



## VISA POLICY AS MIGRATION CHANNEL

Study carried out by the French Contact Point of the  
European Migration Network (EMN)



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## **TABLE OF CONTENTS**

<b>EXECUTIVE SUMMARY.....</b>	<b>3</b>
<b>1. INTRODUCTION: PURPOSE AND METHODOLOGY .....</b>	<b>4</b>
1.1 Study objectives.....	4
1.2 Methodology.....	4
1.3 Definitions .....	5
<b>2. POLICY AND LEGAL FRAMEWORK FOR THE GRANTING OF VISA.....</b>	<b>7</b>
2.1 National policy and legislative framework.....	7
2.2 Agreements with third countries.....	11
2.3 Recent changes to visa policy and legislation within an EU context .....	14
2.4 Recent changes to visa policy and legislation relating to national visas .....	17
<b>3. PRACTICAL IMPLEMENTATION AND ORGANISATION .....</b>	<b>18</b>
3.1 General procedure followed in the stages of the visa procedure .....	18
3.2 Visa issuance for the purpose of legal immigration .....	30
3.3 Visa procedure for the purpose of preventing illegal migration .....	33
<b>4. COOPERATION WITH THIRD COUNTRIES: CASE STUDIES.....</b>	<b>44</b>
4.1 Case study 1: Algeria.....	44
4.2 Case study 2: China .....	49
<b>5. EFFECTS OF EU POLICY AND LEGISLATION .....</b>	<b>54</b>
5.1 Overall impact of EU policy and legislation on France.....	54
5.2 Application of European instruments to the French legislation and policy.....	54
<b>6. STATISTICAL DATA ON VISAS AND IMMIGRATION .....</b>	<b>55</b>
6.1 Statistics on visas issued.....	55
6.2 Statistics on flows of third-country nationals to France .....	64
<b>APPENDICES .....</b>	<b>66</b>
APPENDIX 1: Bibliography.....	66
APPENDIX 2: List of abbreviations used in the study.....	67
APPENDIX 3: Questionnaire sent to French Consulates abroad .....	68

## **EXECUTIVE SUMMARY**

The policy implemented by the French Government for issuing long-stay visas is a response to both the desire to manage migration flows to meet the needs of the French economy and those of its international influence, as well as the concern for ensuring that migrants can integrate into the French society.

Alongside this, the issue of long and short stay visas is a procedure that is essential to combating illegal immigration.

Legislative and regulatory measures implemented over recent years are a response to these requirements, not forgetting those arising from the transposition of European directives (part 2).

The procedure for issuing visas is aimed at responding to the objectives thus defined. This procedure is divided into three main stages: application stage, examination stage, entry and stay on the French territory. We will pay particular attention to the link between the issuing of visas and the resources implemented for combating illegal immigration, especially for evaluating migration risk and misuse of the purpose of the visa, and for detecting document fraud (part 3).

The link between visa policy and the management of migration flows will be analysed through two case studies (Algeria and China) that illustrate French policy. The strong historical links, as well as cooperation and visa facilitation agreements explain the importance of exchanges between France and Algeria. Given the considerable size of its population and the increase in exchanges, there has been a great increase in the number of visas issued in China (part 4).

It should be noted that European legislation and policy are having an increasing influence on the French visa policy (part 5).

French embassies and consulates abroad received 2,246,357 requests for visas in 2010, compared to 2,100,268 in 2009, an increase of + 7 %.

This upward trend occurred after a drop of – 10 % between 2008 and 2009, which could be explained by both the global slowdown of economic activity and the inclusion of 9 new Member States into the Schengen Area at the end of 2007 (Estonia, Latvia, Hungary, Lithuania, Malta, Poland, Slovenia, Slovakia and the Czech Republic), as well as Switzerland at the end of 2008, which resulted in an increase in the number of Schengen offices. In fact, visas issued by these states are also valid for entry into France and holders of a residence permit issued by any one of them do not need a visa to enter France (part 6).

# 1. INTRODUCTION: PURPOSE AND METHODOLOGY

## 1.1 Study objectives

The purpose of this study is to analyse the relationship between visa and migration policies (promotion of legal immigration and prevention of illegal immigration), as pursued by the French Government.

It will also be necessary to explore the effects of European policy and legislation on national policy, procedures and practices.

It should be noted from the start that visa policy is an initial stage of the migration policy in France. The second stage is characterised by the issue of a residence permit by the administrative authority representing the State at local level (the prefect) to stay in France beyond 3 months.

In France, the visa is a prerequisite for obtaining a residence permit. However, there is an exception to this rule: the long stay visa equivalent to a residence permit (VLS-TS), which dispenses with the requirement to request a residence permit. The VLS-TS was introduced in June 2009 to facilitate the arrival of four categories of people holding long stay visas in France: spouses of French nationals, students, salaried workers and visitors.

The visa policy pursued in France is part of changes currently underway: merging the long stay visa and the residence permit, the introduction of biometrics, the progressive outsourcing of the application processing and the negotiation of bilateral agreements.

## 1.2 Methodology

This study was conducted in close collaboration with the Visa department of the Ministry of Interior (*Sous-direction des visas du ministère de l'intérieur, des collectivités territoriales, de l'outre-mer et de l'immigration*) that provided us with the necessary elements to carry out this study, with particular reference to the figures relating to the issue of visas.

We also worked in close collaboration with the department of statistics of the Ministry of Interior, which supplied us with the figures on residence permits via the AGDREF application (application for the management of files of foreign nationals in France). However, we have encountered problems with regard to obtaining figures on refused entries at external borders, which explains the absence of such data in the study.

In order to carry out this study, we have also used existing reports and studies, notably the information report by Mr. Adrien Gouteyron, which was produced in the name of the Senate Finance Commission and published in June 2007. This report was produced following an inspection assignment that took place at 7 Consulates (Ankara, Istanbul, Moscow, Saint Petersburg, Tananarive, Toamsina and Pointe-Noire) across 4 countries (Congo-Brazzaville, Madagascar, Russia and Turkey). In addition to this, 31 major consulates were interviewed via written questionnaire.

In our opinion, this report appears to be particularly interesting and relevant to this study, since it is based on a field survey and also makes recommendations for improving a number of aspects for issuing visas in France.

Finally, we sent a questionnaire that was drafted in line with the specifications of the study to a number of French Consulates abroad. The objective was to gather information directly connected with the “field” experiences of the Consular Services in order to clarify the link between visa policy and legal and illegal immigration.

We received several responses to the questionnaire, notably from Consulates in Annaba, Moscow, Bombay and London, whom we would also like to thank. Their responses have enabled us to establish a typology of measures taken to prevent illegal immigration during the visa application and examination stages.

In general, the responses provided have enabled us to clarify the correlation between visa issuing and immigration policy.

### **1.3 Definitions**

The terms used in this study correspond to the terms in the glossary of the European Migration Network, with the addition of some clarifications at the national level.

#### **Entry and Stay**

In the context of the EU: entry and/or stay of a third country national into an EU Member State which satisfies Article 5 of Schengen Border Code.

In the French context: entry and/or stay of a third country national into France under which satisfies the CESEDA (Code for the Entry and Stay of Foreigners and the Right to Asylum).

In this study, we refer to visas permitting the entry and stay of foreign nationals into France.

#### **Illegal Immigration**

Migration using irregular or illegal means, without valid documents or carrying false documents.

In this study, we use the terms illegal and legal immigration.

#### **Residence permit**

Any authorisation issued by the authorities of a Member State allowing a third-country national to stay legally in its territory, in accordance with the provisions of Article 1(2)(a) of Council Regulation (EC) N° 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals.

In France, residence permits are regulated by the CESEDA.

#### **Refusal of entry**

In the context of the EU: refusal of entry of a third-country national at the external EU border because they do not fulfil all the entry conditions laid down in Article 5(1) of Regulation (EC) No 562/2006 and do not belong to the categories of persons referred to in Article 5(4) of that Regulation.

In the French context: refusal of entry of a person who does not fulfil all the entry conditions laid down in the national legislation (CESEDA).

### **Visa Global Network (Réseau Mondial Visas)**

Computer network enabling Consulates to enter and process visa applications and enabling central administration to be informed of cases, follow their development, intervene in the handling of some applications, update files for attention and opposition at Consulates and help Consulates.

### **Schengen Information System (SIS)**

A joint (EU plus Member States) information system that enables the relevant authorities in each Member State, by means of an automated search procedure, to have access to alerts on persons and property for the purposes of border checks and other police and customs checks carried out within the country in accordance with national law and, for some specific categories of alerts (Article 96), for the purposes of issuing visas, residence permits and the administration of legislation on aliens in the context of the application of the provisions of the Schengen Convention relating to the movement of persons.

### **Visa Information System (VIS)**

A system for the exchange of visa data between Member States, which enables authorised national authorities to enter and update visa data and to consult these data electronically.

### **Visas**

The authorisation or decision of a Member State required for transit or entry for an intended stay in that Member State or in several Member States. The nature of the visa shall be determined in accordance with the following definitions:

- "Short stay visa": means the authorisation or decision of a Member State required for entry for an intended stay in that State or in several Member States for a period whose total duration does not exceed three months;
- "Long stay visa": means the authorisation or decision of a Member State required for entry for an intended stay in that Member State of more than three months.

We have shortened the definition to exclude transit visas and airport transit visas, which do not correspond to the focus of the study.

## 2. POLICY AND LEGAL FRAMEWORK FOR THE GRANTING OF VISA

### 2.1 National policy and legislative framework

#### a) General vision

The rules set by France for issuing visas are a response to a desire to manage migration flows to meet the needs of France, its economy and those of its international influence, while also taking into account those of the countries of origin and of the migrants. It is also appropriate for migrants who have been admitted to France to become integrated within French society. This requirement leads to adjust the reception capacity of the French society and migratory flows.

Long stay visas therefore seem to be the initial stage in the regulation of migration flows towards France.

In line with this, the policy leading to the issue of visas must make it possible to combat illegal immigration. In this case, in addition to long stay visas, we must consider short stay visas (less than 3 months). The rules for issuing these visas must make it possible to meet this particular objective. Today, the rules for issuing short-stay visas are contained within the framework of the European Visa Code. Note the fact that short-stay Schengen visas accounted for almost 90 % of all visas issued in 2010.

The main guidelines set by the French government for issuing visas are as follows:

- **To facilitate entry and stay in France for businessmen and persons contributing significantly to bilateral relations between their country and France, especially in economic, policy and cultural terms.** This is why the issue of “circulation visas” (*visas de circulation*) has increased considerably in recent years, rising from 209,981 in 2003 to 348,794 in 2008, i.e. + 66 % in five years; since then, this figure has remained stable (345,505 visas issued in 2010). These visas authorise an unlimited number of entries into France and are valid for between one and five years, with the sole condition of not remaining in the Schengen Area for more than 90 days within any 6-month period. They now account for 20 % of the short stay visas issued and make matters considerably easier for the target population; in 2010, around 600,000 foreigners had a valid “circulation visa”;
- **To promote the issue of long stay visas to foreign students** whose potential and mastery of the French language will enable them to obtain a real qualification and find employment in France or in their own country;
- **The issue of long stay visas to qualified foreign workers must consider the needs of the French economy.** These must be regularly defined, taking into account the level of unemployment in France. In 2010, 14,870 long stay visas were issued for carrying out professional activities, a reduction of 7.3 % compared to 2009, which can be explained by the economic crisis (between 2007 and 2008, there was in fact an increase of + 18% in this category);



- **To issue long stay visas for family settlement** under conditions that provide the persons concerned with the best chance of integration in France (prior tests and training in the French language and the values of the Republic);
- Also, **a new type of long stay visa that dispenses with the residence permit (VLS-TS)** was introduced on the 1<sup>st</sup> of June 2009 with a view to improving admittance conditions and assisting the procedures for the settlement of foreigners in France coming to study or carry out professional activities, or of foreigners coming to settle with their family. This new type of visa concerns the following categories: spouses of French persons, visitors, students and salaried employees and it exempts holders from requiring a residence permit for the first year, or for the entire stay if the latter is less than 12 months; however, the visa must be validated by the French Office for Immigration and Integration (OFII).

#### b) National visa policy

- *General overview of the national visa policy*

#### **Two ministries share jurisdiction for the issue of visas.**

Under the terms of Article 1 of Decree n° 2007-999 of the 31<sup>st</sup> of May 2007, the policy for the granting of visas is under the joint jurisdiction of the **Ministry of Immigration, Integration, National Identity and Solidarity Development and the Ministry of Foreign and European Affairs.**

In 2008, the allocation of roles across the two ministries in terms of general or specific instructions relating to visas was determined in Decree n° 2008-1176 of the 13<sup>th</sup> of November 2008, relating to the powers, duties and functions of heads of diplomatic missions and heads of consulates in terms of visas.

This text distinguishes "general instructions" (implementation of regulations and description of procedures) from "specific instructions" relating to individual visa requests. The former are established by the Minister of Immigration, following consultation with the Ministry of Foreign Affairs. The latter come under the general jurisdiction of the Ministry of Immigration, except for three categories, which are handled by the Ministry of Foreign and European Affairs:

- visas requested by holders of a diplomatic passport, service passport, official passport, specific passport or pass issued by an international organisation;
- visas relating to international adoption procedures;
- visas relating to individual cases under French foreign policy, still subject to consultation with the Ministry of Immigration.

Decree n°2010-1444 of the 25<sup>th</sup> of November 2010 reallocates these same jurisdictions to the Minister of Interior.

- ***Short stay visa policy (type C)***

As a general rule, short stay visas are issued to persons who do not intend to remain for long periods on French territory.

There is no reference to the reason for the stay on short stay visas. Short stay Schengen visas all look the same, whether they are for tourism, business or family reasons.

In compliance with the **Community Code**, short stay visas are issued upon presentation of proof establishing the reason for stay, proof of resources or sufficient means to cover the accommodation and subsistence of the applicant during his or her stay and upon supplying information to assess the applicant's intention to leave before the requested visa comes to an end. Proof will vary depending on the reason for the stay: an employment invitation (business travel), a boarding and lodging certificate (family visit), or a hotel or tour operator booking (tourist visit).

Some categories of applicants are issued short stay visas for settling in France. These uniform visas are treated as national visas (type D) where the planned stay is longer than 3 months. This applies to family members of European nationals and Algerian nationals who are members of a French family, as stipulated in the Franco-Algerian Agreement of the 27<sup>th</sup> of December 1968.

- ***Long stay visa policy (type D)***

As a general rule, long stay visas are issued to persons who intend to remain on French territory. These visas therefore make it possible to obtain a residence permit.

**\* Visas issued for various purposes**

**- Visas issued for the purpose of employment**

As a general rule, a third country national who wishes to come to France to take up employment must first obtain a work permit. This happens either through an employment contract validated by the Regional Directorates for Business, Competition Policy, Consumer Affairs, Labour and Employment (DIRECCTE) or through the "foreign worker introduction" procedure. The visa corresponding to the reason for stay will only be issued upon presentation of one of these work permits. Third-country nationals cannot take up employment if they are not in possession of a "work permit" or a "temporary work permit".

**- Visas issued for the purpose of study**

Study visa applications are subject to review by the cultural department of French Embassy, which will give an opinion on the academic aspect of the application (student's previous history, knowledge of the French language, how intended studies relate to a profession in the student's country of origin, etc.) The opinion of the cultural department is an important factor and, even though issuing the visa is the responsibility of the Consul alone, the visa department will only give an opinion on the other aspects of the application, i.e. the student's resources and accommodation and the practical aspects of the application.

### **- Visas issued for the purpose of family life**

Procedures vary depending on whether family life concerns the family of a French national, foreign national residing in France or a person with refugee status in France. Applications made by French family members are submitted to the consular services. The families of foreigners are managed by the French Office for Immigration and Integration (OFII) and the French Office for the Protection of Refugees and Stateless persons (OFPRA) handles refugee families.

### **- Visas issued for humanitarian reasons**

In the case of specific events, instructions are given to the consulates concerned to facilitate the issue of visas to some categories of applicants. This was the case for the Haiti earthquake in 2010 and after the attack on Christians in Iraq, in Baghdad Cathedral, in 2010.

