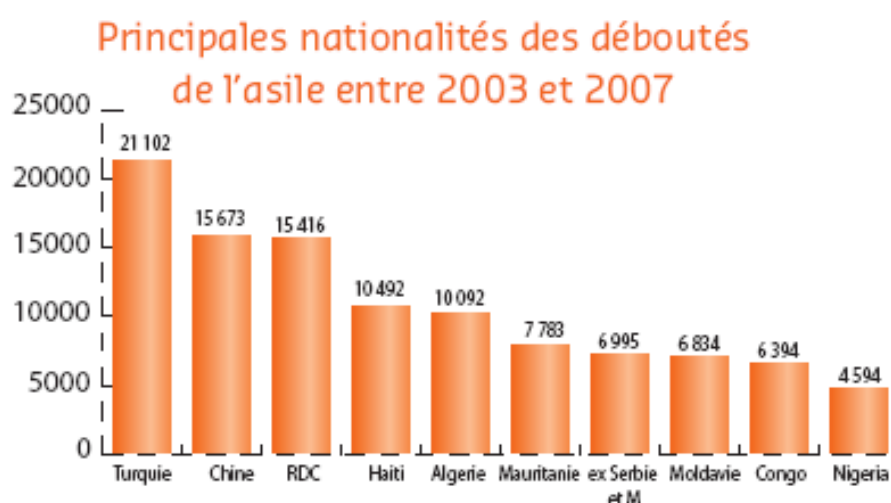
### 2.6.1. Numbers of Rejected Asylum Seekers

**Table 13:** Numbers of Rejected Asylum Seekers

2003	2004	2005	2006	2007	Total
33 326	38 246	50 791	25 662	23 569	171 594

Source: OFPRA

**Chart 1:** Main Nationalities of the Rejected Asylum Seekers between 2003 and 2007



Rejected asylum seekers receive an invitation to leave the French territory. Some of them leave to neighbouring states which may return them to France according to the Dublin Convention. However, for others there is only the choice between returning to the country from which they fled or to stay in France in illegality.

### 3. Estimates, Figures, and Evaluations Related to the Flow of Irregular Migration

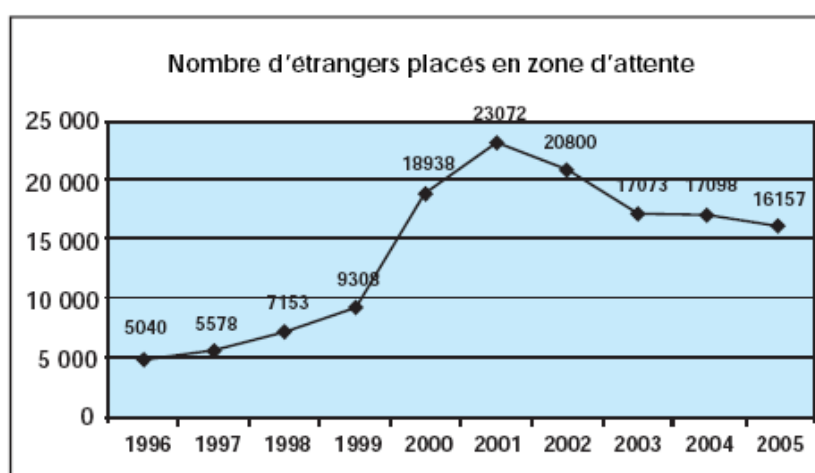
It is perhaps hard, if not impossible as noted by the researcher Xavier Thierry (2008), to quantify the number of unauthorized people that enter France. Yet, we can, using scanty indicators, evaluate the 'pressure' at the borders.



### 3.1. Placements in 'Waiting Zones'<sup>19</sup>

The number of placements in waiting zones can give an indication of the migratory pressure at the borders, even though it points out individuals who, for the most part, will not enter France. The distinguished variations reflect the evolution of the attempts that are made to enter the national territory clandestinely, despite the fact that the activity of the services may possibly introduce a bias throughout the analysis. The decrease that has been witnessed since 2001, after a strong increase during the previous years, can be explained by the extent/intensity of the dissuasive measures that are applied in airports, and by the introduction of the airport transit visa (VTA - visa de transit aéroportuaire) for foreign nationals from a certain number of African countries.

**Graph 3: Number of Foreigners Placed in 'Waiting Zones'**



Source: MIAT - DCPAF

The tendency for placements in waiting zones to be diminishing, which started in 2002, has been confirmed throughout 2005. In 2006, 10 790 foreigners were placed in waiting zones by the border police during the first 8 months, which represents a 3,1% decline compared to the same period in 2005 (11 135). The nationalities most affected stayed more or less the same ones as those of 2005:

**Table 22:**  
*Nationalities  
Most Placed  
in 'Waiting  
Zones' in  
2005*

Chinoise	(5 169)
Brésilienne	(852)
Bolivienne	(733)
Algérienne	(577)
Nigériane	(447)
Malienne	(391)
Marocaine	(343)
Congolaise	(338)
Philippine	(324)
Colombienne	(305)

Source : MIAT - DCPAF

<sup>19</sup> Cf. Part I: 1.3

### 3.2. Refusal of Entry at the Border

This count refers to those people who will not enter France but who had the intention to do so. It therefore gives an idea of the extent of the 'pressure' and not of the effective flow.

