

## **France: La Cimade's Charter Awards highlight unlawful practices enacted by prefectures against migrants which subordinate the law to immigration policy objectives**

*Detention and expulsion: prefectures awarded prizes for their illegal and abusive practices*

On 7 June 2016, *La Cimade* and its partner organisations (*Gisti, Médecins du Monde, Emmaüs France and the Réseau Education Sans Frontières* network) unveiled the names of the winners of its ten Charter Awards, concerning detention in administrative detention centres (CRAs) and expulsions, which were handed to the winning prefectures in the following categories. They explore the different ways in which the goal of detaining and expelling as many migrants as possible is undermining the effectiveness of legal rules which the prefectures are responsible for implementing.

**I'm fine, don't worry about it** [*Je vais bien, ne t'en fais pas*] -for detention and expulsion of seriously ill migrants.

The **Loire-Atlantique** prefecture won this award which looks at the expulsion of people who are seriously ill towards countries where they cannot receive adequate medical care, a situation described as an unacknowledged "death row". Prefects are described as increasingly playing a role as doctors, supported by the interior ministry, by deciding to expel people contrary to medical advice suggesting that the consequences for the health and lives of the people concerned may be "very serious". The situation has worsened since 2012, because the interior ministry intervened in matters pertaining to the ministry for health to impose a political decision by the government which was included in the law reform of 7 March 2016. This means that responsibility for assessing the health conditions of foreigners who are seriously ill and cannot be cured in their country of origin who request a residence permit will no longer rest with the regional health agency, but with doctors from the French immigration authorities [OFII, *Office Français de l'immigration et l'intégration*], a department of the interior ministry.

**48 hour time-trial** [*48 heures chrono*] -for detention and expulsion without allowing access to the justice system.

The **Gironde** prefecture won this award which focuses on the difficulty experienced by the 50,000 people who are detained yearly in CRAs to be able to challenge detention and expulsion measures adopted against them before a judge, even if they have fundamental rights to assert. The right to an effective legal remedy is thus flouted. On the mainland, appeals must be lodged within two days (48 hours) of detention, which makes it difficult for detained migrants to organise their defence. The situation is even worse in overseas territories, where over half of these people are detained and expulsions are conducted at an incessant pace, in just a few hours and on a massive scale. Prefectures do not suspend expulsions while an appeal is underway, although a law of 7 March 2016 has instituted an appeal which has a suspensive effect, but practices are fast-tracked to such an extent and legal assistance is so limited that proper appeals can only be filed on rare occasions. In the overseas territory of Mayotte, in 2015, over 18,000 people (including 4,300 children) were detained and expelled without having the opportunity to be heard by

a judge. Many people who had lodged appeals were expelled on prefectures' orders in 2015, without awaiting for a decision to be made.

**Fast and Furious** -for detention and expulsion in breach of states' sovereignty.

This award won by the prefecture of the French overseas territory of **Guadeloupe** focuses on practices which impinge on the sovereignty of third countries in order to enact fast-track expulsions. People who are expelled must have a valid passport or laissez-passer document issued by their consulates. Yet, the French authorities are increasingly taking over the issuing of laissez-passer documents, denying people the possibility to communicate with their consulate in order for it to recognise them as their nationals, or not and to choose whether to accept their repatriation by issuing a laissez-passer document, or not. European laissez-passer documents and those issued by the prefecture are both used, the first stemming from a vague European Council recommendation from 1994 which requires an agreement to be in place between France and the third country concerned, whereas those issued by the prefecture have no legal basis. Further regulation for EU laissez-passer documents to increase their use were proposed on 30 May 2016 by the European Parliament. The Guadeloupe prefecture has established its own laissez-passer documents to return people, in particular to Cuba, Jamaica and Guyana.

**The Search for the Holy Grail** [*La Quête du Graal*] -for the detention and expulsion of asylum seekers.

Highlighting that the right to asylum is enshrined by the French Constitution as well as international conventions including the Universal Declaration of Human Rights, the Charter of Fundamental Freedoms and the 1951 Geneva Convention, this award highlights that it is "too often swept away by the preponderance of the expulsion machine". It was won by the prefecture of **Guyane** in the overseas territory of French Guyana.

Prefectures detain people in detention centres for the purpose of expelling them, violating their right to seek asylum and exposing them to the risk of inhuman and degrading treatment in countries where they were persecuted, apart from the violence of detention and administrative decisions which disregard their basic need for protection. Prefectures detain people in CRAs even when they have declared their wish to apply for asylum. Thus, their request is ignored and they are made to submit applications in very bad conditions, within five days, without having the documents which may certify their claims on them, in detention and separated from their families and support networks. People whose countries are "manifestly dangerous" like Syrians, Eritreans, Afghans and Sudanese are sometimes detained, either to be expelled (see the Return to Hell award) or, more often, simply to dislodge migrants from areas like Calais (see the Tarzan, King of the Jungle award). People should be able to apply for asylum outside of detention centres and detention and threats of expulsion should subside until a careful evaluation of their application has taken place.