#### **\* Long stay visa equivalent to a residence permit (VLS-TS)**

This visa was introduced in June 2009 to facilitate the arrival of four categories of long stay visa holders in France: spouse of a French national, student, salaried worker and visitor. The visa issued is valid for a maximum of 12 months and allows the holder to enjoy benefits relating to his status as resident on arrival in France. The only condition is that the holder of a VLS-TS must register at the regional OFII office, to which he or she must report within 3 months of arriving in France.

#### **\* DROM and CTOM visas**

Given that the Overseas Region is not within the scope of the Schengen Agreements, visas issued for the overseas departments and regions (DROM, *Départements et Régions d'Outre-mer*) and for the overseas territories (CTOM, *Collectivités Territoriales d'Outre-mer*) are national visas (type D). The Decree of the 14<sup>th</sup> of December 2009 relating to the circulation system for Overseas is aimed at facilitating entry for some nationalities.

### **c) Legal framework**

The issue of visas is based on the following regulatory documents:

- **The Community Visa Code** arising from European Parliament Regulation n° 810/2009 and the Council of the 13<sup>th</sup> of July 2009. The Community Code applies to the issue of all uniform visas or Schengen Visas valid for stays of less than 90 days per six-month period. It must be noted that there are some Schengen short stay visas allowing settlement in France, as previously referred to. This is the case for Algerian nationals, French family members and third country nationals who are family members of European nationals residing in France;

- **The Code for Entry and Residence of Foreign Persons and the. Right of Asylum (CESEDA)** applies to applicants for visas for long-term stay and/or settlement in France. In compliance with regulations and depending on the reason for stay and settlement in France, various documentary evidence must be provided, particularly in the case of visas issued for conducting professional activities in France and the articles of the CESEDA are sometimes supplemented by the French Employment Code, and even those of the French Public Health Code for medical and paramedical professions.

#### **d) The connection between visa policy and legal immigration/illegal immigration**

The role of the visa is obviously to permit legal immigration and prevent illegal immigration.

The policy for issuing long stay visas comes under migration policy, which covers the following aspects:

- To facilitate entry and stay in France for businessmen and persons contributing significantly to bilateral relations between their country and France, especially in economic, policy and cultural terms;
- To promote the issue of long stay visas to foreign students whose potential and mastery of the French language will enable them to obtain a real qualification and find employment;
- To promote the issue of long stay visas to qualified foreign workers meeting the needs of the French labour market;
- To issue long stay visas for family settlement under conditions that provide the persons concerned with the best chance of integration in France.

The fight against illegal immigration includes the requirement for some nationalities to be in possession of a visa to enter France and/or the Schengen Area and even hold an Airport Circulation visa for a stopover in France without leaving the International transit zone.

## **2.2 Agreements with third countries**

**There is no visa exemption agreement with third countries for national visas.** Apart from citizens of the European Union and similar persons, and from nationals of another State that is a party to the European Economic Area Agreement or the Swiss Confederation, any foreigner over the age of eighteen wishing to stay in France must be in possession of a residence permit three months after having entered France.

Nationals who are exempted from the requirement for a short stay visa may enter France without a visa, but must obtain permission to stay within three months of entering France. People of nationalities for which a visa is required must obtain a national long stay visa before arriving in France.

### **a) Visa facilitation agreements**

- *Visa facilitation agreements for holders of diplomatic and service passports*

France has signed visa facilitation agreements with a number of third countries<sup>1</sup>, in particular concerning the reciprocal lifting of the requirement for a short stay visa for holders of diplomatic or service passports.

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<sup>1</sup> These facilitation agreements have been signed with the following countries:

South Africa, Bahrain, Bolivia, Brazil, Chile, Colombia, Congo, Dominica, Ecuador, Gabon, Israel, Kuwait, Oman, Qatar, Tunisia, Turkey, Algeria, Saudi Arabia, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Kazakhstan, Macedonia, Morocco, Moldavia, Namibia, Romania, Russia, Senegal, Serbia Montenegro, Thailand, Ukraine, Vietnam (for diplomatic passports only) and Benin (for holders of secure diplomatic passports only).

- ***Visa facilitation agreements for short stay***

Some nationalities are exempt from requiring a short stay visa, even if they are carrying out remunerated employee activity in France, on condition that they are able to present a work permit. This is notably the case for nationals from Brazil, the United States and Mexico.

**b) Bilateral agreements**

- ***Bilateral agreements for different purposes***

- Agreement with Argentina, Morocco and Senegal relating to the exchange of young professionals
- Agreement with Canada relating to the exchange of young people
- Agreement with Canada, Haiti and Turkey relating to the entry of interns
- Agreement signed with China relating to the application of the status of Approved Tourist Destination in favour of French Polynesia
- Agreement with Congo, Senegal and Tunisia relating to the concerted management of migration flows and solidarity development
- Migration agreement with Mali
- Agreement with Mauritius relating to the residence and circular migration of professionals
- Facilitation agreement with Algeria and Morocco relating to the transit, employment and residence in France for Algerian and Moroccan nationals and their families
- Professional migration agreement with Russia
- Migration agreement with India (currently undergoing validation)

- ***Working holiday agreements***

An agreement relating the working holiday programme has been signed with Canada, Japan, New Zealand, South Korea, Australia and lastly Argentina.

The working holiday programme is designed to enable young nationals from each of the two countries to stay in the other country with the aim of taking a holiday, with the option of taking up paid employee activity to add to their financial resources.

Similar agreements are planned for Taiwan, Hong Kong, Chile, Peru and Brazil.

- ***National visas for Overseas***

As a general rule, the visa requirement exemption for holders of official passports also applies to French destinations overseas. Moreover, some facilities have already been granted to some DROM and CTOM neighbouring nationalities for tourist stays. It applies for South Africa nationals wishing to travel to La Réunion, for example.

Facilities have already been granted to some nationalities with the aim of promoting tourism to some destinations, this being in particular the case for Chinese nationals travelling to French Polynesia.

### c) Purposes of facilitation agreements

Many draft bilateral agreements aimed at facilitating the issue of short stay visas for overseas destinations are in the process of being signed with Brazil, Russia, Georgia, Armenia, Qatar, Saudi Arabia and Algeria. The aim of these agreements is to facilitate the issue of “circulation” Schengen visas for some categories, notably businessmen and persons with a family member living in France, removing the requirement of a visa for holders of diplomatic or official passports and offering the option to travel without a visa to some Overseas Departments and Territories, with a “circulation” Schengen visa instead, issued by a French consulate. **The aim of all of these agreements is to facilitate legal migration.**

### d) “Circulation” Schengen visas

Foreigners known to the consulate for their trustworthiness and integrity may have access to a **“circulation” visa, which allows multiple entries for a period of 6 months to 5 years, thus exempting the persons in question from going through repeated formalities.**

The Community Visa Code contains the following provisions relating to “circulation” visas: *“while some conditions must be fulfilled, it is appropriate to issue multiple-entry visas, in order to reduce the administrative load for the Consulates of Member States and enable frequent or regular travellers to move without hindrance. Whenever possible, applicants of whose integrity and trustworthiness the Consulate is aware should have access to a simplified procedure.”*

In partnership with the country’s political, economic, cultural and University authorities, consulates can draw up “white lists” referring to specifically recommended persons who may be given special access to “circulation” visas.

This particularly refers to foreigners who are involved in or contribute towards the vitality of bilateral relationships with France or another Schengen State in areas that may be of interest to France (political, administrative, economic, commercial, financial, professional, University, scientific, cultural, linguistic, media, etc.) not presenting any risk of misuse of the purpose of the visa for settling illegally in a Schengen State, or carrying out illegal activities presenting a risk to public order, or presenting no security risk.

As previously mentioned, the number of “circulation” visas increased by 66 % between 2003 and 2008.

The generalised issue of these visas was already recommended by Mr. Patrick Weil in 1997 in his study assignment<sup>2</sup> and, more recently, by Mr. Adrien Gouteyron in his information report on visa services<sup>3</sup>. The benefit of these visas is that they enable the persons concerned to make

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<sup>2</sup> Patrick Weil, *Mission d'étude des législations de la nationalité et de l'immigration*, Report to the Prime Minister, La Documentation française, Paris, August 1997, page 34. Report available at <http://lesrapports.ladocumentationfrancaise.fr/BRP/994001043/0000.pdf>

<sup>3</sup> The finance commission entrusted the task of inspecting visa services to Mr. Adrien Gouteyron, special reporter for the *Action extérieure de l'Etat* assignment. This assignment involved the inspection of documents and the premises at 7 consulates (Ankara, Istanbul, Moscow, Saint Petersburg, Tananarive, Toamsina and Pointe-Noire) in 4 countries (Congo-Brazzaville, Madagascar, Russia and Turkey). Moreover, 31 major consulates were surveyed through a written questionnaire. Report available at <http://www.senat.fr/notice-rapport/2006/r06-353-notice.html>

several return journeys without having to apply for a new visa each time and to avoid the foreigner to go through the procedure each time he or she travels. The observation report produced by the Cimade<sup>4</sup> also recommends the issue of multiple-entry “circulation” visas.

## **2.3 Recent changes to visa policy and legislation within an EU context**

### **a) Changes to European policy and legislation relating to the granting of visas**

**1) Council Decision 2004/512** to introduce biometric elements for short stay visas and **Regulation (EC) 767/2008** concerning the VIS:

- implementation of biometrics at Diplomatic Posts and Consulates;
- development of the corresponding IT resources and ongoing biometric data collection outsourcing at the French Consulate General in Algiers with a view to starting the VIS scheduled for the second half of 2011 in the North Africa zone, in order to be able to receive applicants in the proper conditions.

**2) Regulation n°390/2009 of the European Parliament and of the Council** amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications:

- collection of biometric data;
- cooperation with external service providers.

**3) Council Regulation (EC) N° 539/2001** listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement:

- short stay visa exemption in 2009 and 2010 for nationals of the five countries of the Western Balkans (Serbia, Montenegro, ARYM, Albania and Bosnia-Herzegovina) and Taiwan nationals.

**4) Directive 2004/38/EC of the European Parliament and of the Council** on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States:

- family members who are not nationals of a Member State are only required to have an entry visa. The possession of a current residence permit by a family member of a citizen of the European Union exempts the family members concerned of the requirement to obtain a visa.

**5) Regulation EC N° 810/2009 of the European Parliament and of the Council** establishing a Community Code on Visas:

- new judicial instrument aimed at achieving a balance between improved protection for users (public information, visa deadline control, systematic communication of the reasons for refusing visas, right of appeal) and increased effectiveness of the illegal immigration prevention mechanism through greater standardisation.

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<sup>4</sup> *Visa refusé, Enquête sur les pratiques des consulats de France en matière de délivrance des visas*, observation report produced by the Cimade, July 2010, page 130. Report available at [http://cimade-production.s3.amazonaws.com/publications/documents/41/original/Rapport\\_complet.pdf](http://cimade-production.s3.amazonaws.com/publications/documents/41/original/Rapport_complet.pdf)

6) **Council Regulation EC N° 334/2002** amending Regulation (EC) No 1683/95 laying down a uniform format for visas

7) **Regulation EU N°265/2010 of the European Parliament and of the Council** amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa:

- extension of a long stay visa due to a residence permit for free transit in the Schengen Area.

8) **Regulation EC N°562/2006 of the European Parliament and of the Council** establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code):

- definition of the conditions of entry into the Schengen Area for third country nationals.

**Concerning the significant changes affecting the adoption of a joint approach** in terms of visa facilitation for example, the joint approach defined at the COREPER meeting on the 20<sup>th</sup> of December 2005 is aimed at avoiding retaliation responses from Member States when faced with pressure exerted by third countries in bilateral terms.

**b) Transposition of Directives 2009/50/EC, 2005/71/EC and 2004/114/EC into French law**

**Council Directive 2004/114/EC** of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service and **Council Directive 2005/71/EC** of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research **have both been transposed into French law.**

Transposition into French law was achieved through the law relating to immigration and integration dated the 24<sup>th</sup> of July 2006.

- Students have access to a **temporary residence permit bearing the reference “student”** (Article 9, Article L. 313-7 CESEDA). The student must have sufficient means of support. He or she may thus carry out a part-time professional activity. In some cases, this card is granted ipso jure, for example when a planned course of studies has been validated by a Study Centre in France before leaving the country of origin.

- **A residence permit bearing the reference “scientist”** may be issued under some conditions, especially for degrees. It exempts the holder from requiring a work permit and is renewable. It may be issued to foreigners invited to or desiring to come to France to perform research work or to teach University courses.

- Moreover, a **“skills and talents” card** allows the exercise of any professional activity (Article 15, Article L. 315-1 and following CESEDA). Valid for three years and renewable, it may be granted to a foreigner who is “likely to be involved in a significant and sustained way, through his/her skills and talents, in the economic development or the intellectual, scientific, cultural, humanitarian or sporting influence of France and of the country of which he/she is a national”. Special granting conditions have been determined for nationals of countries within the “priority solidarity zone” (ZSP) in order to prevent brain drain.



**Council Directive 2009/50/EC** of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment **was transposed into French law** by the law dated the 16<sup>th</sup> of June 2011 relating to immigration, integration and nationality, promulgated on the 16<sup>th</sup> of June 2011 and published in the Official Journal of the French Republic on the 17<sup>th</sup> of June 2011.

Under the transposition of the “blue card” directive, **a new residence permit for highly-qualified foreigners** (at least bac +3 or professional experience of at least 5 years) was created, offering facilitated access to the employment market and identical right of stay in all countries in the European Union. As for all residence permits that make it possible to come to work in France, a candidate for this new residence permit must have a written employment offer for a job matching his qualifications. The salary offered by the employer must be at least 1.5 times the average annual reference salary, the amount of which is set each year by decree of the Minister in charge of Immigration.

The new card is valid for 3 years and is renewable. If the employment contract term is less than 3 years, the card is valid for the entire duration of the contract + 3 months, during which the holder must find another job (corresponding to the required criteria). For the first 3 years, the cardholder may access the French labour market in the sector in question. After these three years, he or she will have access to all qualified jobs in the same way as French nationals.

It is now up to the Government to issue decrees for the application of this law, which alone can provide the exact provisions relating to this card.

### **c) Non-standardised aspects of the common EU visa policy**

Some categories of visa applicants must **provide documentary evidence other than the usual documents**, for example:

- Researchers submit a "hosting agreement" (*convention d'accueil*) issued by an approved body, signed by the manager of the host body and bearing the stamp of this body and the stamp of the Prefecture having jurisdiction;
- Artists arriving in France for a performance, whether paid or not, must provide a contract validated by a regional unit of the DIRECCTE. Foreign artists working free of charge at a festival must provide a certificate exempting them from requiring a provisional work permit (APT) issued by the DIRECCTE;
- Teachers of the language of origin to immigrant children in France shall present a verbal note and an appointment order from the authorities in the country of origin;
- Modern language assistants shall present a rector's order validated by a regional unit of the DIRECCTE.

**The procedure for appealing against visa refusals is stipulated at national level under the CESEDA.**

Article D. 211-6 of the CESEDA stipulates that “appeals to the appeal commission against the refusal of an entry visa for France must be made within two months of notification of the refusal decision.” Reasons must be given and they must be written in French. Appealing to the National commission of recourse against refusals of visas for entry into France (CRV) is "a prerequisite before resorting to any possible legal appeal" before the State Council, "subject to the irreversibility of the latter". The CRV may either reject the appeal and confirm the refusal or recommend that a visa be granted. Where the CRV confirms a visa refusal, the applicant

may apply for a judicial review before the Administrative Court in Nantes. In order to be admissible, an appeal against abuse of power must be made within two months of notification of the decision of the CRV.

## **2.4 Recent changes to visa policy and legislation relating to national visas**

**The introduction in June 2009 of the Long Stay Visa, which exempts its holder from requiring a Residence Permit (VLS-TS),** has made it possible to facilitate the arrival in France of four categories of beneficiaries: foreign spouse of a French national, student, salaried worker and visitor.