Lagging slightly behind in terms of time compared to the placements in waiting zones, the general indicator of the refusals of entry at the border appeared to suggest an attenuating tendency of the migratory pressure in 2003, which then regained strength in 2004 and definitely continued to grow during 2005. This progression is mainly due to the transnational activity that spread along the terrestrial border of the metropolis and especially at the Franco Italian and Franco Spanish borders. The first 8 months of 2006 seemed to mark a new reversal of the tendency with 14 661 cases of non-admittance, i.e. a decline of 9,2% compared to the 7 796 cases that occurred during the same period in 2005.

### 3.3. Deportation procedures

As far as non voluntary departures, the statistical figures of the ministry of interior do not distinguish between the rejected asylum seekers and other categories of foreigners that are subjected to a deportation procedure. However, the total number of measures taken has increased by 140% since 2002: it went from 11 690 in 2003 to 19 840 in 2005 and to 24 000 in 2006. The execution rate is also progressively growing: from 20,9% in 2003 it reached 27% in 2005. About 20% of the rejected asylum seekers were accompanied to the deportation procedure. To simplify part of these procedures the immigration and integration law<sup>20</sup> of July 24, 2006 formulated the obligation to leave the French territory. Article 10 of this law aims to facilitate the use of this new device in the case of a rejected asylum seeker.

**Table 14:** *Annual Contribution of Asylum Applications to Irregular Immigration between 1999 and 2005*

Year	LOW estimated range of the number of rejected asylum seekers (1)	HIGH estimated range of the number of rejected asylum seekers (2)	Number of effectively executed expelled (3)	LOW estimated range of the net flow (1-3)	HIGH estimated range of the net flow (2-3)
1999	14 200	33 012	7 821	6 379	25 191
2000	18 400	45 604	9 230	9 170	36 374
2001	22 400	58 263	8 604	13 796	49 659
2002	24 500	66 432	10 067	14 433	56 365
2003	29 600	71 660	11 692	17 908	59 968
2004	38 800	40 459	15 560	23 240	24 799
2005	60 000	31 010	19 849	40 151	11 161
<b>total</b>	<b>207 900</b>	<b>364 440</b>	<b>89 923</b>	<b>125 077</b>	<b>263 517</b>

<sup>20</sup> Law n° 2006-911 of 24 July 2006 concerning immigration and integration.

Nevertheless, we cannot be sure that the rejected asylum seekers of the previous years actually remained on French soil. We may believe so but we cannot guarantee this in any objective manner. This assumption lies at the basis of the previous calculation.

### *Deportation / Removal Procedures*

We must make a distinction between the enunciated deportations on the one hand, and the ones that have not been executed on the other. Thus, the number of expulsions that were not carried out should give an idea of the number of people that continue to remain in the country despite a notice of expulsion.

In France, removal is a deportation procedure of the irregular migrants that is considered to be one of the main means to fight undocumented migration. The implementation of this regulation has received fierce criticisms from numerous associations and from several – national and international – administrative and parliamentary reports. The policy applied by the French authorities, and especially by the ministry of interior, aims to increase the effective number of these deportations. Hence, expulsions represent the majority of the deportation procedures of foreigners.

In 2005, the number of deportations that were executed were 20 000, which is twice as much as in 2002. The ministry of Interior asked the prefects to attain the objective of 25 000 deportations in 2006. The associations, the national commission of ethics of security (CNDS - Commission nationale de déontologie de la sécurité, which falls under the supervision of the ministry of interior), as well as numerous international institutions (European committee for the prevention of torture, UN committee against torture, the commissioner of human rights at the European Council) severely criticize the conditions in which these deportations are carried out. According to Tassadit Imache, a social assistant that is member of the CNDS, the police at the border deal with ‘very strong pressures’ and feel ‘often unease’ concerning the conditions of administrative retention of foreigners. On February 2, 2006, the prime minister at the time - Dominique de Villepin (right) - applauded the fact that “the administrative retention center have improved their living conditions and the number of places has more than doubled”.

In 2008, the Prime Minister François Fillon (right) announced that 26 000 *sans-papiers* would be deported as part of the policy framework that is fighting undocumented immigration. “We fixed the objective of 25 000 deportations in 2007. We are at 24 000. The objective for 2008 is 26 000” he declared.

### Deportation Orders (Issued by the Prefecture)

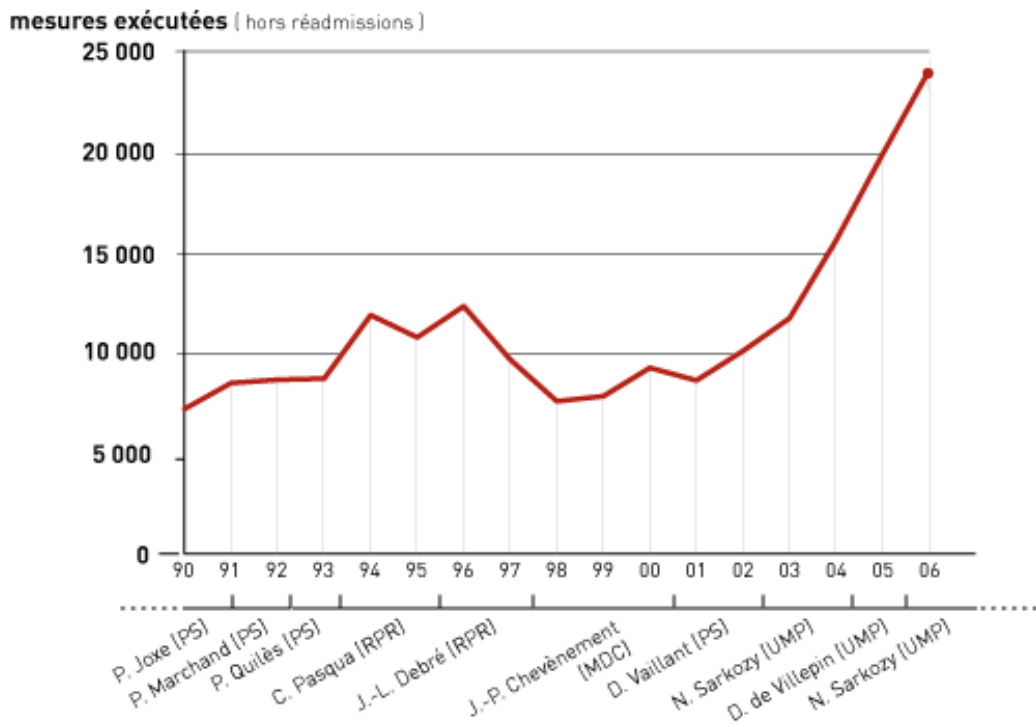
APRFs are mainly enunciated with regard to rejected asylum seekers. The number of pronounced APRFs is regularly growing since 1998. It went as high as 64 221 in 2004 and then reached 73 994 in 2005, which is a 6,3% increase compared to 2004. For an illustration, see the tables below.