**Very Bad Trip** -for the expulsion of foreigners who are legally resident or of French nationals.

The **Seine-Saint-Denis** prefecture won this award, which highlights that France is the EU country which resorts to detention most often, 50,000 people per year, and the trend for prefectures to first detain people and subsequently assess their situation, up to the point where the winning prefecture detained and tried to expel a French person who had just lost their identity documents. Detention is a serious decision denying people their freedom which should be used as a last resort following a full assessment of the situation and after evaluating alternative solution which may include granting a right to reside in France or agreement to voluntary return. Yet, too often, a policy which focuses on figures is imposed by the higher state echelons results in administrations overlooking these preliminary requirements and automatically making decisions, although the people who manage to appeal to a judge before boarding a plane may end up being released. Detaining a French national in an administrative detention centre (CRA) is the height of this illegality.

**Mom, I missed the plane!** [*Maman j'ai raté l'avion*, French translation of the 'Home Alone' film title ] -for detention and expulsions which split up families.

The **Haute-Garonne** prefecture won this award which focuses on “a particularly odious practice”, that of detaining a parent without their children with a view to expelling them. It often targets fathers, but sometimes mothers as well, or some or all of the sibling children of a family. It is easy to imagine the anguish and trauma that such detentions and separations entail, with the fear that the latter may become irreversible once expulsion towards a country which it is hard to return from is carried out. Use of this practice has developed considerably on the French mainland since 2012, when a circular from the government instructed that families should only be detained as a last resort, but it excluded the island of Mayotte, “where thousands of children are detained every year”. Prefectures subsequently increased the detention of one or both parents, with or without their children, as a means of pressuring families to turn up when the plane's departure is scheduled for one of its members.

**Young Threat** [*Péril jeune*] -for detention and expulsion of foreign unaccompanied minors.

The **Vienne** prefecture won this award for the detention and expulsion of unaccompanied foreign minors, between 200 and 300 of whom are detained every year in France. Although the law forbids the expulsion of unaccompanied children without their parents, they sometimes suffer the trauma of detention because they are treated as suspects and the administration questions their age, using medical methods which are inaccurate, and sometimes on the basis of unlawful administrative practices. The issue is important because, apart from being interviewed, they are assumed to be liars, deprived their freedom in detention and made to fear expulsion, and may be interrupted during their route towards integration. It shows how “too often”, the authorities' interest in expulsion prevails over other rights.

**Our dear children** [*Nos enfants chéris*] -for detention and expulsion of families with their under-age children.

In order to expel families, prefectures are detaining them in CRAs with their children in spite of President Hollande's vow when he was a candidate to put an end to this shameful practice. 105 children from 52 families experienced detention in mainland France in 2015, and the figure for the overseas territory of Mayotte was 4,500 children. These are the only under-13s whose detention is allowed by French law (violating France's international commitments), although it too poses some limits, which are not respected by prefecture, for the sole purpose of making it easier to expel them. This practice includes the detention of very young babies who are still breast-feeding. In 2016, until June, this measure was applied to 18 families and 36 children, with the **Doubs** prefecture which won the award singled out for its regular use of detention prior to expulsion. This measure violates France's commitments as a signatory of the UN Convention on the Rights of Children, which only allows such measures as a last resort requiring access to a judge. On the ground, however, prefectures detain families discretionally, often in the early hours of the morning to prevent the intervention of associations, judges and lawyers, while on the island of Mayotte, access to justice is denied in a systematic and institutional manner through the derogation of applicable laws and fast-track expulsions enacted in just a few hours. France was condemned by the ECtHR in the *Popov vs. France* case, but it failed to drawing the consequences of the judgement, and increasing numbers of minors are placed in detention.

**Return to Hell** [*Retour en enfer*] -for detention and expulsion of people from countries at war.

The sole nominee, the prefecture of **Pas-de-Calais**, won this award for the expulsion of Sudanese people from the Darfur region, the detention Iranians, Iraqis and Syrians and the deportation of a seriously ill asylum seeker to Hungary. Despite sentences by the ECtHR condemning expulsions enacted by France because the risk of suffering inhumane and degrading treatment upon return is proven, some prefectures continue to issue return decisions against Sudanese nationals, leading to their detention. In the last year, these detainees have generally been released, either by the courts or by the prefectures themselves, which feared being sanctioned. Nonetheless, two Sudanese people from Darfur were expelled to Khartoum on 24 September 2015, in one case overtly contravening the Lille administrative court's annulment of the expulsion order.

**Tarzan, King of the Jungle** [Tarzan, roi de la jungle] –for the dispersal of the Calais jungle residents to detention centres around France.

Won by the only nominee, the **Pas-de-Calais** prefecture, for its operations in the so-called "jungle". From 21 October to 31 December 2015, 1,200 people were apprehended there by the police and dispersed by bus and airplane to unlawfully detain them in seven detention centres [CRAs, administrative detention centres] around France, in Marseille, Mesnil-Amelot, Metz, Nîmes, Paris-Vincennes, Rouen and Toulouse. These centres are meant to prepare expulsions, and detaining refugees who have fled from countries war and are hence not expellable is illegal as well as traumatising.

**Source**

*Charter Awards. C'est arrivé près de chez-vous. Enfermement et expulsion: des préfectures récompensées pour leurs pratiques illégales ou abusives. Les pires scénarios ont déjà tous été adaptés, il est temps de changer de politique!*, press dossier, 7.6.2016.

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