Under current regulations, this visa cannot be issued to other categories of foreigners. In the first year, it exempts the holder from having to apply for a residence permit. However, holders of this type of visa must register with the regional department of the OFII in their place of residence. Under the Convention for the application of Schengen Agreements (see Article 21.2 bis), it allows free transit in the Schengen Area. If the holder wishes to extend his or her stay in France beyond the validity period of this visa, he or she must apply for a residence permit at the Prefecture within two months of the visa expiry date.

**These changes make it possible to facilitate legal migration and combat illegal migration.** In fact, checks carried out with the various central administrations concerned make it possible to verify the situation of the visa applicant in terms of his or her right to stay. In addition to this, beneficiaries of this type of visa are in a legal situation as soon as they arrive in France, but must register with the OFII within three months of their arrival, in order to validate their visa. If they do not register, visa holders are considered as being in an illegal situation and may be asked to leave the territory.

### 3. PRACTICAL IMPLEMENTATION AND ORGANISATION

#### 3.1 General procedure followed in the stages of the visa procedure

All visa applications are processed in a series of stages. The ideal processing scenario consists of each stage being carried out by a different officer. In minor consulates, the same officer may process the entire visa application up to the point of the issue or refusal decision, which can only be made by an officer who has been delegated signing authority by the Head of the consular post.

The general procedure that applies to all visas (except the VLS-TS) is as follows:

- admissibility of the application
- payment of visa charges
- receipt of the application
- introduction of the application
- completion
- decision making
- issue of passport to the concerned person
- ways and deadlines for appealing

When a service provider receives and enters the application, the consulate becomes involved when it is completed, i.e. when the file is examined. If the consular post has a biometric system in place, an appointment is made with the applicant to obtain his or her biometric data during a private interview.

Depending on the type of visa requested, apart from consular services and the visa department of the Ministry of Interior, **some French administrative bodies are involved in processing a file when the visa application is being completed:**

- **Family reunification:** French Office for Immigration and Integration (OFII) and prefectures;
- **Economic migration:** Regional Directorate for business, competition, consumer affairs, labour and employment (DIRECCTE) and Prefectures;
- **Family of refugee:** French Office for the protection of refugees and stateless persons (OFPRA) and the asylum department of the Ministry of Interior;
- **DROM-CTOM visas:** Representative of France in the Overseas Department or Territory concerned by the arrival of the visa applicant;
- **Official passport visas:** Ministry of Foreign and European Affairs;
- Finally, **some sensitive nationalities are subject to consultation by the central French authorities.** This concerns the following countries: Algeria, Afghanistan, Saudi Arabia, North Korea, Iran, Iraq, Jordan, Lebanon, Libya, Pakistan, Palestine, Rwanda, Sudan, Syria and Yemen.

## a) Application stage

**French regulation does not contain any lists of documentary evidence** to be presented in support of visa applications. Such documentary evidence varies according to the visa issued and the consulates issuing them.

### ▪ *Admissibility of the application*

The conditions for the admissibility of a visa application are determined by the Community Visa Code.

- **Jurisdiction Rules:** Member State jurisdiction (Article 5) and territorial jurisdiction (Article 6) are applied by consulates and by posts using outsourced services.
- **Recognition of the travel document** presented (recognised, valid, not falsified and containing at least two blank pages for affixing the visa and entry stamp at the external border).

### ▪ *Payment of visa charges*

Visa charges are to be paid when the application is made. These charges are taken either directly by the consulate or the outsourcing company. Depending on the country and the reliability of the banking system, the payment can be made in cash, by direct bank transfer, bank's cheque or credit card.

The consulate issues a receipt on payment of the visa charges, as confirmation of receipt of charges from the applicant.

Biometric information is recorded at the beginning of the application processing procedure. This is usually done at the point when the visa charges have been taken and the receipt is issued.

**The charge for a long stay visa for a salaried person is €99** No charge is made for seasonal workers, Turkish workers, foreign language assistants and readers.

**Charges for other long stay visas** are as follows:

- **Family reunification: €99**
- **Other French family members: €99**
- **Family of refugee: €99**
- **Student: €99, or €50** when the file has been assessed by a French Educational Centre-CEF (*Centre pour les Etudes en France*). No charge is made for students with a grant from the French Government, a foreign government, a foreign foundation or beneficiaries of community programmes.
- **Adoption: €15**
- **Foreign spouse of French national: free**

### ▪ *Receipt of the application*

A visa application may be received in the following ways:

- submission to the visa service by the applicant in person;
- submission to the visa service by an intermediary;
- receipt by mail;
- receipt of a hard copy via an outsourced service;
- transfer of computer data and receipt of hard copy via an outsourced service.

If an application is made in person, which is the case for all D visas, the office interview is conducted during the reception phase. The officer must then check that all items requested have been provided as one original and one copy (originals are returned to the applicant) and must verbally check that the purpose of the application matches the documentary evidence submitted.

Consular services may summon an applicant for this interview at any time, even if the application has been made via an intermediary or outsourced service.

### ▪ *Introduction of the application*

Consulate officials enter the application on the **Visa Global Network** (*Réseau Mondial Visas*) unless the company in charge of the outsourcing is equipped with the Visanet application enabling the secure transfer of computer data. Information relating to the civil status of the applicant, travel document details, purpose of the stay, address of stay, name and status of the host party and period of stay are entered into the Visa Global Network. The SIS is consulted systematically at this stage of application processing.

The Visa Global Network (*Réseau Mondial Visas*) is a computer network enabling consulates to enter and process visa applications and enabling the central administration to be informed of cases, follow their development, intervene in the handling of some applications, update files for attention opposition at consulates and help consulates.

### ▪ *Outsourcing*

Outsourcing is a method of processing visa applications that has become unavoidable due to the development of biometrics.

Three levels of outsourcing have been implemented at this stage in French embassies and consulates:

- the first level is restricted to **outsourcing telephone calls from users and making appointments** for submitting visa applications and providing information;
- the second level involves **outsourcing the file collection** (checking that the file contains all of the items mentioned on the list supplied by the consulate: the completed and signed application form, a valid travel document, up to standard photos, proof of reason for travel, proof of resources, etc.), **the collection of charges and return of the travel document in a sealed envelope**, with or without the visa applied for;

- the third level involves the **secure computerised entry of the contents of the visa application form.**

To date, some visa services have outsourced part of their services:

- 26 consulates have outsourced the appointment-making procedure, which accounts for 18.4 % of the volume of visa application files throughout the world;
- 11 consulates have outsourced the appointment-making procedure and the collection of files, i.e. 7.7 % of the volume of files throughout the world;
- 18 consulates have outsourced the appointment-making procedure and the collection and transfer of files via the "Visanet" IT application, i.e. 46 % of the volume of visa applications submitted throughout the world.

The collection of biometric data has not been outsourced to date. There are plans to experiment the outsourcing of this task in consulates in Algiers, Istanbul and London for a period of one year starting in 2011; the French National Commission on Information Technology and Civil Liberties (CNIL), which is tasked with this project gave a favourable opinion on the draft decree authorising this (Decree n° 2010-645 of the 10th of June 2010).

In a questionnaire that we sent to various French consulates abroad<sup>5</sup>, we asked which tasks were carried out by external service providers and the extent of their role.

For example, at the **Consulate in Annaba**, the authorities approved an agreement with the UPS Company for returning passports to applicants when their files had been processed. For a charge of around 10 Euros, this company procures the envelopes for the return of passports, which the applicant is required to include with his or her file. To return the passports, this company offers a tracking service, making it possible to determine the time required for the transportation of the files accurately.

This Consulate also works with the Kenza Call Centre Company, whose role is limited to making appointments.

The authorities at the **Consulate in Bombay** asked the external service provider VFS (Visa Facilitation Services) to manage the appointment-making procedure, file submissions and visa charge payments. The outsourcing of tasks related to the visa procedure began on the Indian sub-continent on the initiative of the British consulates. It is therefore no surprise that the Indian company VFS is the leading participant in this sector.

Finally, the **Consulate in London** calls on service providers for the following functions:

- public information;
- making appointments for the submission of application files;
- collecting application file charges;
- receiving files and formal inspection of documentary evidence;
- transfer of files to the consulate for decision making;
- returning passports to applicants;
- this service provider will be in charge of collecting biometric data between now and the end of 2011.

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<sup>5</sup> See Appendix 3: Questionnaire sent to French Consulates abroad

- *We provide details of the general procedure that applies to each visa type below.*

\* **Short stay visas**

**1) Schengen Visas (short stay and transit)**

Depending on the nationality of the visa applicant, the file may be processed directly by the consulate or through liaison with Schengen partners and the central administration, which will be consulted.

Apart from the documents making the file admissible (visa application form, identity photos, valid passport and payment of file application charges), the list of documentary evidence that are likely to be required by the Consular Service is not exhaustive, and must have a bearing on the reason for travel, resources and accommodation, travel insurance and any item making it possible to establish the intention of the applicant to leave the territory of Member States at the end of his/her stay.

**2) Other short stays**

Some short stay visa applications are subject to consultation with the central administration and others may receive prior approval by some French administrative bodies:

- **DROM-CTOM:** prior approval from the country representative in the DROM-CTOM;
- **Health-care:** appointment at a hospital, financial coverage, certificate from a doctor approved by the consulate, establishing that care relating to the particular pathology cannot be provided in the country of origin;
- **Marriages:** publication of the bans, no-opposition certificate;
- **Family of a Community member:** statement of the intention to settle in France from the Community national, proof of nationality of the Community national, proof of a family link.

\* **Long stay visas**

**1) Family reunification**

Visas issued under family reunification concern only the spouse (adult) and children (minors under the age of 18) when the application file for family reunification is submitted. The foreigner, having resided in France for at least 18 months and meeting the conditions relating to resources and accommodation applies to the Prefecture services. If there is no OFII delegation in the respective countries, the Consular Service follows up the files submitted by the foreigner residing in France and is tasked with verifying the presence in the country of origin and the civil status certificates concerning the beneficiaries of the family reunification.

## 2) Family member of a French national

The family members of a French national are the following:

- Foreign child or dependent of a French national under the age of 21;
  - Foreign spouse of a French national;
  - Foreign ascendant of a French national or his/her foreign spouse;
  - Foreign parent of a French minor.
- 
- **Foreign child of a French national**

The documentary evidence submitted must show the custody rights of the French parent residing in France, the parent and child relationship and proof of French nationality of the parent concerned.

The visa issued will be a long stay visa valid for 3 months and bearing the reference "Family of French person". If the child is a minor, he or she may ask the Prefecture Service for a Minor Child Circulation Document (*Document de Transit pour Enfant Mineur*). If the child is over 18, he or she will be issued a residence permit.

- **Foreign spouse of a French national**

The foreign spouse of a French national wishing to settle in France must apply for a long stay visa valid for one year (VLS-TS) and, within three months of arriving in France, he or she must present himself or herself to the OFII delegation at his or her place of residence and complete the registration procedure.

The applicant must provide proof of his or her marriage, of the French nationality of his or her spouse, of his or her intention of living together in France and, in countries that have introduced a procedure for evaluating the level of knowledge of the French language and the values of the Republic, must show evidence of sufficient proficiency, or of having followed the scheduled training. The consulate cannot require any proof of resources or accommodation.

- **Foreign ascendant of a French national or his/her foreign spouse**

There are two categories of long stay visa:

- "Dependent ascendant": the ascendant is solely dependent on his or her descendant. The person in question must provide proof of his or her isolated circumstances in his or her country of origin, his or her total dependence on his or her French child and the options of dependence of the ascendant in France, the family link with the French national and the French nationality of his or her descendant. In this case, the visa issued is a long stay "Family of French person" visa, with "Residence permit to be applied for within two months of arrival in France". The person in question must obtain a "Private and family life" residence permit from the Prefect service;
- "Non-dependent ascendant": the ascendant is considered to be able to meet his or her own needs in his or her country of origin. The person in question must provide proof of the family link with his or her descendant resident in France and of the French



nationality of the latter. In this case, a "Visitor" VLS/TS is issued, which is valid for a maximum period of 12 months. Beyond this period, the person in question must apply for a residence permit from the Prefect service. This type of visa does not confer the right to any social service provision or any option of working.

#### ▪ **Foreign parent of a French minor**

“Foreign parent of a French national” means a foreigner who fulfils all of the following criteria:

- legally established parent and child relationship with a French minor (under 18);
- proof of actual contribution to the support and education of the child under the conditions set forth in Article 371-2 of the French Civil Code since the birth of the child or for at least two years;
- residence of the child in France;
- absence of polygamy status.

The parent of a French minor residing in France in his or her custody and wishing to settle in France must provide documentary evidence relating to the above criteria and apply for a "Family of French person" long stay visa, which will allow him or her to apply for a residence permit from the Prefecture under the private and family life option.

### **3) Family of a refugee**

The family is constituted:

- In the case of a refugee or subsidiary protection beneficiary: by children under the age of 19 and the spouse, if the marriage was prior to the date when this status was obtained or, failing this, if the marriage was celebrated at least one year before, on condition that the spouses actually live together;
- In the case of an expatriate: by children under the age of 19 and the spouse;
- If the refugee is an unaccompanied minor: by direct first-degree ascendants.

The OFPRA reconstitutes the civil status of refugees and created a “civil status reconstitution sheet”, which the visa department uses as a basis for establishing the list of family members of the refugee who may obtain a visa for this reason.

Family members of a refugee who have reached the age of majority obtain a D long stay visa valid for 3 months, with a residence permit to be applied for from the Prefect services. Minors obtain a long stay visa valid for three months bearing the reference "see the residence permit of the parents".

### **4) Adoption**

Adoption visas concern visa applications made by adoptive parents usually resident in France, so that foreign minors usually residing in another country, adopted under an international adoption procedure, may enter France to reside there (based on French law, therefore under 18 years of age).

The following documentary evidence is to be provided for the issue of this visa:

- approval: document issued by the competent French authority (the Infancy Social Aid Service, under the authority of the Chairman of the General Council in the department where the family resides) attesting the ability of this family to adopt a child or several children at one time;
- the certificate of abandonment or consent to the adoption;
- the adoption ruling;
- the certificate of non-appeal or non-opposition;
- birth certificate of the child before and after adoption;
- exit authorisation, if required.

The visa issued to a foreign minor is a type D temporary long stay visa and is valid for 1 year.

### **5) Employees**

Long stay visas issued to employees are generally long stay visas that exempt them from requiring a residence permit (VLS-TS). The visa is issued for the planned period of employment and upon presentation of an employment contract validated by the DIRECCTE. It is valid for 4 to 12 months and exempts them from requiring a residence permit from the Prefecture. The employee holding the visa must register with the OFII regional delegation at his or her place of residence within 3 months of arrival in France. If he or she continues his or her stay in France beyond the validity period of this visa, he or she must apply for a residence permit from the Prefecture services, two months before the visa becomes invalid.

### **6) Temporary long stay visa**

Only two categories of beneficiaries are currently concerned by this type of visa.

#### **▪ "Minors in school"**

This type of visa concerns foreign minors whose parents do not reside in France and who wish to stay in France away from their parents to study for a period longer than three months in a public or private primary, secondary or higher education establishment. In order to maintain the stability of their family environment, minors must be sent to school in their parents' legal country of residence. The schooling of foreign minors in France when their parents do not legally reside in France therefore has a derogatory nature.

The visa issued is a type D visa that is valid for 8 to 11 months and cannot be valid after the 31<sup>st</sup> of July of the following year. Given that the minors are not required to have a residence permit, this visa allows them to stay in France for the entire school year.

#### **▪ The "working holiday" visa**

Bilateral agreements have been signed with a number of countries so that young persons may benefit from special provisions to stay in France for a period of one year. The long stay visa provided under these **bilateral agreements** is called a "working holiday" visa.