The number of expulsions that are executed has grown considerably since the elongation of the length of stay in administrative retention centers to a maximum of 32 days, which was introduced with the law of November 26, 2003. About 12 000 deportations had been carried out in 2003, 15 660 in 2004, and exactly 19 849 in

2005, which is a rise of 26,7% compared to 2004. The deportation activity is currently guided by objectives, such as the objective of carrying out 23 000 deportations in 2005 for example, which has thus not been attained. For 2006 the objective has been set to 25 000 deportations, and for 2008 even more.

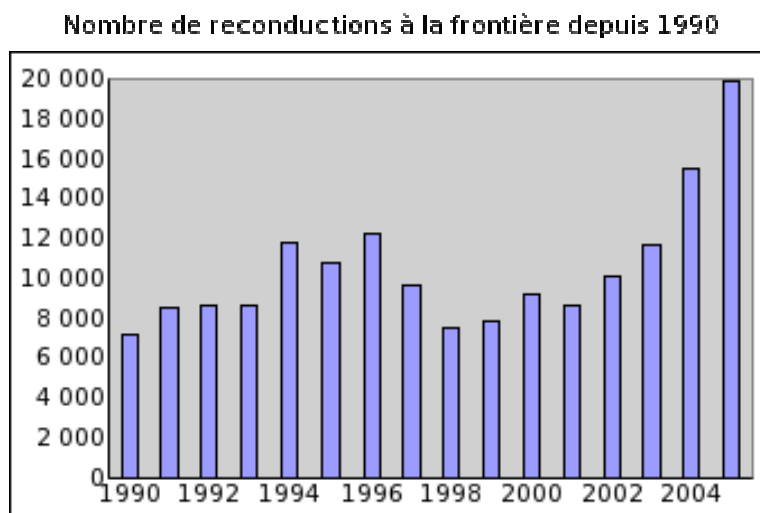
**Graph 2:** Executed Deportations since the 90s

Depuis 1990, il y a eu plus de 190 000 reconduites à la frontière



source : Ministère de l'Intérieur

**Chart 2:**  
number of  
Deportation  
Procedures  
since 1990



**Table 17:** *Executed Cases Per Year, 1998-2007*

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Executed Cases (excepting readmission)	7570	7821	9230	8604	10067	11692	15560	19848	23831	21000

Source: sénat

**Table 18:** *Evolution of the Pronounced and Executed Cases 2004-2005*

Mesures	2004 prononcées	exécutées	2005 prononcées	exécutées	Evolution prononcées	2005/2004 exécutées
Interdictions du territoire	5 089	2 571	5 278	2 250	3,70 %	-12,48 %
APRF	64 221	12 720	61 595	14 897	-4,09 %	17,11 %
Arrêtés d'expulsion	270	245	285	252	5,55 %	2,86 %
Décisions de réadmission	9 867	1 314	6 547	2 442	-33,65 %	85,84 %
Totaux	79 447	16 850	73 705	19 841	-7,23 %	17,75 %

Source : MIAT - DLPAJ - DCRAF

**Table 19:** *Yearly Number of Arrests, CRA Placements, and Prefectural Deportation Orders, 2003-2005*

	2003	2004	2005
Nombre d'interpellations d'étrangers en situation irrégulière	45 500	44 545	63 681
Nombres de personnes placées en CRA	28 155	30 043	29 257
APRF prononcés	49 017	64 221	61 595
APRF exécutés	9 352	12 720	14 897
APRF non exécutés	39 665	51 501	46 698

Source : Rapport du CICI décembre 2006

**Table 20:** *Yearly Refusals of Entry, Prefectural Deportation Orders and Expulsions, 2000-2003*

	Interdictions du territoire	Arrêts préfectoraux de reconduite à la frontière	Arrêté d'expulsions	Total Hors réadmissions
<b>2003</b>				
Prononcées	6 536	49 017	385	<b>55 938</b>
Exécutées	2 098	9 352	242	<b>11 692</b>
<b>2002</b>				
Prononcées	6 198	42 485	441	<b>49 124</b>
Exécutées	2 071	7 611	385	<b>10 067</b>
<b>2001</b>				
Prononcées	5 320	37 301	521	<b>43 142</b>
Exécutées	2 054	6 161	389	<b>8 604</b>
<b>2000</b>				
Prononcées	5 859	36 614	546	<b>43 019</b>
Exécutées	2 212	6 592	426	<b>9 230</b>

Source Ministère de l'Intérieur

### Non Executed Deportations

The increase in pronounced expulsions inevitably leads to an increase in the number of expulsions that are not executed, which, in turn, indicates the number of foreigners that remain in the country undocumented. Hence, in 2004, out of 64 221 pronounced APRFs, 12 729 were effectively executed and more than 50 000 people remained on the French territory irregularly. This number has been a yearly average since 2004.