The “working holiday” visa may **only be issued**:

- to a nationality benefiting from the provisions of a bilateral agreement;
- to foreigners in the age group included in the agreement (in principle, over 18 and under 30 on the date when they submit their visa application);
- by consulates authorised to issue such visas;
- for the area of French territory considered by the bilateral agreement.

The countries concerned are Australia, New Zealand, Japan, South Korea and Canada. A similar agreement has just been signed with Russia. This agreement provides for the issue of visas for a period of 4 months to Russian nationals of 18 to 30 years of age intending to take a holiday with the option of taking up a professional activity during their stay in France.

The documentary evidence required for this visa relate to:

- sufficient resources (between 2,100 and 2,500 Euros) ;
- guarantees of return;
- sickness/maternity/invalidity insurance;
- medical certificate attesting to good health;
- proof of a clean criminal record.

#### **b) Examination stage**

##### **▪ *Completion***

Checks are carried out by the various intervenants involved in each stage of the procedure (see the list of intervenants above):

- **checking of documents submitted in support of the application;**
- **checking with local organisations, employers or hosts in France;**
- **possible consultation with Schengen partners, consultation with central administrations or some organisations, for long stay visas.** Depending on the type of visa application and the reason for settling in France, consultation with the Ministry of Interior may prove sufficient. However, a visa application for professional purposes will involve the OFII, Prefecture Service and DIRECCTE. Likewise, an application based on family reunification will only be granted by permission of the Prefect in the place of residence in France.

##### **▪ *Decision-making***

**Decree n°47-77 of the 13<sup>th</sup> of January 1947 (modified)** provides that “heads of consulates and heads of diplomatic missions with consular authority shall have the jurisdiction to validate, in compliance with the instructions of the Minister of Foreign Affairs, passports or documents taking place of these, issued to foreigners for French territories, if such documents have been produced by the competent authorities in the formats deemed by them to be legal”.

This text is the basis for the instructions of the Ministry of Foreign Affairs to the Consular Authority where visas are concerned.

The texts authorise the following officers to sign visas for ordinary passports:

- **Heads of consulates and heads of diplomatic posts** with consular authority;
- **Officers placed under their authority** who have been delegated signing authority in writing, naming them in person.

The Head of post delegates signing authority with caution, taking service requirements into account. He or she may delegate authority, without consulting Category A and B officers and, if service needs require it, to Category C officers and international volunteers tasked with managing visa services.

▪ *Issuing the passport to the interested party*

Depending on the post, the passport is issued to the interested party either directly, by registered mail or through a courier company. If the application file collection service is outsourced, passports are collected by the company concerned, which then returns them to their holders.

▪ *Ways and deadlines for appealing*

Visa applicants who have been refused a visa can contest the decision by lodging an **administrative appeal** or by requesting a **judicial review** within two months of being notified of the visa refusal. The person lodging the appeal may be the visa applicant, legal representative, duly mandated person or a person with a manifest reason to intervene.

- **An administrative appeal** may be submitted either to the person making the initial decision (this then being referred to as an **appeal for reconsideration**) or to the line manager of the person making the initial decision (this then being referred to as an **escalation process**). When the file has been reviewed, a decision may be taken to confirm the refusal or reverse the initial decision and grant the visa.
- In a case of **judicial review**, Article 1 of the Decree of the 10<sup>th</sup> of November 2000 provides that going before the **commission to appeal decisions to refuse entry visas to France (CRV)** is a "a compulsory prerequisite before any possible judicial review" before the Administrative Court in Nantes, "subject to the irreversibility of the latter". The CRV may either reject the appeal and confirm the refusal, for which reasons must again be given if the refusal decision is subject to this requirement, or recommend that a visa be granted.

Any decision to refuse a visa may be appealed before the **Administrative Court in Nantes** in an appeal against abuse of power leading to the cancellation of the refusal decision. In order to be admissible, the appeal against abuse of power must be made within two months of the decision of the CRV.

If the appeal is taken to the Administrative Court, the Visa Department Appeals Service is tasked with presenting a statement of defence before this jurisdiction.

The table below shows the number of appeals registered and reviewed by the CRV since 2006.

Number of appeals	2006	2007	2008	2009	2010
- recorded at the CRV	4,481	3,867	4,328	691	5,269
- reviewed by the CRV	4,125	4,125	3,233	4,212	3,518

Source: Immigration Directorate, Visa Department, Ministry of Interior

In 2010, the Commission reviewed 3,518 appeals (including 214 recommendations to issue a visa), to which should be added 3,138 decisions of inadmissibility. For the years prior to 2010, the number of decisions of inadmissibility was below one thousand.

The number of files handled in 2010 (checking of admissibility and decisions of inadmissibility) in fact increased considerably. This result may have been obtained due to new handling methods and the adaptation of the IT tool. The coming into force on the 5<sup>th</sup> of April 2011 of Regulation 810/2009 relating to the requirement to state a reason when applying for short stay Schengen visas should also increase the number of appeals received by the Commission.

### c) Entry and stay in France

#### \* The visa allows entry to France

A visa permits entry to French territory. Once on French soil, the holder of the visa cannot have his or her visa modified, but must apply to the Prefecture at his or her place of residence for a residence permit for a stay of over 3 months (within two months of entering French territory), unless the visa issued is a long stay visa equivalent to a residence permit (VLS-TS); in this case, the holder may stay in France for one year and will only have to apply for a residence permit at the end of this period.

It must be noted that the Prefect reconsiders any application to stay in France under the “skills and talents” option.

#### **To be admitted to French territory, foreigners must be able to present:**

- A travel document (passport), recognised by the French authorities, whose validity exceeds the expiry date of the short stay visa by more than 3 months;
- a valid visa corresponding to the purpose of the intended stay and its period (unless exempt from requiring a visa) ;
- documentary evidence relating to the stay:

**For all stay categories:**

- proof of means of support allowing the costs of the stay to be met (presentation of cash, travellers cheques, certified cheques, international payment cards, or bank statement) depending on the reason for the stay and its duration;
- repatriation guarantees to cover the cost of returning to the country of usual residence (sea, rail, road or air travel document or bank statement).

**And, depending on the reason for the stay:**

- **tourist stay:** any document establishing the purpose and conditions of the stay;
- **business trip:** any document giving details of the profession or status of the traveller, as well as the establishments or organisations located on French territory that are expecting him or her;
- **family or private visit:** proof of accommodation (hosting certificate validated by the mayor of the commune where the host lives).

Exemptions:

- humanitarian stay or cultural exchange (the hosting certificate is replaced by a certificate from the host body or by an invitation in the case of an approved organisation)
- Exemption from requiring a hosting certificate issued by the Consular Authority (if the stay is justified for urgent medical reasons or the funeral of a close relative);
- **transit:** proof of conditions of entry to final destination country (conditions of stay and accommodation during transit, onward tickets and visa for destination country).

**The following categories of foreigners are not required to provide these documentary evidence:** nationals of EU Member States or the European Economic Area, as well as Swiss, Andorran and Monaco nationals and some officers from foreign states or international organisations, such as members of diplomatic services; holders of a residence permit in France previously issued, family members of French persons and EU country nationals, holders of a visa bearing the reference “Residence permit to be applied for on arrival in France”.

**\* The special case of border asylum**

Introduced in 1982, **the aim of the border asylum procedure is to authorise or not the entry to French territory of foreigners who present themselves at airport borders without the required documents and request asylum.** This is under the jurisdiction of the Ministry in charge of asylum, which decides whether or not to admit the persons in question, having sought the opinion of the OFPRA.

Foreigners who do not meet the conditions for entering the territory are held in a place called a "waiting zone" long enough to review the case and decide on their situation.

The maximum holding period in this zone is twenty days and is subject to judicial inspection: the Court of First Instance intervenes initially after four days to decide whether to extend the period by a further eight days, and a second time at the end of the eight days to decide on an exceptional extension of another eight days.

The OFPRA border asylum division interviews each applicant for asylum and gives an opinion to the Ministry in charge of asylum on whether their intention is manifestly founded

or not. The Ministry in charge of asylum makes the final decision whether or not to admit the person in question to the national territory.

If entry is granted, the border police provide safe conduct, which gives the beneficiary eight days to make an application for asylum under common law asylum procedures.

If entry to the territory for the purpose of asylum is refused, the foreigner may appeal within 48 hours of notification of this decision to the presiding judge of the administrative court, which has 72 hours to give its ruling. A ruling against granting entry means that the person in question is sent back to his or her country of origin or the country from which he or she came.

### **\* Appeals against residence permit refusals**

French legislation (codified in the CESEDA) states that all foreigners over the age of 18 and wishing to stay in France for more than 3 months must possess a residence permit.

The Prefect, who is the State representative on the department level, has the jurisdiction to issue residence permits. The Prefect may therefore refuse to issue or renew a document if the legal conditions are not fulfilled.

Any foreigner not obtaining the issue or renewal of a temporary residence permit receives a refusal of stay in the form of a letter stating the reasons. Apart from some exceptions, this refusal comes with a requirement to leave French territory (*Obligation de quitter le territoire - OQTF*) within one month, also determining the country to which they must return. In some cases, a deportation order will be issued (particularly if there is a threat to public order).

Any foreigner who is subject to such measures may **apply for reconsideration to the Prefect and/or escalate the matter to the Minister of Interior**. However, such appeals do not extend the deadline for going before the administrative judge. Nor do they halt the execution of the deportation order.

Within one month following the notification of a ruling, the person in question may also apply for a **judicial appeal before the administrative court with territorial jurisdiction**. The person may contest the refusal of stay, the requirement to leave French territory and the country to which he or she is required to return. The effect of the appeal will be to halt the deportation until the judge has made a ruling.

## **3.2 Visa issuance for the purpose of legal immigration**

### ***3.2.1 National visa practices for admission of third-country nationals***

**Scenario 1** (the visa is a prerequisite for obtaining a residence permit – residence permit application made in the country of origin), like **scenario 3** (the residence permit can be obtained directly in the country of origin), do not exist under French regulations.

**Scenario 2** (the visa is a prerequisite for obtaining a residence permit – residence permit application made upon arrival in the Member State) is the general procedure in France, as seen previously. **Scenario 4** (the visa is a residence title in itself, i.e. no residence permit is

required) is becoming more widespread in France with the creation of the VLS-TS on the 1<sup>st</sup> of June 2009, as mentioned above.

### ***3.2.2 Challenges and success factors for facilitating of legal immigration***

#### **a) Visa facilitation agreements and other multilateral and bilateral agreements**

A number of bilateral and multilateral agreements (see above) have been signed with third countries. The purpose is sometimes political (lifting of the visa requirement for holders of diplomatic, official and service passports) or is aimed at categories of applicants that European countries, and especially France, wish to welcome. These facilitation agreements are usually for researchers, artists, businessmen and students on educational trips. In most cases, these agreements relate to the elimination of some types of visa, more reasonable tariffs (Russia, Ukraine, etc.) or the issue of multiple-entry visas that are valid for a number of years for targeted categories.

**In all of the cases referred to, the agreements are aimed at facilitating legal immigration.**

#### **b) Benefits of outsourcing visa applications**

Outsourcing offers two major benefits:

- **Applicants are much better received:** fewer queues, suitable premises, files completed more quickly;
- **Consulate services can devote their time to examine the files** without being burdened with tasks with less added value, such as simply checking that some documentary evidence have been provided or taking payments for application file charges; this gives them more time to inspect the documents produced and, if required, for individual interviews with the applicants. Particularly in countries under strong migration pressure, this gives them a better chance to combat fraud.

**In the 26 consulates where appointment-making is outsourced,** queues have been eliminated outside the consulate because applicants must make an appointment before submitting their application. Once the date has been set, the visa applicant goes to the consulate with his or her completed file and attends the interview at the office at the due day and time.

**Outsourced file collection** gives the visa applicant additional peace of mind since, when he or she goes to the consulate, he or she can be certain that the file is complete and will be handled as quickly as possible. In countries where biometrics have not been introduced, the visa applicant may not have to go to the consulate.

**For the outsourcing of visa applications with file collection and transmission via the "Visanet" application,** files are taken in by the service provider and then sent to the consulate electronically. The consulate then carries out the usual inspection of the files and makes a decision. In countries such as Russia, which is still not equipped with biometrics, visa applicants are not required to travel which, in a country of this size, is to their advantage.



Due to the outsourcing of biometric services, waiting times and queues for visa applicants have been reduced. Nevertheless, it is possible to reduce the times further. In general, consulates do not keep a record of visa applicant waiting times, since they do not include the period before the appointment, but only the time spent processing the file.

In his information report on visa services published in June 2007<sup>6</sup>, Mr. Adrien Gouteyron suggests “publishing waiting times online as American consultants do, and make commitments to timings and stick to them.”<sup>7</sup> ».

French law provides for a legal handling period of two months, to which extra time may be added for checking the proof of civil status. This period may not exceed 8 months: the consulate may delay issuing a decision on the visa application for a period of 4 months and this delay may be extended for “*a strictly necessary period of time*” that may not exceed 4 months if, “*in spite of all efforts made, checks are not complete*”.

### c) Costs of visa applications

According to the information report produced by Mr. Adrien Gouteyron in 2007, “**visa activity is not a net cost for the State budget**”.

Since the 1<sup>st</sup> of January 2003, payment of application file charges (60 Euros) is made when the application is submitted, whereas, in the past, they were not due unless or until the visa was issued. This amount is now paid whether or not the visa is granted.

This revenue makes visa activity self-financed. Mr. Gouteyron predicted that, in 2007, handling visa applications would be completely self-financed based on a revenue of 114 million Euros against an analytical cost of 85 million Euros. **Revenue increased to 118 million Euros in 2010.**

In 2010, processing applications in terms of handling files and organising visa services, handling disputes and monitoring regulations required:

- The equivalent of **800 officers** (full-time equivalent) at Embassies and Consulates; these officers belong to the staff of the Ministry of Foreign and European Affairs;
- **106 officers** in the visa department at the Ministry of Immigration, now including 16 officers from the General Secretariat of the Visa Refusal Appeal Commission.

A specific budget is also set aside for IT systems dedicated to processing visa applications. This budget is managed by the Ministry of Immigration; part of this budget is transferred to the Ministry of Foreign and European Affairs for the Visa Global Network, which is the IT application for the automatic processing of visa applications.

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<sup>6</sup> The finance commission entrusted the task of carrying out an inspection of visa services to Mr. Adrien Gouteyron, special reporter for the Action *extérieure de l'Etat* assignment. This assignment involved the inspection of documents and the premises at 7 Consulates (Ankara, Istanbul, Moscow, Saint Petersburg, Tananarive, Toamsina and Pointe-Noire) in 4 countries (Congo-Brazzaville, Madagascar, Russia and Turkey). Moreover, 31 major Consulates were surveyed through a written questionnaire. Report available at <http://www.senat.fr/notice-rapport/2006/r06-353-notice.html>

<sup>7</sup> Ibid., page 40

The corresponding budget for 2010 was of around **€7 million including tax** for the development and maintenance of the Visa Global Network, the implementation of biometrics and developments relating to the European Visa Information System (VIS).

According to the calculations made for the information report by Mr. Gouteyron, **the average cost for handling a visa application was 35 Euros in 2007**, including all costs, while in comparison, the cost of a deportation order amounted to 1,801 Euros<sup>8</sup>. The average cost of handling a visa application remains almost constant for 2011, given that there has been no reduction in human resources since 2007 and that the number of visas issued is nearly the same.

### **3.3 Visa procedure for the purpose of preventing illegal migration**

#### *3.3.1 Prevention of illegal migration during issuing and monitoring process*

##### **a) Application stage**

In principle, a visa application must be made at least fifteen days before the planned visit (which is normally the period required for dealing with an application) and may not be made sooner than three months before the planned visit. Before agreeing to register an application, the consulate must make sure:

- **That the file is admissible** (form completed and signed, ID photos in compliance and valid, recognised travel document);
- **That this is within its area of jurisdiction:** geographical jurisdiction (visa applicant's usual place of residence) and Schengen jurisdiction (main destination or border of initial entry);
- **That the applicant has the means to pay for the visa charges.**

When the visa charges have been paid and this has been recorded, the consulate checks the type of application and the existence of accompanying documentary evidence relating to the type of visa application.

If the applicant is required to attend an interview (this applies for all consulates equipped with resources for collecting biometric data), a question-and-answer session between officer and applicant makes it possible to establish whether the documentary evidence provided actually correspond to the visa application and whether there is any risk of misusing the purpose of the visa or risk of migration.

A number of consulates responded to the questionnaire that we sent to them for the purpose of this study. One of the questions asked concerned measures taken to prevent illegal migration during the application stage. The responses given by the various consular authorities are given below.

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<sup>8</sup> Ibid., page 23

▪ ***The Consulate in Annaba***

At the consulate in Annaba in Algeria, the migration risk associated with a file is assessed in terms of whether or not the applicant is a primary applicant, his or her professional activity, how long he or she has held his/her professional position, regular income and the presence of family members in France.

Special attention is paid to primary applicants, who must submit a complete file, providing the following guarantees:

- Indication of reason for travel (hotel reservation, invitation for work purposes or hosting certificate);
- Sufficient resources in the country of residence (wage slips for employees, profit certificate for heads of firms);
- Submission of a family civil status record to establish the composition of the family in Algeria, thereby assessing as far as possible the links that the applicant has in his or her country of origin and the likelihood of return;
- Verification of travel insurance (dates corresponding to travel);
- Verification using the AGDREF file management application to establish whether or not the applicant's spouse is in France and holds a residence permit.

▪ ***The Consulate in Bombay***

There is a real migration risk and a risk of misuse of the purpose of the visa in India, especially in some regions (including Gujarat, which comes under the consular authority of Bombay). These risks are evaluated at the compulsory interview before the visa is issued (all applicants must attend, without exception). This interview makes it possible to identify any contradictions or inconsistencies (for example, an applicant who speaks no French at all and claims to be travelling to attend a trade fair in France).

▪ ***The Consulate in London***

Consular authorities pay particular attention to the lists of documentary evidence to be supplied, which enable applicants to provide proof of their intentions when applying for a visa. This involves proof of their social and professional situation (job and resources) and also of their trip (hosting certificate, hotel booking, organised tour) and return home (plane ticket).

▪ ***The Consulate in Moscow***

The borders of Russia with other countries of Asia and Central Asia are porous. It is easy to acquire a real Russian passport, given the widespread corruption there, and document fraud is therefore very difficult to prove. Only the presentation of an internal passport makes it possible to target the risk in terms of original nationality. To this end, under a cooperation initiative between consulates, France has asked other Schengen partners to include an internal passport on the list of documentary evidence to be submitted in support of visa applications. None of the 26 Member States acceded to this request. For this reason, apart from exceptional cases, any visa application submitted with a passport issued by a Russian authority in Abkhazia or South Ossetia is refused.

## **b) Examination stage**

The examination phase is carried out by an authorised officer of the Ministry of Foreign and European Affairs who has been delegated signing authority by the Head of the Consulate or Diplomatic Post.

**The inspection of documentary evidence, forms contained in the central file**, (SIS – flagged respondents – antecedents – travel documents declared as lost or stolen, etc.) **and the report on the interview conducted at the office** generally enable the officer to make an informed decision. If documentary evidence is suspect, checks are carried out by phone or email.

At some major consulates, such as Algiers, a checking team has been set up for checking some documents provided by visa applicants. This involves checking civil status, entry on trade's register or employment declaration to the Social Security System. These checks make it possible to identify any risk of fraud and to obtain a better assessment of the migration risk presented by the visa applicant.

**The migration risk and risk of misuse of the purpose of the visa** are checked both from the results of the interview at the office and from the documents provided. In some cases, it is sometimes difficult to assess whether the visa applicant is likely to return to his or her country of origin or not. Cooperation between consulates and contacts with Member States are most valuable in this regard.

In terms of **security risk**, consular services have access to technology in the form of the SIS (Schengen Information system) online through the Visa Global Network and have the option of transferring the computer file to the Visa Department and the French Ministry of Interior for an opinion.

Since the 5<sup>th</sup> of April 2011, all short stay visa refusals must be justified according to the visa refusal notification form, in compliance with Article 32 of (CE) Regulation n°810/2009 dated 13 July 2009.

Below, we will give the responses of the same consulates with regard to actions taken during the examination stage.

### ▪ *The Consulate in Annaba*

At the Consulate in Annaba, the services pay particular attention to invitations to France held by Algerian nationals - merchants - supposed to come from French companies, because a number of false invitations are in circulation. The same applies for hotel reservations that prove to be merely convenient and even false in many cases.

For employees, if there is any doubt as to the professional documents produced (wage slip, leave of absence, certificate of employment), the services contact the National Social Security, *Caisse Nationale d'Assurance Sociale*, for confirmation of whether the employee in question indeed belongs to this company. In addition to this, the officer dealing with the application compares the dates on the form with dates for insurance or bookings (boat or plane).

When carrying out the inspection, the consular authorities in Annaba pay close attention to the following persons: students, applicants with several past refusals, employees with insecure or

short term employment, applicants who are unable to prove salaried activity or regular income, artists, sports men and women and applicants for medical care – from whom they receive a great number of files.

In case of any doubt, the officer dealing with applications requests authentication from the local services, which are happy to cooperate.

If there is any reference to a refusal by another Member State, the consular authorities make enquiries with the consular services in question to identify the reasons for refusal. The same authorities consult their local file for attention when they enter the file to see whether or not there is an entry.

- ***The Consulate in Bombay***

This consulate pays particular attention to applications from students; approximately 20 % of refusals concern students, while the average for refusals of other categories is of around 5 %. Some files of spouses of French persons and family members of foreigners (especially for family reunification) are also sensitive. However, the refusal rate remains low, since the regulations offer limited options for refusing visas.

First of all, consular services check some documents on a case-by-case basis (letters of invitation, hotel reservations, etc.) Since resources are extremely limited at this consulate, they work with an external service provider for checking documents, especially relating to civil status, as part of the procedures for family reunification.

Moreover, the consular services in Bombay systematically question Schengen partners if a visa is refused.

Finally, it is compulsory to have all applicants appear in person for an interview in order to combat fraud. Unfortunately, this requirement to appear is not compulsory in most other Schengen consulates, which makes vigilance almost pointless: applicants wishing to avoid this come via another country, especially Belgium or Switzerland.

It would in fact be necessary to make the use of interviews a general approach. Given the mass outsourcing of visa services, it will no longer be possible for local recruitment agents to interview visa applicants at the office. There is therefore good reason to introduce an actual policy of calling visa applicants to interview, depending on the risks associated with applicant profiles. Logically speaking, the interview must be conducted by authorised officers or at least by persons who have been specially trained for this purpose.

- ***The Consulate in London***

Migration risk is evaluated by drawing up risk profiles from the information held by the consulate. The risk level is assessed when the file is inspected at the consulate.

For example, Spain has drawn the attention of its partners in London to illegal stays by Colombian nationals on its territory, who always presented the same profile: young English-speaking students who have obtained a one-year British visa. Belgium has also highlighted asylum applications from Nepalese nationals holding visas issued in London. The English press has reported on the thousands of visas issued unduly to Pakistani and Indian people purporting to be students who have obtained their British visas on the basis of convenient enrolment certificates.

Some categories of applicants are the subject of continuous vigilance: students of some nationalities at the end of their stay in the United Kingdom and spouses of European Union nationals where there is doubt as to the proof of marriage submitted.

Based on documentary evidence supplied and, after the inspections carried out, authorised officers assess the security and migration risk presented by each applicant, also taking account of the fact that they already hold a residence permit within a country of the European Union (the United Kingdom in this case). They then make a decision based on the documentary evidence supplied, authenticated if required, and the items of information available to them.

- *The Consulate in Moscow*

When carrying out their inspection, the consular services pay special attention to persons originating from independent republics (North Caucasus: Daghestan, South Ossetia and Chechnya) and, to a lesser degree, those from Armenia, Belarus, Georgia and other sensitive countries in Central Asia and the former Soviet Block (Uzbekistan, Tajikistan and Azerbaijan).

### c) **Entry and stay**

The conditions for entry and stay have been described above. Only one measure differs in terms of the fight against illegal migration, this being the procedure for **“return presentation”**.

Return checks are not performed systematically. This time-consuming procedure consisting of setting an appointment when the visa holder returns to his or her country of origin on expiry of the visa can only be effective if it is possible to ensure that appointments are followed up. Most of the time, a return appointment is organised if a file not providing all of the required guarantees should lead to refusal whereas other aspects justify issuing the visa. Many consulates regularly report missed appointments. For example, when the “return presentation” procedure is followed up, applicants who have not fulfilled this commitment are approached by officers from the Annaba Consulate in Algeria.

At a Prefecture and Consulate Conference on immigration held on the 14<sup>th</sup> of February 2011<sup>9</sup>, Mr. Brice Hortefeux, who was the Minister of Interior at that time, was in favour of “return visits” for consulates associated with migration risk in terms of short stay visas issued. This measure would involve the consul asking a foreigner who has obtained a short stay visa to go back to the consulate after his or her stay in France to prove that he or she has in fact returned to his or her country. Such “return visits” are an important way of providing reasons for refusing new visa applications.

The return presentation procedure has a somewhat dissuasive effect and makes it possible to issue visas to applicants when this would have been refused without this form of guarantee.

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<sup>9</sup> Intervention of Mr. Brice Hortefeux, Minister for Interior, Prefecture and Consulate conference on immigration, Paris, Monday the 14th of February 2011

According to the information report by Mr. Adrien Gouteyron, “it would appear that **three conditions must be met to ensure the success of the “return presentation”<sup>10</sup>** :

- to provide a guarantee (French company, French or foreign authority) for the procedure each time;
- to carry out systematic checks on return by officers ;
- to provide an IT tool to manage returns, incorporated into the Visa Global Network visa management database where possible.

### ***3.3.2 Prevention of irregular migration through other measures during visa issuing***

#### **- Development of guidelines**

**In compliance with the Community Visa Code and the manual for processing visa applications**, the standards set by the manual and its appendices are followed and sometimes adapted at local level together with other Schengen partners in the countries concerned. These standards make it possible to forecast migration risks presented by visa applicants with a maximum amount of accuracy.

#### **- Training**

**Training is a key element in combating illegal migration.** All Department officers must take several training courses at the Administrative and Consular Affairs Training Institute (*Institut de Formation aux Affaires Administratives et Consulaires*) in Nantes before being appointed for a post abroad: integration internships for those succeeding in competitive examinations, followed by specific consular training before a first period abroad, ending with specialised internships on the subject that the officer will be handling in his or her allotted role. Many internships are also open to local recruitment officers; some organised regionally abroad and others at the Institute in Nantes.

Officers also attend specific courses on document fraud. Course are organised in France and abroad, where regional sessions are set up with the help of officers from the Border Police, who are document fraud specialists. "Alert reports" concerning cases of fraud and issued by the Border Police are accessible to all consulates via the Intranet of the Ministry.

#### **- Development of information systems**

Consulates are informed of any changes to instructions and directives and even periodic changes to operational methods following natural or political events (Haiti, Japan, and Ivory Coast) through the international diplomatic telegram processing network and the secure Intranet of the Ministry of Foreign and European Affairs (MAEE). In addition to this, all officers, whether authorised, contracted or locally recruited, also have an email account and address managed by the MAEE. Finally, all consulates and central administration services have a generic email address used by several officers. **These technical resources provide the best conditions for secure and rapid information exchange and file processing.**

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<sup>10</sup> See *ibid.*, page 38

The Visa Global Network makes an effective contribution to following up visa applications with regard to consulates.

The various Schengen consulates also regularly exchange information on some particular applicants whose visa has been refused. The same Schengen countries also have a shared web site, set up under the French Presidency in 2008, which allows them to exchange a considerable amount of general information.

- **Development of checklists**

Summary sheets are produced at consulates, notably concerning applicant interviews at offices and, in some cases, analysis grids are sent to the central administration by email, enabling much quicker file processing.

- **Preparation and use of information of country of origin information**

Each on-site visit by a person on assignment or visit to consulates by the General Inspector makes it possible to gather information on the country of origin.

- **Cooperation between consulates and other authorities (information exchange)**

Exchanges of information, including by email, between consulates, Prefecture services and the air and border police make it possible to send documents and files (authentications, fight against clandestine immigration, non-admission, deportations, etc.) immediately, and have reduced waiting periods for answers.

Nevertheless, the consulates that we consulted via the questionnaire regret the lack of feedback on information sent to the Ministry of Interior and concrete information on clandestine immigration networks. It would appear to be useful to consulates if Prefectures could send them the identity of applicants for residence permits, and if consulates could be informed of regularisations of administrative situation, extended stays and deportations. The OFPRA could communicate the identity of asylum applicants, those having received a positive response and those having been rejected.

In the opinion of the **Consulate in Bombay**, consular authorities regret that they are not sufficiently questioned or informed by Prefectures with regard to requests for visa extensions, changes of status or illegal stay.

Consular authorities at the **Consulate in London** refer to a lack of information relating to illegal stays identified on national territory by holders of visas issued by consulates. This deprives them of an important item of information that would enable them to adjust their practices in terms of any misuse observed. Likewise, no information is sent to consulates concerning the possible existence of networks of illegal immigration from countries where they have a presence.



In his information report on visa services, Mr. Adrien Gouteyron proposed that “a true culture of shared work between administrations in charge of immigration issues should be fostered through regular exchanges of staff and setting up a consulate and prefecture training institute<sup>11</sup>”.

- **Creation of “blacklists”**

Only named files declared and used by the CNIL are used.

- **Experts employed at consular posts**

As mentioned above, inspection assignments, officers on assignment and internships organised at consulates for the benefit of consulate officers are initiatives enabling consulates to function better and deliver an improved analysis of the files processed. Visa officers are generally highly trained and skilled at their various levels of processing visa applications.

- **Other measures**

Local cooperation between consulates works very well for most consulates affected by the application of Schengen agreements. The quality of information exchanged at these meetings shows the benefit that all Member States can derive from participating in this.

### ***3.3.3 Challenges and success factors for preventing irregular migration***

#### **a) Exemptions for short-stays**

Short stay visa exemptions are made for some **nationalities who present no migration risk or risk of application for refugee status**. The list of countries whose nationals are not required to have a visa to cross external borders of Member States is in compliance with Appendix II of Regulation 539/2001.

Conditions of access to the employment market are highly regulated in France. Any employer wishing to recruit a foreigner or non-resident in France must apply for a work permit for the proposed employee, even if the period of employment is very short. A foreigner wishing for employment and whose nationality does not require him or her to have a short stay visa would have to produce a temporary work permit before taking up the post. Checks made by employment inspectors tasked with checking working conditions and legality in companies are very strict and there are penalties for employer and employee in any case of fraud.

#### **b) Visa shopping**

**"Visa shopping" has tended to disappear** since the application of the single visa charge of €60 regardless of the length of stay applied for and the jurisdiction rules established by the Community Code (Articles 5 and 6).

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<sup>11</sup> Ibid, page 71

### **c) Visa facilitation agreements and other bilateral and multilateral agreements**

Multilateral facilitation agreements concern some categories of applicants. This is notably the case of the agreement made between the EU and Russia setting a specific tariff for Russian nationals and exoneration from paying charges for some categories.

Bilateral agreements concern national visas (long stay visas), overseas visas and visas on diplomatic and service passports.

### **d) Visa representation**

There is also cooperation between Member States of the Schengen Area through "**representation**" agreements for the issue of short stay visas in a number of third countries.

There is a considerable imbalance in this respect between representations of France by Member States and of France by other partners.

On the 1<sup>st</sup> of May 2011, France represented 21 Member States, i.e. 455 Schengen representations. In turn, France is represented by 12 Member States in 26 cities.

In 2010, France issued 24,000 visas in representation of other Member States, while only 6,000 visas were issued in representation of France. The issue of re-balancing the agreements has been raised.