The minister of interior deems that less than 20% of the expulsions are completed and recognizes the fact that there are big difficulties to actually carry them out. It should also be specified that these 20% that do take place generally target irregular immigrants that have already been questioned and placed in retention centers. Only 1% of the decisions to expel are effectively carried out amongst those that have not yet been questioned.



### Number of Placements in Administrative Retention Centers

The construction of this indicator is based on the number of irregular migrants that are placed in CRA (administrative retention centers) while they are awaiting expulsion. Since 2006, the holding capacity of the CRAs has undergone a substantial increase, as well as the rates of confinement: +12,2% in 2005.

**Table 21:** *Administrative Retention Centers (CRAs)*

	2003	2004	2005	2006	1 <sup>st</sup> semester 2007
Theoretical Capacity	-	944	1 016	1 380	1 605
Number of people placed in Admin. Retention Centers	28 155	30 043	29 257	32 817	17 067
Average rate of occupancy	64,08 %	73 %	83 %	74 %	79 %

The decline in the occupancy rate since 2006 can be explained by the fact that separate places have been reserved for single women and families, who are markedly under occupied compared to the places that are reserved for single men.

Since several years, the foreign nationals from the countries of the north of Africa and from certain sub-Saharan African countries represent the majority of the people placed in administrative retention centers. Yet, there has been a clear increase in the number of Chinese, Turkish and Indian nationals – a sign of the diversification of the irregular migrants' countries of origin. Still, the adherence of Rumania to the EU in January 2007 led to a significant decline in the number of Rumanian detainees: in 2006 they represented 14,22% of the people retained (and 30% of the expulsions), whereas in 2007 the corresponding figure was 1,61%. Nonetheless, the pressure exerted on Rumanian nationals by the police remains significant and partially explains these numbers.

### **3.4. Asylum application at the border**

Asylum applications at the border constitute a third indicator of the 'pressure'. This indicator has undergone a strong increase between 1996 and 2001 as the total flows have multiplied by 20 in 5 years. Since 2001, this figure has seen a spectacular decrease. The numbers of the first 8 months of 2006 confirm this declining tendency.



**Table 23:** *Yearly Number of Refusals of Entry and Simplified Readmissions, 1999-2006*

	1999	2000	2001	2002	2003	2004	2005	8 premiers mois 2006
Nombre de refus d'admission	24 220	22 945	22 408	26 787	20 278	20 893	23 542	14 661
Nombre de réadmissions simplifiées (sens France vers étranger)	22 782	21 870	16 155	16 156	11 945	12 339	12 379	7 796
Total	47 002	44 815	38 563	42 943	32 223	33 232	35 921	22 457

Source : MIAT - DCPAF

### 3.5. Demographic Flows: Birth and Death Rates of Irregular Migrants

There is no available data on the birth and death rates of irregular migrants. Nonetheless, in Sangatte 15 people were recorded to have deceased: these died by accident, and during riots between rivaling groups. Regarding births, a counting method would be to consult the natal records in municipalities.

### 3.6. Transnational Flows: Counting the Undocumented Migrants on Their Way to the UK or the North of Europe

Concerning the centre of Sangatte, the French Red Cross announced it received more than 76 000 people during 3 years of operation, which is an average of 25 300 people each year, almost 2 200 each month. The total population of Sangatte was 600 people in 1999, and reached close to 2000 in 2002. The Red Cross estimated the total population of the centre reproduced itself in 3 weeks more or less, considering that it received about 100 to 150 new people every day. Since 2002, the associations working in Calais deemed the daily presence to be between 300 and 600 people depending on the seasons and the pressure by the police. These estimations are based on the number of meals that were delivered and are thus close to the real number of people that were present. These same associations for migrant support in Calais deemed the number of migrants transiting through Calais every year to go to the UK to be around 13 000.

In the department of Savoie, the police forces announced the number of 4 000 interpellations per year of foreigners traveling clandestinely. This number would be relatively stable since 2 years. The majority of these cases are discovered in the trailers of trucks and more and more often in trains coming from Milan (Italy) headed for Paris. At least 3 trains connect Italy with France every day.

Another count was made by Parisian support associations for undocumented migrants. The Support Committee of the Xème arrondissement of Paris evaluated the irregular population of the arrondissement to be around 150 people, while the weekly growth was 40 persons per week. The van of the association 'Armée du Salut' distributes close to 300 meals every evening on Square Villemin. Yet, the Parisian

count cannot be added to the count of Calais as in many cases the undocumented migrants that were located in Paris are on their way to the UK and therefore will be transiting through Calais or its region. The numbers of the interpellations of irregular migrants by police forces in the region of Calais are not accessible but could give an idea of the migratory pressure that is exerted on this border. Still, subjectively speaking, the associations evaluate the number of undocumented migrants based on the number of deployed policemen in the region or on the sites of passage.

### **3.7. How to Calculate the Renewal of the Irregular Migrant Population?**

To come up with a calculation for the number of irregular migrants that are transiting through Paris and Calais towards the UK or the North of Europe, one should compare the figures obtained from the interpellations of the Border Police (PAF – Police aux Frontières), with those of the security companies of EUROTUNNEL, the maritime transport companies, as well as the figures gathered in Dover and other coastal cities in the UK regarding the arrests of irregular migrants.