### **e) The necessity of combating documentary fraud**

According to Mr. Adrien Gouteyron, "30 to 40 % of documents checked are fraudulent in such countries as Senegal, Ivory Coast, the two Congos, Madagascar and the Comores<sup>12</sup>".

The fraud relates to civil status documents and rulings (used to replace documents): not all official submissions are authentic and can be the source of major errors in terms of identity, parent and child relationship and family links (e.g. family reunification).

For example, at the **Pointe-Noire** Consulate (Congo), many examples of family reunification have been noted where the parent and child relationship had been falsified and naturalisation rulings were based on false identities.

Many examples of the fight against document fraud can be mentioned.

A trafficking network for French passports declared as lost or stolen was uncovered by the Consular Service in **Moscow** and the Embassy Liaison Officer. This involved French people of African origin declaring these passports to have been lost or stolen in France and then the same passports being taken to Russia to be sold. The Russian police were asked to cooperate, but this proved unfruitful.

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<sup>12</sup> Ibid., page 49

Authorities at the Consulate in **London** have implemented a number of measures to fight document fraud:

- Purchase of detection equipment;
- Officer training;
- Cooperation with British and French services tasked with detecting document fraud: DCPAF (Direction centrale de la Police aux frontières) and the NDFU (National Documentation Fraud Unit de UKBA) for travel documents;
- Targeted authentication at issuing bodies in terms of civil status documents and documentary evidence supplied in support of files (bank statements, proof of income or travel documents).

#### f) Biometrics

The implementation of biometrics at French embassies and consulates began in 2005.

**The aim of using biometrics is to prevent “visa shopping” and combat identity fraud** through accurately identifying people who have been issued visas, either during border controls, identity checks on national territory or even in the country of origin where the visa was issued with the requirement to attend a return interview at the consulate when the visa expires.

The table below shows figures for the number of embassies and consulates equipped with biometrics equipment since 2005 and the number of biometric visas issued between 2005 and 2010.

	2005	2006	2007	2008	2009	2010
Number of Embassies and Consulates equipped	5	20	38	41	62	4
Total number of Consulates equipped	5	25	63	104	166	170*
Number of biometric visas issued	61,698	93,545	347,486	602,479	742,150	928,815
Biometric visas as a percentage of all visas issued	3%	4.6%	16.8%	29 %	40.3%	46.6%

Source: Immigration Directorate, Visa Department of the Ministry of Interior.

(\* ) 3 Consulates equipped with biometric equipment closed at the end of 2010, bringing to 167 the number of equipped Consulates issuing visas on 1 January 2011.

Four new consulates were equipped during the 2010 financial year (Belgrade, Skopje, Atlanta and Le Cap), which brings the number of equipped Consulates to 167 as on the 1<sup>st</sup> of January 2011 (due to the closing of 3 visa services in Madagascar at the end of 2010), bringing the rate of issue of biometric visas to just under 50 % (46.6 %).

**In 2011 and beyond, 27 embassies and consulates are still to be equipped, these alone processing around half of the visas issued** (4 consulates will be as of 2011: Washington, Kabul, Taipei and Kigali). The programme will continue on the basis of outsourcing biometric data collection, which is due to begin experimentally in 2011 at three consulates general:

Algiers (October), Istanbul and London. Together, these three consulates process approximately 300,000 visa applications per year, i.e. 15 % of the global demand.

If the experiment proves conclusive and gains the support of the CNIL, it is possible to envisage outsourcing at consulates in Russia (over 300,000 visa applications per year), China (240,000 visa applications 2010), India, Saudi Arabia, South Africa and Thailand. Preparatory tasks for dealing with visa applications (seeing applicants, collecting files, computer entry of application forms, returning passports) are already outsourced in Russia, China, India and Saudi Arabia. However, not outsourcing biometric data collection would require major resources for receiving visa applicants in the consulates (construction of new premises and recruitment of extra staff).

The current schedule for France and other partners allows for an **initial VIS implementation stage in October 2011, starting in the countries of North Africa (from Egypt to Mauritania).**

France must follow this schedule, and has therefore set itself two priorities:

- To make the required resources available for the appropriate IT development;
- Between now and that time – to outsource biometric data collection at the consulate general in Algiers (see above), since this consulate does not currently have the required facilities for receiving applicants in ideal conditions.

#### **g) The fight against cases of visa corruption**

**Some consulates are affected by visa corruption.** This may involve holders, local recruits in the receiving country or recruits of French nationality. There are many ways in which this can happen: access to IT systems, deliberate failure to check false documents, theft of visa stickers.

According to Adrien Gouteyron, “corruption can be, if not totally prevented, at least seriously reduced by measures linked to how the consulate is organised<sup>13</sup>.” In Algiers, for example, which was severely affected by a case of corruption in the past, a strict distinction between the different officers handling, making decisions and signing visas is preserved.

Internal organisation is in fact based on a total separation of tasks, from issuing the receipt, receiving the application and dealing with the file, producing the sticker and signing the visa. Each application processing phase must be carried out by a different officer or organised in such a way that the same officer cannot have access to the same file at certain key points of the processing chain.

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<sup>13</sup> Ibid., page 53

## 4. COOPERATION WITH THIRD COUNTRIES: CASE STUDIES

### 4.1 Case study 1: Algeria

#### *4.1.1 Rationale for the case study*

We chose a case study on Algeria for various reasons, particularly the **historical ties between the two countries, cooperation agreements, number of visas issued and visa facilitations**. The reciprocal interests of France and Algeria cover a good number of areas: economic, political, cultural, scientific, technical and educational and the facilitations requested by Algeria for the circulation of its nationals are in line with these same interests.

Between 1992 and 2000, the security situation in Algeria slowed down exchanges between the two countries and transit on either side of the Mediterranean. The closing of the consulates general in Algeria in the nineties considerably reduced cooperation until they were reopened in Annaba and then Oran. The considerable number of visa applications, requests for registration at consulates by Franco-Algerian people with dual nationality and letters requesting reintegration into French citizenship are evidence of the high level of interest that Algerian nationals have in France.

Under the representation of Schengen partners, France has represented Malta in Algeria since 2009 and Finland since 2010.

#### *4.1.2 Historical overview of relations with Algeria*

There have always been relations between the two countries since 1830, when Algeria was conquered by France. Since the independence of Algeria in 1962 and until the signing of the gas agreements in 1982, there was cooperation across all economic, social and educational sectors, and this reached a high level: technical, civil and military cooperation. The free circulation of persons until 1986, French persons born in Algeria (*pieds noirs*) before independence and other repatriated persons, as well as a considerable number of Algerians settled in France at that time played a very important role in the relations between the two countries.

The "dark years" of civil war between 1992 and 1998 put a stop to French investment in Algeria in favour of less exposed countries such as Canada, the United States, Great Britain and Italy.

The re-opening of French consulates general in Annaba in 2000 and then Oran in 2006 shows a desire to restart the cooperation. The consulates in Annaba and Oran issue biometric visas. The one in Algiers has started to outsource the taking of biometric fingerprints.

In June 2008, when the Prime Minister made a visit, two important agreements were signed: a cooperation agreement for the civil nuclear energy sector and a defence cooperation agreement.

Since 1999, **economic and commercial relations** have made considerable progress. France remains the number one supplier to Algeria and Algeria is the number one commercial partner to France in Africa. Algeria is market number three for French export outside OECD countries after China and Russia.

Likewise, **in the cultural, scientific and technical sector**, Franco-Algerian cooperation comes under the partnership agreement signed in December 2007. Algeria is one of the main beneficiaries of French cooperation budgets.

**The cooperation between universities** is part of LMD reform (*Licence-Master-Doctorat*), the setting up of professional masters degrees, training of research teachers, reform of preparatory classes, teaching of French, etc.

**The cooperation between institutions** aims to support efforts made by Algeria to modernise institutions (justice reform, modernisation of the administration, police and civil protection).

**Technical cooperation** is underway in the areas of agriculture, transport, public works and land development, and decentralised cooperation supports the development of civil society.

#### ***4.1.3. Existence of agreements with Algeria***

All of these types of cooperation obviously have an impact on the circulation, entry and stay of the persons concerned.

#### **List of agreements in force:**

- Approval by Algeria on 28.11.1983 of the London Convention dated 05.04.1965 aimed at facilitating international maritime traffic
- Franco-Algerian agreement relating to maritime transport dated 24.07.1967, modified by the Franco-Algerian agreement dated 23.02.1972
- **Franco-Algerian agreement dated 27.12.1968 relating to the circulation, employment and stay in France of Algerian nationals and their families (O.J. dated 22.03.1969)**
- Exchange of letters dated 31.08.1983 relating to the transit of persons supplementing the 1968 agreement (O.J. dated 20.05.1984)
- Exchange of letters dated 03.12.1984 modifying the 1968 agreement (O.J. dated 30.03.1985)
- 1st rider to the agreement dated 27.12.1968, signed in Algiers on 22.12.1985 (O.J. dated 08.03.1986), coming into force 22.12.1985
- Exchange of letters dated 10 and 11.10.1986, relating to the suspension of some provisions in the exchange of letters dated 31.08.1983 published by Decree n° 86-1168 dated 30.10.1986
- 2<sup>nd</sup> rider to the agreement dated 27.12.1968, signed on 28.09.1994 (O.J. dated 19.12.1994), coming into force on 28.09.1994
- 3rd rider to the agreement dated 27.12.1968, signed on 11.07.2001 (O.J. dated 26.12.2002), coming into force on 01.01.2003
- **Franco-Algerian agreement on the reciprocal exemption of short stay visas for holders of a diplomatic passport, signed in Algiers on 10.07.2007 and coming into force on 09.08.2007**
- Orders dated the 14<sup>th</sup> of December 2009 relating to the transit system for Overseas

The Franco-Algerian agreement relating to circulation, employment and stay, modified and supplemented by three exchanges of letters and three riders, is aimed at facilitating the circulation, employment and stay of Algerian nationals. The following people are concerned by this agreement:

- Algerian workers;
- Family members who are beneficiaries under family reunification;
- Algerian nationals who can prove that they have resided in France for over 10 years;
- The Algerian spouse of a French national;
- Algerian nationals who are direct ascendants of a French minor residing in France;
- Algerian nationals who do not come under the above categories but whose personal and family relations are such that a refusal would have a negative impact on their private and family life;
- Algerian nationals usually residing in France whose state of health requires medical care that they would not have access to in their own country.

It may be noted that the Franco-Algerian agreement does not specify the type of visa that must be issued to the Algerian national in question. The person in question must provide proof of his or her individual situation and legal entry in order to be issued with a “Residence Certificate for Algerians” (*Certificat de Résidence pour Algérien*). In most cases, **Algerian nationals are issued short stay visas, even for settlement in France, which is an Algerian specificity.**

**The Franco-Algerian agreement excludes de facto Algerian nationals from all of the new provisions implemented to favour some categories** such as the VLS/TS and the Skills and Talents Card.

It should be noted that the Franco-Algerian agreement on the reciprocal exemption for short stay visas for holders of a diplomatic passport was signed in Algiers on the 10<sup>th</sup> of July 2007 and came into force as of the 9<sup>th</sup> of August 2007.

## 4.1.4 Statistics

### Visas issued to Algerian nationals in metropolitan France from 2003 to 2011

PAYS - ALGERIE

\* Pour 2011 : période du 1er janvier au 06/06/2011

PERIODE	2003	2004	2005	2006	2007	2008	2009	2010	2010-2009	2011
Nb Visas demandés	371193	368706	266142	212720	207913	211425	212087	200829	-5,31 %	86051
Nb Visas délivrés	189578	162774	131705	117018	116774	132135	138576	137051	-1,10 %	61383
Nb Visas Refusés	12277	50688	54167	38689	54420	72694	71187	62435	-12,29 %	23662
Taux de refus :	6,08 %	23,75 %	29,14 %	24,85 %	31,79 %	35,49 %	33,94 %	31,30 %	-7,78 %	27,82 %

PERIODE	2003	2004	2005	2006	2007	2008	2009	2010	2010-2009	2011
<b>VISA COURT SEJOUR (Ordinaires et Officiels)</b>	<b>176372</b>	<b>152555</b>	<b>122916</b>	<b>111226</b>	<b>109098</b>	<b>121438</b>	<b>128584</b>	<b>126608</b>	<b>-1,54 %</b>	<b>59070</b>
% court séjour / total :	93,03 %	93,72 %	93,33 %	95,05 %	93,43 %	91,90 %	92,79 %	92,38 %	-0,44 %	96,23 %
dont visas de Circulation	30296	27094	26125	25269	25560	31716	35823	28996	-19,06 %	16891
% de circulation / court séjour :	17,18 %	17,76 %	21,25 %	22,72 %	23,43 %	26,12 %	27,86 %	22,90 %	-17,79 %	28,59 %
<b>TRANSIT (VTA-VTB)</b>	<b>786</b>	<b>560</b>	<b>427</b>	<b>285</b>	<b>216</b>	<b>308</b>	<b>555</b>	<b>24</b>	<b>-95,68 %</b>	
% de transit / court séjour :	0,45 %	0,37 %	0,35 %	0,26 %	0,20 %	0,25 %	0,43 %	0,02 %	-95,61 %	
<b>LONG SEJOUR</b>	<b>12420</b>	<b>9659</b>	<b>8362</b>	<b>5507</b>	<b>7460</b>	<b>10389</b>	<b>9437</b>	<b>10419</b>	<b>10,41 %</b>	<b>2313</b>
dont LS Etudiants	7288	4865	3443	3393	3101	4496	4425	5074	14,67 %	134
% étudiants / long séjour :	58,68 %	50,37 %	41,17 %	61,61 %	41,57 %	43,28 %	46,89 %	48,70 %	3,86 %	5,79 %
Mineurs scolarisés	16	20	19	16	10	10	16	16	0,00 %	4
dont établissement prof.	104	78	100	131	77	127	342	269	-21,35 %	63
% établissement prof. :	0,84 %	0,81 %	1,20 %	2,38 %	1,03 %	1,22 %	3,62 %	2,58 %	-28,76 %	2,72 %
dont OFII Travail	81	64	79	55	60	97	82	74	-9,76 %	41
dont Compétences & Talents										
<b>ETABLISSEMENT FAMILIAL (LS+CS)</b>	<b>8763</b>	<b>9559</b>	<b>11345</b>	<b>11310</b>	<b>10568</b>	<b>13016</b>	<b>11187</b>	<b>10682</b>	<b>-4,51 %</b>	<b>4854</b>
% établ. fam. par rapport au total délivré	4,62 %	5,87 %	8,61 %	9,67 %	9,05 %	9,85 %	8,07 %	7,79 %	-3,45 %	7,91 %
dont OFII Etabl. Fam.	4016	4258	4259	1468	3818	4904	2951	3181	7,79 %	1470
(*) dont conjoints de Français LS Autres nationalités					8	16	14	9	-35,71 %	2
<b>CS Conjoints ALGERIENS</b>	<b>4011</b>	<b>5162</b>	<b>6700</b>	<b>9536</b>	<b>6477</b>	<b>7645</b>	<b>7646</b>	<b>6904</b>	<b>-9,70 %</b>	<b>3241</b>
adoption										
En vue mariage					7	38	22		-100,00 %	
Dont famille de réfugiés		43	87	70	59	79	58	21	-63,79 %	1
% OFII / long séjour :	32,99 %	44,75 %	51,88 %	27,66 %	51,98 %	48,14 %	32,14 %	31,24 %	-2,80 %	65,33 %

Source: Immigration Directorate, Visa Department, Ministry of Interior

### Inflows and stock of residence permits granted to Algerian nationals in metropolitan France from 2004 to 2010

Flux et stocks des titres pour les ressortissants algériens en métropole

Motifs	Flux 2004	stocks 2004	Flux 2005	Stocks 2005	Flux 2006	Stocks 2006	Flux 2007	Stocks 2007	Flux 2008	Stocks 2008	Flux 2009	Stocks 2009	Flux 2010	Stocks 2010
<b>A. Economique</b>														
- Actif non salarié	35	1 263	47	1 225	43	1 508	21	1 710	76	1 882	41	1 818	40	1 779
- Scientifique	15	55	11	71	11	96	36	227	45	373	201	642	213	855
- Artiste	8	17	2	17	3	20	3	18	3	23	1	16	3	14
- Salarié	484	7 056	431	6 097	318	5 425	268	5 514	603	6 079	569	5 930	435	5 449
- Saisonnier ou temporaire	83		76		99		100		31		26		10	
<b>Total A. Economique</b>	<b>625</b>	<b>8 391</b>	<b>567</b>	<b>7 410</b>	<b>474</b>	<b>7 049</b>	<b>428</b>	<b>7 469</b>	<b>758</b>	<b>8 357</b>	<b>838</b>	<b>8 406</b>	<b>701</b>	<b>8 097</b>
<b>B. Familial</b>														
- Famille de Français	15 875	72 106	14 992	82 136	15 852	92 241	12 981	98 654	11 232	106 054	11 726	112 379	10 473	115 546
- Membre de famille	4 975	49 518	5 027	54 016	3 220	55 469	3 915	59 016	4 395	63 982	3 213	66 187	3 274	69 196
- Liens personnels et familiaux	3 214	8 513	3 156	11 064	4 461	14 711	3 328	16 657	2 818	17 073	2 839	16 608	2 658	15 880
<b>Total B. Familial</b>	<b>24 064</b>	<b>130 137</b>	<b>23 175</b>	<b>147 216</b>	<b>23 533</b>	<b>162 421</b>	<b>20 224</b>	<b>174 327</b>	<b>18 445</b>	<b>187 109</b>	<b>17 778</b>	<b>195 174</b>	<b>16 405</b>	<b>200 622</b>
<b>C. Etudiants</b>	<b>4 790</b>	<b>15 772</b>	<b>3 296</b>	<b>15 113</b>	<b>3 260</b>	<b>14 027</b>	<b>3 077</b>	<b>12 866</b>	<b>4 095</b>	<b>12 708</b>	<b>3 952</b>	<b>12 856</b>	<b>4 644</b>	<b>13 296</b>
<b>D. Divers</b>														
- Visiteur	489	5 565	436	5 240	409	5 272	364	4 872	391	5 076	458	4 860	407	4 250
- Etranger entré mineur	276	8 578	295	8 341	272	7 698	271	7 045	408	6 778	511	6 753	549	6 727
- Rente accident du travail	37	1 261	18	1 233	12	1 213	11	1 200	48	1 216	55	1 208	49	1 163
- Ancien combattant		1		1		1								
- Retraité ou pensionné	1 925	2 807	2 175	4 993	2 030	7 103	1 341	8 573	1 103	9 667	884	10 585	559	11 155
- Motifs divers	248	379 967	146	369 520	97	357 690	98	354 562	114	351 524	108	339 214	104	327 492
<b>Total D. Divers</b>	<b>2 975</b>	<b>398 179</b>	<b>3 070</b>	<b>389 328</b>	<b>2 820</b>	<b>378 977</b>	<b>2 085</b>	<b>376 252</b>	<b>2 064</b>	<b>374 261</b>	<b>2 016</b>	<b>362 620</b>	<b>1 668</b>	<b>350 787</b>
<b>E. Humanitaire</b>														
- Réfugié et apatride	227	3 308	235	2 594	126	2 078	108	1 646	81	1 576	54	1 612	47	1 629
- Asile territorial/protection subsidiaire	111	690	61	373	45	306	66	251	59	260	21	220	22	183
- Etranger malade	1 475	3 083	1 278	3 619	1 013	3 831	822	4 189	810	3 802	793	3 642	793	3 675
<b>Total E. Humanitaire</b>	<b>1 813</b>	<b>7 081</b>	<b>1 574</b>	<b>6 586</b>	<b>1 184</b>	<b>6 215</b>	<b>996</b>	<b>6 086</b>	<b>950</b>	<b>5 638</b>	<b>868</b>	<b>5 474</b>	<b>862</b>	<b>5 487</b>
<b>Total</b>	<b>34 267</b>	<b>559 560</b>	<b>31 682</b>	<b>565 653</b>	<b>31 271</b>	<b>568 689</b>	<b>26 810</b>	<b>577 000</b>	<b>26 312</b>	<b>588 073</b>	<b>25 452</b>	<b>584 530</b>	<b>24 280</b>	<b>578 289</b>

Source: Department of Statistics, Studies and Documentation, Ministry of Interior



Much fewer long stay visas are issued than residence permits, since Algerians require a short stay visa for French family members.

#### **4.1.5 Findings of Case Study 1**

Given the two tables, **there is a small decrease between 2004 and 2010**, particularly from 2007 (-13 % between 2006 and 2007), **in the number of residence permits issued** to Algerian nationals, since they rose from 34,300 in 2004 to about 24,300 in 2010.

Family immigration is the most affected by the decrease in the number of residence permits issued (- 38% between 2004 and 2010).

**We can observe between these two dates a similar trend in the number of visas requested** from 368,706 in 2004 to 200,829 in 2010, **as well as in the number of visas issued** from 162,774 in 2004 to 137,051 in 2010. Part of the decline in visa application addressed to the Consulate General of France in Algiers is due to the increase of circulation visas.

Again family immigration is the most affected by this decrease. Algerian nationals are not required to have a long stay visa for family reunification, unlike the general case since 2006. Thus, the number of long-stay visa remains relatively stable during the period while that of short-stay visas has decreased significantly (- 20% between 2004 and 2010).

The Franco-Algerian agreement referred to above does not state explicitly that beneficiaries under the agreement must obtain a long stay visa to stay in France for longer than 90 days, since **legal entry is enough to apply for a residence permit**. In 2010, national visas (D visas) accounted for 8 % of the total number of visas issued. These visas were issued for family reunification (3,181), studies in France (5,074) and settlement for employment (269). In compliance with the terms of the bilateral agreement, Algerian spouses of French nationals are issued short stay visas for settlement (6,904 visas in 2010).

For France, Algeria is a country presenting strong migration risks. In fact, statistics for 2010 show a refusal rate of 31 %, which remains very high.

The high number of visa refusals for Algerians is closely linked to migration risk, the evaluation criteria for these being based on the applicant's age, professional involvement in Algeria, personal resources and prior visa requests.

According to an article published by RFI<sup>14</sup>, some of these refusals may be explained by the presumption of fraud in relation to care provision. The Ambassador reveals that this phenomenon was confirmed at a meeting of the Algerian-French Social Security Commission: *"The Algerian side discovered that there was actually an enormous amount owed to French hospitals due to private Algerian individuals who, under the cover of family visits, in fact go for medical care in France; and French hospitals are legitimately seeking payment for this"*.

The other reason for visa refusals lies in the suspicion of migration fraud. Again according to the article published by RFI, the Consul General for France in Algiers stated that they were

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<sup>14</sup> "Visa policy between France and Algeria questioned", RFI article published on the 13th of July 2010, <http://www.rfi.fr/afrique/20100713-politique-visas-entre-france-algerie-question>

regularly contacted by French Prefectures with regard to residence permit applications made by Algerians having entered France on short stay visas.

## **4.2 Case study 2: China**

### ***4.2.1 Rationale for the case study***

The case of China was chosen because it has some specific features: **a large number of short-stay visas issued, tourism potential and a risk of migration, especially for students.**

There are a number of French representations in China. In addition to the French Embassy in Peking, which has a Consular section, Consulates General have been opened in Canton, Hong Kong, Chengdu, Shanghai, Shenyang and Wuhan.

China is the country with the 3<sup>rd</sup> largest surface area after Russia and Canada, the country with the highest population with 1.3 billion inhabitants and had a growth rate of 10.3 % in 2010.

### ***4.2.2 Historical overview of relations with China***

Links between China and the European Union have continued to expand since diplomatic relations began in 1975, particularly in economic terms. The extended EU has become the number one partner to China since 2004.

The recognition of the People's Republic of China on the 27<sup>th</sup> of January 1964 was a starting point for official relations between the People's Republic of China and the French Republic. France was the first major western country to send a fully-fledged Ambassador to Peking. Following a period of difficulties in 2008, bilateral relations resumed their usual course with the publication of a joint communiqué and the meeting between the President of the French Republic and his Chinese counterpart in 2009.

Numerous subsequent high-level visits have taken place, confirming the resumption of relations:

- Visit to China by the Prime Minister (20-22 December 2009) ;
- Visit to France by the Chinese Minister of Foreign Affairs, Mr. Yang Jiechi (February 2010);
- Reciprocal State visits by the two Heads of State (the President of the Republic of China in April and President Hu Jintao to France in November) ;
- Visits by Mr. Bernard Accoyer, President of the National Assembly, in June 2010 and April 2011;
- Visit by his Chinese counterpart Mr. Wu Bangguo in July 2010.

**The science and technology cooperation** is now focused on a number of priority areas: biology and biotechnology, mathematics, IT and materials.

**In the University sector**, a consistent programme of grants financed by the Government and major businesses, the opening up of expert training network partnerships, such as the Central School in Peking and the Sino-European Aeronautical College in Tianjin are set to drive an increase in Franco-Chinese educational exchanges over the next few years. Over 360 agreements have already been signed between Universities. Over a period of ten years, the number of Chinese students in France has increased tenfold, increasing to over 27,000

students registered with a higher education establishment. **In terms of mobility, Chinese students are the number one contingent of foreign students in France.**

**Decentralised cooperation** with China is gradually increasing in intensity, contributing to the economic development of French regional communities and to cooperation between France and China in terms of culture and University life.

#### **4.2.3** *Existence of agreements with China*

- Maritime transport agreement dated the 10<sup>th</sup> of April 1996;
- Protocol agreement signed on the 12<sup>th</sup> of February 2004 between the European Community and China relating to Chinese tourists travelling in groups, which came into force on the 1<sup>st</sup> of September 2004;
- Agreement in the form of the exchange of notes relating to the application of the status of Approved Tourist Destination for French Polynesia, which came into force on the 5<sup>th</sup> of March 2008.

#### **4.2.4** *Any other measures*

Requests have been made to the Chinese authorities to attribute the label "**Approved Tourist Destination**" (ATD) or "**Approved Destination Status**" (ADS) to some European countries including France. This particular status allows many Chinese tourists to travel to these destinations in groups.

**Chinese authorities have awarded ATD status to French Polynesia** but this destination is still not of sufficient interest to Chinese nationals, who wish to visit the capital itself. Facilitations are under review to allow the entry of bona fide Chinese nationals to French regional communities overseas.

## 4.2.5. Statistics

### Visas issued to Chinese nationals in metropolitan France from 2003 to 2010

PAYS - CHINE

\* Pour 2011 : période du 1er janvier au 06/06/2011

PERIODE	2003	2004	2005	2006	2007	2008	2009	2010	2010-2009
Nb Visas demandés	124282	166515	171386	186804	186151	161142	172250	238968	38,73 %
Nb Visas délivrés	113483	152638	155719	169206	171289	143522	157077	217070	38,19 %
Nb Visas Refusés	8083	11983	12538	14463	13271	15096	14701	19873	35,18 %
Taux de refus :	6,65 %	7,28 %	7,45 %	7,87 %	7,19 %	9,52 %	8,56 %	8,39 %	-2,00 %

PERIODE	2003	2004	2005	2006	2007	2008	2009	2010	2010-2009
VISA COURT SEJOUR ordinaires et officiels	102229	141116	143936	155829	156215	127077	142218	202270	42,23 %
% court séjour / total :	90,08 %	92,45 %	92,43 %	92,09 %	91,20 %	88,54 %	90,54 %	93,18 %	2,92 %
dont visas SDA		13 389	63 821	62 512	60 813	45 035	63 862	96 285	50,77 %
% visas SDA / total :		9,49 %	44,34 %	40,12 %	38,93 %	35,44 %	44,90 %	47,60 %	6,01 %
dont visas de Circulation	5989	8179	6891	7123	11030	11813	10914	13100	20,03 %
% de circulation / court séjour :	5,86 %	5,80 %	4,79 %	4,57 %	7,06 %	9,30 %	7,67 %	6,48 %	-15,61 %
TRANSIT (VTA-VTB)	2897	3632	3357	3976	3471	2987	1348	401	-70,25 %
% de transit / court séjour :	2,83 %	2,57 %	2,33 %	2,55 %	2,22 %	2,35 %	0,95 %	0,20 %	-79,08 %
LONG SEJOUR	8357	7890	8426	9401	11603	13458	13511	14399	6,57 %
dont Etudiants	6767	6254	6601	7255	9200	10827	10586	10297	-2,73 %
% étudiants / long séjour :	80,97 %	79,26 %	78,34 %	77,17 %	79,29 %	80,45 %	78,35 %	71,51 %	-8,73 %
Mineurs scolarisés	63	40	49	62	77	115	102	93	-8,82 %
dont établissement prof.	605	566	649	728	742	947	912	1828	100,44 %
% établissement prof. :	7,24 %	7,17 %	7,70 %	7,74 %	6,39 %	7,04 %	6,75 %	12,70 %	88,08 %
dont OFII Travail	116	200	249	329	218	439	520	579	11,35 %
dont Compétences & Talents						2	16	25	56,25 %
Dont établissement familial	656	804	911	805	1194	1185	1331	1468	10,29 %
% établissement familial :	7,85 %	10,19 %	10,81 %	8,56 %	10,29 %	8,81 %	9,85 %	10,20 %	3,49 %
dont OFII Etabl. Fam.	209	195	282	329	311	204	221	212	-4,07 %
dont conjoints de Fr. LS/MLS-TS					443	572	597	645	8,04 %
conjoints de Français CS	168	205	249	186					
dont adoption									
En vue mariage					31	55	20		-100,00 %
Dont famille de réfugiés	7	15	10	20	16	17	6	10	66,67 %
% OFII / long séjour :	3,89 %	5,01 %	6,30 %	7,00 %	4,56 %	4,78 %	5,48 %	5,49 %	0,16 %