## **PART III – Discussion and Policy Implications**

To the question of a journalist – Do you really think you can manage irregular immigration? – (in 2008) the minister of immigration and national identity Brice Hortefeux (right) answered:

*« We shall succeed! Firstly, all of our consulates will be equipped of biometric visas by the end of 2008, which will allow for an extremely rapid identification of the foreigners. Secondly, controlling the flows is obviously also accomplished through the surveillance of our borders. Finally, it requires vigorous action on the national territory. I therefore applied an extremely voluntary (volontariste in French ndlt) policy in the struggle against informal employment of undocumented migrants, and the first results are on schedule since, during the first semester, the checks have increased by 300% and the interpellations by 280% compared to last year. The aim of this new policy is simply balancing our national community.»*

At present, political France plays a lot with the estimates and the numbers. At the same time, numbers can sometimes double themselves. For example, the number of estimated undocumented migrants in France ranges between 200 000 and 400 000. However, one thing has been confirmed since the accession of Sarkozy (right) to power: France wants to select its immigration. This means that those who are not selected will be refused upon arrival, or otherwise expelled. This method inevitably leads to the creation of two series of numbers: those of chosen receptions and those of forced expulsions.

This change of orientation can be traced back to the existence of the centre of Sangatte, which served as a cautionary pretext for numerous discourses on migration.

### Victimize Irregular Immigration

This is about the stigmatization of irregular migrants as victims of the smugglers or the mafia networks. Thus, a struggle against smuggling networks was started, which led to an increase in the prices for smuggling, causing the migrants to take even more risks, and therefore to risk more lives. Besides, it must be mentioned that - even though this is part of another debate - the smuggling networks do not all need to be referred to as 'mafia'. Of course a part of them is associated to these circuits, but others merely suggest they know a way to enter a country for people that want to migrate and that have, to accomplish this aim, no other choice but to do it clandestinely through these networks. In these latter cases, the networks propose a service to clients that ask for it: the offer meets the demand.

### Count the Number of Irregular Migrants Passing Through the Metropolitan Territory

This figure is used to cause anxiety by certain political discourses, especially those that echo the 'terrorist threat'. In fact, if 'x' thousand irregular migrants can pass the national territory in impunity, this number of people can very well contain terrorists that intend to put destructive plans into action. In this sense, the term 'struggle' against irregular immigration assumes another scope as the underlying tone refers to

the ‘struggle against terrorism’. By inference, one must notice another shortcut that could rapidly achieve *doxa* – that between terrorism and Muslim. When the organization TNS-sofres asked the French in a survey whether they had the feeling that Muslim fundamentalism was gaining or losing strength in France, or none of the two, 52% stated they had the feeling that it was gaining strength whereas 38% claimed it was neither one nor the other. Only 3% deemed Muslim fundamentalism to be declining in their country.

### Establish Numerical Goals in Terms of Deportations and Expulsions

The creation of numerical estimates thus aims to rigidify the juridical rules by setting entry quotas and expulsion quotas. At least, these figures are the most visible, the most published, and the most debated in the public arena. Other figures, most notably those of accepted asylum applications, deaths at the border, undocumented children, and isolated minors, are less in the eye of the general public. The same goes for the figures regarding the budget that is allocated to the struggle against irregular immigration in France and in other countries so as to stop irregular immigration (Morocco, Libya, etc.).

## **1. Limitations of Statistical Methods and Possible Improvements**

France is aware of its knowledge gap as far as irregular immigration is concerned, and has set itself the target of filling this gap within the framework of European harmonization. This need for knowledge and thus for control is inevitably related to improving statistical knowledge of immigration, with regard to regular foreigners on the one hand, and irregular foreigners on the other.

According to the head office of juridical affairs and of public freedoms of the minister of interior, better statistical knowledge of irregular immigration assumes the combination of various administrative sources of information, such as:

- the final certificates for the rejected asylum applications by the OFPRA and the Commission of Appeal for Refugees (Commission des recours des réfugiés)
- the refusal to stay following the request for residence permits (as from when they will systematically be registered at AGDREF<sup>21</sup> = Application de gestion des dossiers des ressortissants étrangers en France = Managing Application of the Files of Foreign Nationals in France)
- the application files for regularization submitted at the prefecture,
- the interpellations by the police of irregular foreigners,
- the non executed deportation procedures,

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<sup>21</sup> The managing application of files of foreign nationals in France (application de gestion des dossiers des ressortissants étrangers en France - AGDREF ou AGEDREF) is a digitalized database that is placed under the responsibility of the French minister of interior. It serves to:

- administratively manage the files of foreign nationals in France
- the fabrication of their documents of identification:
  - \* stay permits
  - \* receipts for issuance or renewal applications
- identify the foreigners and verify the regularity of their stay in France
- produce statistics

The AGDREF processing combines both departmental databases (managed by the prefectures) and a national database managed by the minister of Interior.

- the use of State Medical Aid (aide médicale d'Etat - AME),
- school attendance by children of newcomers,
- the over-crowdedness of the homes of working migrants,
- the figures on informal employment

The integration of these numbers does not usually consider irregular immigration in terms of flows. The figures regarding this particular point could partially be obtained by crossing these figures with the interpellations of irregular migrants in the adjacent countries.

### **Discussion :**

To be valid and remain within an ethical framework, such statistical combinations should be placed under strict supervisions, especially as far as the use of these figures is concerned. The CNIL (Commission Nationale Informatique et Libertés – National Commission of Informatics and Freedoms) is the first concerned, but civil society and associations come next. The point, in fact, is to question the purpose of digitalized processing, the length of data preservation, the update of information related to one's civil status, as well as the conditions of transparency in which the processing of these figures intervenes.

### Involvement of the INSEE: Institut National de la Statistique et des Etudes Economiques (National Institute of Statistics and of Economic Studies)

Why has the INSEE - the largest producing organ of statistical evidence in France - never been called upon regarding the topic of irregular immigration? The institute would have to carry out a survey amidst the general population concerning irregular migrants. One must then specify that a judiciary summon can annul the statistical secrecy that is guaranteed by the law of June 7, 1951 with regard to the obligation, the coordination and the secrecy of statistical evidence. Hence, a survey on irregular immigration could only be carried out if a legislative measure would abolish the possibility of such a summon: otherwise, irregular migrants would refuse to respond to questionnaires and would be directly identifiable, localized, easy to question and thus to expel.

The contours of a potential survey on the statistics of irregular migration then begin to take shape. This kind of survey can only be accomplished if absolute and protective conditions safeguard statistical secrecy, as this data may be subjected to various usages for which the survey was not necessarily carried out or intended. The improvement of knowledge concerning irregular immigration should rely on an external organ - to make sure that the information is reliable and objective – for the coordination of the works of multiple organs and state services that produce or fund studies, both at the level of the elaboration of programs as well as that of the centralization of the information that is produced.

## 2. The Vagueness of Figures or How to Count for Better Expulsion

Concerning the issue of the number of irregular foreigners living in France, the minister of interior Nicolas Sarkozy considered that in 2007: "... between 200 000 and 400 000 (...) were present in the country and between 80 000 and 100 000 came in on top of that every year." Nonetheless, the phenomenon of undocumented migration poses too many ethical, human and societal problems for us to keep ignoring it this way.

Despite the fact that, due its very nature, the number of irregular migrants elopes all kinds of censuses, this report shows that the '*sans papiers*' are rarely entirely unknown by the authorities. The majority, in term of stocks rather than flows, are registered. In 2005 for example, the border police placed some 16 157 people lacking appropriate visas in 'waiting zones'. The OFPRA rejected 60 000 asylum applications and it is easily deductible that most of these did not leave France. A senatorial report states that more than 6 000 people whose asylum applications had been denied were staying in Parisian hotels paid by the DASS (Direction des Affaires Sanitaires et Sociales – Management of Sanitary and Social Affairs). That same year, the police had questioned 63 680 irregular migrants while 178 689 undocumented foreigners benefited from State Medical Aid (Aide Médicale d'Etat = AME).

In fact, these numbers that were obtained through fragmentary methods allow us to measure that what we have been referring to as the migratory pressure at the border, an evaluation of which can be calculated in the following way: (placements in 'waiting zones') + (refoulements at the border) + (asylum applications at the border).

Regarding the 'stock' – that is, the irregular stay – certain indicators can give an estimate: (number of rejected asylum applications) + (number of permits issued to foreigners who declare to have entered the country regularly) + (number of placements in administrative retention centers) + (number of non executed deportations procedures) + (number of people benefiting from State Medical Aid – AME).<sup>22</sup>

### Discussion :

Nonetheless, listing them as we just did, these figures do not give more than an impression.... of the activity of each administration that produces them and has to 'meet the numbers'. When the police counts the arrests, it does not consider who has been arrested twice; when it announces the number of prefectural notices of expulsion, it does not mention the number of expulsions that have actually been carried out. In the same line of logic, we do not know the number of people that benefit from the AME one year and then leave the territory the next year. The association 'Médecins du Monde' also claims in his report on irregular migrants that a majority of the foreigners *sans-papiers* do not resort to AME because they fear to be questioned and expelled.

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<sup>22</sup> The calculations are made over N year. The variations of stock should thus also be evaluated for N years.

### 3. The ELOI Database

Named Eloi – as in éloignement = distancing/alienation – the database gathers the ‘data of personal character related to foreigners that are subjected to a deportation procedure’ so as to allow for ‘the follow-up and implementation’ of these measures.

Since 2002, the number of executed expulsions has continuously increased and the pertaining figures are constantly publicized. Within this ‘successful’ framework, it is most noticeable how the government sets ‘targets’ for the intermediaries that are in charge of implementing its policy. The improvement of the objectives of deportations is partly due to “a strong mobilization of the interrogating services and the formulation of quantitative objectives for each prefect” (Guy Geoffroy, Member of Parliament, addressing the National Assembly). Since then, every year the government sets even greater objectives with regard to the quotas of deportations.

Since December 30, 2007, the government created - with a decree published by the Official Journal – a digitalized database that is meant to facilitate the removal of irregular foreigners. Named ELOI, this new database allows for the registration of personal data of the foreigner that has been subjected to a deportation or expulsion but also of the person hosting him/her in case of house arrest. This digitalized database allows for administrative authorities to consult various forms of information regarding the civil state of the irregular migrants: name, first names, gender, nationality; amongst others, it present a picture, the identity of his/her parents and of his/her children, the language spoken, the phase of the ongoing deportation procedures, any other police measure that may apply to the irregular migrant, and ‘the necessity for specific surveillance as far as public order’. The information of the database is available to police officers, the gendarmerie, and the prefecture. The function of the database has been validated by the CNIL (Commission Nationale Informatique et Liberté – National Commission of Informatics and Freedom), which controls the creation and the usage of this kind of database that contains personal information. They had already tried to create this database in 2006; at the time it also foresaw to preserve the personal data of the hosts for 3 years and to collect those of the visitors of the foreigners placed in retention centers. The text was deemed liberty-killing by numerous associations, which launched an appeal and obtained the annulment of the decree. The version of 2007, redrafted and reexamined, becomes irreproachable once it has been approved by the CNIL.

#### **Discussion :**

The creation and the implementation of this automatic database, as well as the counting method that it proposes, is problematic in several aspects.

On the one hand, it is set up at a time where the ministry of interior struggles to attain the objective of 25 000 expulsions for the year 2007 and therefore directly supports the accomplishment of this numerical target. On the other hand, two comments of the performance of the database are the main source of concern for those associations that defend human rights:

- the identity of all the members of the family of the person ‘*sans-papiers*’
- the identity of those that hosted him/her in France.

The general director of 'France Terre d'Asile', Pierre Henry, claims that the database fits in "with the Big Brother and Père Fouettard philosophy". The president of SOS Racism, Dominique Sopo, has declared the ELOI file to be "extremely dangerous", especially deploring the fact that it allows for the 'flicage'<sup>23</sup> of people that have come to assist the *sans papiers*. For Jean-Pierre Dubois, the president of the League of Human Rights, ELOI constitutes "a filing of the *sans-papiers* as though they were delinquents".

We shall now discuss the role of the estimates in the conception of juridical rules. This creation aims to serve a new policy of migration: that of selecting immigration, as opposed to suffering from/enduring immigration.

#### 4. Selective Immigration

The implementation of the policy of selective immigration firstly goes through the organization of the struggle against irregular immigration and the reproduction of standpoints on the introduction of professional quotas, but also, potentially more and more, on the establishment of quotas based on geographical origins.

Today, the legislation in force that was introduced by Sarkozy (right) - the minister of interior in 2005 - tends towards a better operational efficiency regarding the application of the legislation, namely: refusals of entry at the borders, proliferation of checks in the streets or in the prefectures and, besides that, to the reduction of the stock of asylum seekers (the procedural delay went from more than 2 years to a few months). The prime goal of this legislation is to reduce irregular immigration by establishing even more reinforced systems of control, and by making the penalties for members of irregular migratory networks even tougher. In terms of expulsions for example, the number has gone from 20 000 in 2005 to 26 000 in 2008 and should reach up to 28 000 in 2010<sup>24</sup>.

The "plan of reinforcement of the struggle against irregular immigration" is organized around 5 main axes:

- reinforcement of inter-ministerial cooperation,
- creation of an immigration police force,
- new regulations against loopholes of the law that are favoring irregular immigration (especially against marriages of convenience)
- creation of a judiciary police office that is specialized in the struggle against informal employment,
- reinforcement of European cooperation.

The objective is to set a process in motion that allows for the establishment of a 'selected immigration'. In any case, the selective criteria should not - according to the Prime Minister François Fillon (right) - be based on national or ethnic discrimination. The point would be to define criteria that enable to favor the immigration of people that possess the qualifications that are necessary for the economic development of France, as for example through the introduction of 'limits' for separate professions or for various levels of qualification. Economic immigration

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<sup>23</sup> Term derived from the word « flic » = police officer / gendarme. Suggesting increased control by police forces.

<sup>24</sup> For information, a deportation procedure costs a minimum of 1800 Euros.



represented about 5% of regular immigration in 2003 according to the estimates of the Statistical Observatory of Immigration (2005), while the other flows of immigration were composed of family reunion (63% of the total, i.e. 101 937 persons), of asylum seekers (8% of the total, that is 9 790 persons), and of foreign students (+ 55 000).

### Discussion :

For the public authorities, these measures are considered to be a continuation of the policy initiated by the law of 2003 related to the control of immigration, the section 'chosen/selected immigration' adding itself to the notion of 'control'. They triggered the same kinds of criticisms, especially on behalf of certain associations that defend human right or that support migrants '*sans papiers*'. These associations accuse the policy to essentially favor the repressive section of the immigration policy (especially the formation of an 'immigration police' is under fire). These associations also accuse the public authorities of exaggerating the extent of fraud that is committed (marriages of convenience, complacent fatherhood, ...)

The fact that no regularization is scheduled to take place in France any time soon - in contrast to other European countries – gives reason for concern that thousands of immigrants are condemned to be 'permanent *sans papiers*', as the current regulations are not able to make the totality of the irregular migrants that are already present disappear, nor can they entirely stop newcomers from coming in.

Finally, the prospect of introducing a 'quota' system or 'limits' also incites lively reactions. The option of quotas based on nationality or ethnicity is often blamed of being in opposition with human rights, and has actually been rejected by the Prime Minister. But even the professional quotas are often considered to be ineffective: some people point out that the candidates that wish to immigrate into Europe are essentially 'non-qualified' people whose pressure at the border will not diminish; in fact, it is not certain that the quotas of qualified immigrants will be met.

## 5. Airport Transit Visas and the Decline in Asylum Applications

Within the framework of numbers and their usage, asylum applications provide an example.

**Table 24:** *Number of Submitted Asylum Applications Per Year, 1999-2007*

	1999	2000	2001	2002	2003	2004	2005	2006	2007
<i>Submitted asylum applications</i>	30905	38745	47290	51085	59770	58545	49735	30750	29160

In this summarizing table, we notice a certain decrease in the deposition of asylum applications. We also know that the majority of the asylum applications are submitted in airports, it is thus through there that most of the flows of irregular migrants arrive. The airport transit visas (visas de transit aéroportuaires - VTA) were brought up in the European debate by France. They are now commonly applied

throughout the Schengen area. They are required in the case of a stopover in an airport of transit. The VTA allow local authorities to control the boarding of foreigners on transit platforms. Since 1995, the list of countries that are subjected to VTA has not stopped growing, especially the ‘Russians coming from an airport in Ukraine, Byelorussia, Moldavia, Turkey or Egypt’. These countries were added after a peak level of arrivals at the end of December 2007 of people fleeing from war in Somalia (in these cases often under the pretense of a document of Djibouti) or Chechnya.

The introduction of this regulation aims, according to the minister of immigration, to dry up the immigration channels that transit through Paris.

Nevertheless, if we look at the list of countries that are subjected to VTA, we realize that it is the main nationalities requesting asylum at the border that are subjected to this regulation. GISTI and ANAFE (Association nationale d’assistance aux frontières pour les étrangers – National association for the assistance of foreigners at the borders) stressed that a corollary of this regulation has been the decline, if not the halt, of asylum applications from these countries. The VTA require a long and difficult procedure so as to avoid the boarding of people that could be tempted to ask for asylum while they are transiting through France.

Laetitia van Eeckhout (newspaper *Le Monde*) notices that until the last trimester of 2007, the admission rate of Chechens was of 100%. In a report published in November 2006, the national consulting Commission on Human Rights (Commission nationale consultative des droits de l’homme – CNCDH) called upon the French authorities to “abstain themselves from imposing the need for a VTA on nationals that come from countries of great political instability and prone to violence, from which many asylum seekers originate”.

## **6. Biometry**

So as to be able to improve the course of the repressive legislation regarding irregular immigration and hermeneutic borders, France and the EU evoke more and more tendencies to resort to DNA marking and biometry in general. Political involvement with the body - the last stronghold of the human being – is something that fosters numerous concerns: the body as a final mark of the count of foreigners. The citizens of the third countries that want to enter the European Union for a stay of less than 3 months could, as of 2015, be obliged to have their entry and their exit registered in a biometric database: this was the proposition that the European Commission suggested on February 13, 2008 to the vice-president, Franco Frattini – who is in charge of justice and interior affairs – as a means to reinforce the border controls in the EU.

### **Discussion :**

#### Return to the use of biometric data

On June 14, 1985, the Federal Republic of Germany, France, Belgium, Luxembourg and the Netherlands signed an agreement that gave rise to the free circulation of people within the territories of these countries. Then, these Schengen agreements led to the suppression of border controlling procedures. After the treaty was implemented, the abolition of interior borders between the countries that signed the treaty marked a unique exterior border, which needed increased control and new methods for visa

procedures, right of entry, etc. The foundation of a free space between these countries has induced the creation of new protocols of control: more freedom on the inside means more controls towards the outside, and, as a result, a rigidification of these controlling procedures. It has thus proven to be necessary to modernize and optimize the practices of identification of the travelers and especially of the foreigners that are aiming to remain in the Schengen area. The traditional means of controlling documents have rapidly become obsolete. Checking documents was no longer efficient enough and it is in fact in one's body we now find the latest and most truthful proof of identification of a person. The Schengen area nowadays is creating measures that involve the body of the foreigner: proving the uniqueness of the candidate by integrating his biometric data into technological files, and proving his/her offspring to give the right to family reunion through genetic expertise.

It is on this point that policy / count of irregular immigration and ethics clash, because even though the body imposes itself as a much sought for solution to manage the identities of the stocks and flows, this biologic solution also brings serious ethical issues to the forefront. The interrogation of this report on the numbering of irregular foreigners and these measures of administrative biologisation is founded on measures that are susceptible to harming our principles of freedom and acceptance/reception.

## Conclusion

To conclude this report, we would like to stress the fact that a simple survey carried out amongst the people in my surroundings gave interesting results on the issue of irregular migration. The figure most commonly retained by 10 French people in my surroundings is that of 25 000, i.e the number of expulsions set as an objective by the minister of immigration Brice Hortefeux (right).

At present, this objective seems to have the tendency to become the indicator of success for the policy that was adopted by Sarkozy (right) and his government. The two tendencies increase together, the more expulsions there are, the more the migration policy of the Fillon (right) government is considered to be successful, at least by the members of this government. Nonetheless, the population does not seem to react to these numbers in the same way and initiatives and support groups are showing up.

In terms of the flows, the assembly of estimates and of figures seems to create an idea of influx as if it were an invasion. The numbers coming from the South of Europe sound like alarming signs of poverty-stricken people from the third world on their way to Europe. The same discourse is inclined to associate a tendency to victimize irregular migrants to this feeling of influx. In this way, they are not in charge of their own destinies, but victims of immigration (smuggling) networks/rings. Hence, if they are victims, the decision to bring them back home appears to be a beneficial solution. In this case, it is the numbers concerning the massive arrivals of clandestine migrants on the coasts of Southern Europe that are put forward. On the other hand, if we consider these undocumented migrants as fleeing from their regions of origin for political or economic reasons, or both, who do we expel?

To this question, the answer came as a bolt from the blue. The system of the development industry innovates and invents philanthropic projects of solidarity, of which the main aim is to keep these populations in their countries of origin. Hence, irregular immigration and (humanitarian) aid and development are once again related to each other, although with differing goals.

The estimates and statistics concerning irregular immigration maintain a role: that of electoral argumentation. While Lionel Jospin (left) praised the ‘regularization of undocumented migrants’ in 2002, Nicolas Sarkozy (right) pushed for his projects of expulsions in 2007. It is therefore difficult to evaluate of policy of migration on its fabrication of numbers.

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