Source: Immigration Directorate, Visa Department, Ministry of Interior

## Inflows and stock of residence permits granted to Chinese nationals in metropolitan France from 2004 to 2010

Flux et stocks des titres pour les ressortissants chinois en métropole

Motifs	Flux 2004	stocks 2004	Flux 2005	Stocks 2005	Flux 2006	Stocks 2006	Flux 2007	Stocks 2007	Flux 2008	Stocks 2008	Flux 2009	Stocks 2009	Flux 2010	Stocks 2010
<b>A. Economique</b>														
- Compétences et talents									2	28	13	86	22	127
- Actif non salarié	21	140	16	224	23	339	23	513	12	629	1	520	7	563
- Scientifique	267	347	278	372	276	373	321	512	330	671	320	890	327	1 034
- Artiste	30	56	44	52	4	26	53	70	40	34	24	29	15	53
- Salarié	138	1 142	158	1 413	214	1 913	156	2 430	503	3 753	723	4 773	761	5 414
- Saisonnier ou temporaire	134		101		182		115		133		55		14	1
<b>Total A. Economique</b>	<b>590</b>	<b>1 685</b>	<b>597</b>	<b>2 061</b>	<b>699</b>	<b>2 651</b>	<b>668</b>	<b>3 525</b>	<b>1 020</b>	<b>5 115</b>	<b>1 136</b>	<b>6 298</b>	<b>1 146</b>	<b>7 192</b>
<b>B. Familial</b>														
- Famille de Français	635	4 326	614	4 964	577	5 709	606	6 508	704	7 372	785	7 877	740	8 471
- Membre de famille	425	11 262	456	11 428	420	11 614	456	11 938	358	12 388	364	12 716	310	13 208
- Liens personnels et familiaux	1 101	3 370	1 157	4 459	2 499	6 771	1 187	8 018	1 035	8 709	1 093	9 098	1 341	9 684
<b>Total B. Familial</b>	<b>2 161</b>	<b>18 958</b>	<b>2 227</b>	<b>20 851</b>	<b>3 496</b>	<b>24 094</b>	<b>2 249</b>	<b>26 464</b>	<b>2 097</b>	<b>28 469</b>	<b>2 242</b>	<b>29 691</b>	<b>2 391</b>	<b>31 363</b>
<b>C. Etudiants</b>														
<b>Total C. Etudiants</b>	<b>6 291</b>	<b>21 277</b>	<b>6 342</b>	<b>22 716</b>	<b>6 864</b>	<b>23 361</b>	<b>8 595</b>	<b>25 657</b>	<b>10 411</b>	<b>28 717</b>	<b>10 075</b>	<b>24 148</b>	<b>9 719</b>	<b>24 941</b>
<b>D. Divers</b>														
- Visiteur	135	885	186	978	243	1 116	198	1 158	131	1 260	181	1 259	262	1 128
- Etranger entré mineur	118	243	99	299	142	419	206	565	225	765	204	906	225	967
- Rente accident du travail		16		13		12		9		8		8		8
- Ancien combattant	5	55	2	54	9	61	18	71	2	71	15	75	25	85
- Retraité ou pensionné														
- Motifs divers	18	7 498	14	7 592	6	7 723	9	8 089	3	8 422	9	8 921	9	9 560
<b>Total D. Divers</b>	<b>276</b>	<b>8 697</b>	<b>301</b>	<b>8 936</b>	<b>400</b>	<b>9 331</b>	<b>431</b>	<b>9 892</b>	<b>361</b>	<b>10 526</b>	<b>409</b>	<b>11 169</b>	<b>521</b>	<b>11 748</b>
<b>E. Humanitaire</b>														
- Réfugié et apatride	56	5 296	67	2 329	52	1 596	81	1 451	111	1 606	191	2 488	183	3 552
- Asile territorial/protection subsidiaire	1	8	3	9	7	17		13	5	19	3	20		17
- Etranger malade	144	513	77	429	63	381	38	313	43	264	46	260	36	241
- Victime de la traite des êtres humains												1	3	3
<b>Total E. Humanitaire</b>	<b>201</b>	<b>5 817</b>	<b>147</b>	<b>2 767</b>	<b>122</b>	<b>1 994</b>	<b>119</b>	<b>1 777</b>	<b>159</b>	<b>1 889</b>	<b>240</b>	<b>2 769</b>	<b>222</b>	<b>3 813</b>
<b>Total</b>	<b>9 519</b>	<b>56 434</b>	<b>9 614</b>	<b>57 331</b>	<b>11 581</b>	<b>61 431</b>	<b>12 062</b>	<b>67 315</b>	<b>14 048</b>	<b>74 716</b>	<b>14 102</b>	<b>74 075</b>	<b>13 999</b>	<b>79 057</b>

Source: Department of Statistics, Studies and Documentation, Ministry of Interior

### 4.2.6 Findings of case study 2

These two tables show a **sharp increase in migration flows from China** (People's Republic of China, including Hong Kong): + 75 % for long-stay visas between 2004 and 2010, almost + 70 % with respect to residence permits.

The issuance of short-stay visas has also increased from 141,116 in 2004 to 202,270 in 2010. This increase was 42 % just from 2009 to 2010.

**Besides, we can observe an important difference between the number of long stay visas and residence permits issued up until 2006.** In fact, legislation concerning family reunification changed in 2006: in compliance with the law of the 24<sup>th</sup> of July 2006 relating to immigration and integration, with the exception of nationals from the European Union, the European Economic Area, Switzerland, Monaco, Saint Marin and Algeria, the family members of French nationals must be in possession of a long stay visa in order to be able to apply for a residence permit in France. Until that date, a short stay visa was required.

In 2010, 23,458 individual tourist visas were issued in China, whereas the figure for those receiving visas for group tourist travel (ATD) was 96,285, i.e. 48 % of short stay visas issued in China. **It is clear that the award of this status by the Chinese authorities had a considerable impact on tourism in France.** Numbers of Chinese people obtaining these tourist visas are rising substantially, with a notable drop in 2008, partly due to the financial crisis.

**In terms of students**, since 2005, increasing numbers of Chinese students have registered at French Universities. They numbered 6,601 in 2005, the figure increasing year on year to reach 10,297 in 2010. Visas issued to students accounted for 71 % of long-stay visas issued in 2010. Recent investigations have revealed that not all of these students were of the level of excellence required for pursuing their studies in France under ideal conditions and measures have been taken to make consulates aware of the conditions for recruiting Chinese students<sup>15</sup>.

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<sup>15</sup> See press article «Étudiants chinois en France : les dessous du système », Le Figaro, published on November 11th 2010 : <http://www.lefigaro.fr/actualite-france/2010/11/11/01016-20101111ARTFIG00509-etudiants-chinois-en-france-les-dessous-d-un-systeme.php>

## 5. EFFECTS OF EU POLICY AND LEGISLATION

### 5.1 Overall impact of EU policy and legislation on France

EU visa policy and legislation have mainly used existing French policy and practice, notably in terms of the facilitation of legal migration and prevention of illegal migration:

- Provisions of the Visa Code promoting the issue of circulation visas to persons contributing to the influence of our bilateral relations;
- Standardised procedures for the examination of visa applications and the evaluation of the risk of illegal migration.

### 5.2 Application of European instruments to the French legislation and policy

In the case of Community regulations, these instruments are applied directly to the internal judicial systems of Member States.

- **EU visa facilitation agreements**

Modification of the procedures for issuing short stay visas and application of agreed facilities to categories of nationals from beneficiary third countries.

- **Lifting of the requirements for visas for particular third countries, including the impact of the amendments to Council Regulation (EC) N° 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement**

Application of visa exemptions to nationals of beneficiary third countries.

- **Visa Information System (VIS)**

The VIS is scheduled to start across the North Africa zone in the second half of 2011 (October).

- **Visa Code (Regulation (EC) No 810/2009) and ordinary Consular instructions**

Application of the provisions of the Visa Code in the light of the recommendations of the practical manual for issuing visas produced by the Visa Commission.

- **Regulation EU N° 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) N° 562/2006 as regards movement of persons with a long-stay visa**

Free transit for 90 days per 6 month period for holders of a long stay visa issued by a Member State while waiting for the issue of a residence permit.

## 6. STATISTICAL DATA ON VISAS AND IMMIGRATION

### 6.1 Statistics on visas issued

#### 6.1.1 The trend in visa applications and issue from 2006 to 2010

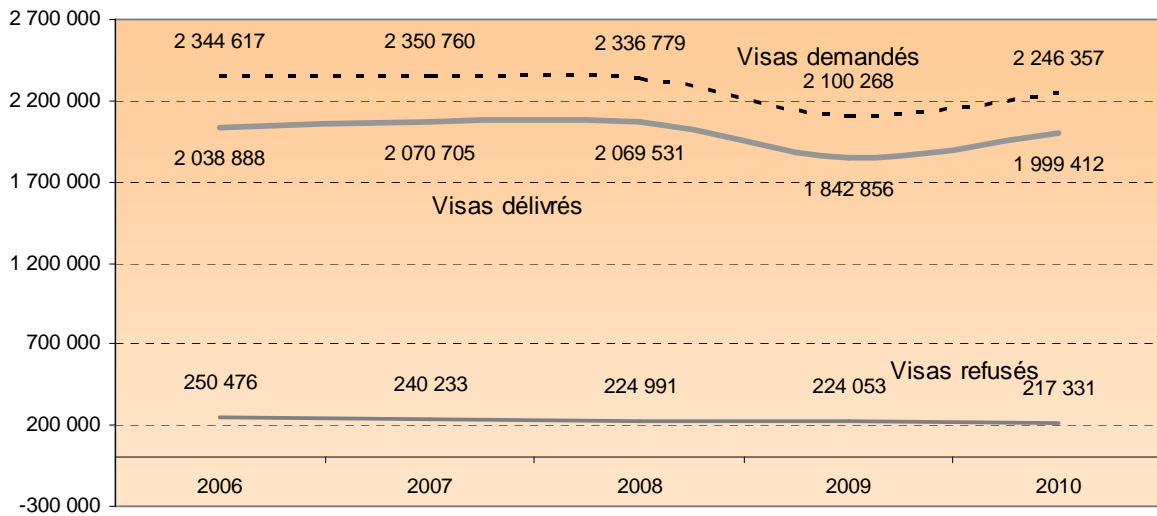
*Table summarising the trend in visa applications and issue for the main categories of visa from 2006 to 2010*

	2006	2007	2008	2009	2010	Trend for 2010/2009
<b>Total number of applications</b>	<b>2,344,617</b>	<b>2,350,760</b>	<b>2,336,779</b>	<b>2,100,268</b>	<b>2,246,357</b>	<b>7%</b>
Rate of refusal	10.9%	10.4%	9.8%	10.8%	9.8%	<b>-9.6%</b>
Number of visa refusals	250,476	240,235	224,991	224,053	217,331	<b>-3%</b>
<b>Total number of visas issued</b>	<b>2,038,888</b>	<b>2,070,705</b>	<b>2,069,531</b>	<b>1,842,856</b>	<b>1,999,412</b>	<b>8.5%</b>
<b>Of which Short Stay Schengen Visas</b>	<b>1,875,245</b>	<b>1,887,936</b>	<b>1,874,760</b>	<b>1,645,797</b>	<b>1,792,274</b>	<b>8.9%</b>
Of which ordinary short stay visas	1,781,421	1,795,060	1,789,594	1,574,329	1,725,378	<b>9.6%</b>
Of which official short stay visas	93,824	92,876	85,166	71,468	66,896	<b>-6.4%</b>
<b>Long stay visas</b>	<b>128,353</b>	<b>149,182</b>	<b>161,647</b>	<b>163,442</b>	<b>177,255</b>	<b>6.1%</b>
Of which ordinary long stay visas	124,279	145,343	157,903	159,781	167,012	<b>4.5%</b>
Of which ordinary long stay visas	4,074	3,839	3,744	3,661	3,651	<b>-0.3%</b>
<b>DOM/TOM visas</b>	<b>28,706</b>	<b>27,364</b>	<b>27,975</b>	<b>29,223</b>	<b>32,729</b>	<b>12%</b>
<b>Visas issued on behalf of African third countries</b>	<b>6,584</b>	<b>6,223</b>	<b>5,149</b>	<b>4,394</b>	<b>3,746</b>	<b>-14.8%</b>

*Source: Immigration Directorate, Visa Department, Ministry of Interior*



**Table summarising the trend in the number of requested, issues and refused visas from 2006 to 2010**



Source: Immigration Directorate, Visa Department, Ministry of Interior

Note: the difference between visas applied for and the total number of visas issued or refused relates to the fact that a certain number of files are classified without any decision being taken, such as when an applicant does not follow up an application, for example.

French embassies and consulates abroad handled 2,246,357 visa applications in 2010 compared to 2,100,268 in 2009 – **an increase of + 7 %**. The visa issue rate increased to the same extent, **at + 8.5 %** (1,842,856 visas issued in 2009 compared to 1,999,412 in 2010); this increase relates to both short stay (+ 9.5 %) and long stay (+ 4.5 %) visas.

This upward trend follows **a period of reduction of – 10% between 2008 and 2009**, which could be explained by the slowdown in global economic activity and the entry of 9 new Member States to the Schengen Area (Estonia, Latvia, Hungary, Lithuania, Malta, Poland, Slovenia, Slovakia, Czech Republic) in 2007 and Switzerland in 2008, the effect of which was to increase the number of Schengen offices (in fact, visas issued by these States are also valid for entering France, and holders of a residence permit issued by them are exempt from requiring a visa to enter France).

This increase is also an indicator of a general upturn in global economic activity (Russia, China and Turkey) and the gradual slackening of the economic crisis; businessmen are now travelling again (60,000 more visas in China, 54,000 in Russia, 16,000 in Saudi Arabia and 14,000 in Turkey). The rise in the number of circulation visas issued in 2010 is also a solid confirmation of renewed activity on the Asian Continent; in China, tourist visas issued under the EU-China Agreement increased by + 40% in 2010.

The continuation of the outsourcing programme has also made it possible to increase our capacity for receiving and handling visa applications (Istanbul, Jeddah, Cairo, Lagos and all of our Consulates in China).

**The refusal rate stabilised at a little under 10 %:** 10.2 % in 2007, 9.6 % in 2008, 10.8 % in 2009 and 9.8 % in 2010. It has fallen greatly since 2003 (19.3 %) due to the receipt of non-refundable charges, the introduction of biometrics and three measures under Community law discouraging the presentation of files that do not fulfil visa issue criteria.

### 6.1.2 Analysis of trends in visa issue for the main categories of visas

- **Short stay “Schengen” visas**

Schengen short stay visas are valid for the French territory and the territory of all other Schengen States (“uniform visas”), issued in application of the “Schengen acquis”, a series of joint rules, including the Convention for the application of the Schengen Agreement dated the 19<sup>th</sup> of June 1990 and the “Joint Consular Instructions ” included in the “Community Visa Code” , which is governed by European Regulation CE n° 810/2009 of the 13<sup>th</sup> of July 2009, which came into force on the 5<sup>th</sup> of April 2010.

Apart from “uniform” visas, French Consulates and those of other States can also issue short stay **visas with limited territorial validity (VTL: à validité territorialement limitée)** to the metropolitan territory alone “for humanitarian reasons or for reasons of national interest, or due to international obligations” where the conditions required by Article 5 of the Convention for the application of the Schengen Agreement permitting the issue of a “uniform Schengen” visa are not fulfilled.

Member States may also issue visas with limited territorial validity (VTL) that are only valid for part of the Schengen Area, if one or more countries do not recognise the travel document held by the person in question.

Under European Law, several nationalities are also required to have an **airport transit visa (VTA: visa de transit aéroportuaire)** to transit via an airport in the Schengen Area when they are going to a third country; this mechanism helps to combat clandestine immigration. Each Member State may also draw up a list of nationalities subjected to the VTA by it alone. France has included 24 nationalities on its national list.

The table below tracks the trend in the issue of short stay visas over the last few years.

	2006	2007	2008	2009	2010
Schengen Short Stay Visas	1,876,543	1,889,085	1,874,761	1,645,797	1,792,274
VTL	27,248	22,476	140,069	225,850	172,132
VTA	23,555	23,116	18,023	10,581	9,249
Trend in the issue of CS	- 0.8%	+ 0.7%	- 0.8%	- 12.2%	+ 8.9%

Source: Immigration Directorate, Visa Department, Ministry of Interior

Following several years of stability, **the number of short stay visas shows a distinct drop in 2008 and 2009, which can be explained by five factors:**

- The entry into the Schengen Area of nine new Member States at the end of 2007 and Switzerland in 2008 (see above),
- The high number of “circulation” visas issued in recent years (321,712 in 2009),
- The global economic crisis,
- The removal of the requirement for a visa for some nationalities,
- the reduction in the number of cases where a visa is required for holders of a diplomatic or service passport

**The particularly sharp rise (over six-fold) in the number of visas with territorial limitations (VTL)** can be explained by the fact that the new States joining the Schengen Area at the end of 2007 still have not provided a full list of the travel documents that they recognise.

In 2009, France issued 16.3 % of the short stay Schengen visas issued across all Member States in application of the Convention (11,284,206 visas in total).

- **Long stay visas**

In 2010, 167,012 long stay visas were issued; this is a slight increase compared to 2009 (+ 4.5 %).

The trend for the different types of visa coming under this category is as follows:

- **Visas issued to students**

**Following a continuous fall between 2003 and 2006, the trend reversed:** a slight increase between 2006 and 2007 (+1.2%) and a sharp increase (+12%) between 2007 and 2008; this trend has since continued:

2006	2007	2008	2009	2010
60,522	61,230	68,647	70,906	73,975
- 1.3%	+ 1.2%	+ 12.1%	+ 3.3%	+ 4.3%

*Source: Immigration Directorate, Visa Department, Ministry of Interior*

**This result can mainly be explained by:**

- the development of promotion initiatives by the Campus France agency, which set up “Campus France Spaces” (“*Espaces Campus France*”) in 97 countries to receive, inform and guide candidates in regard to studying in France;
- implementation by the Ministry of Foreign and European Affairs of the “French Educational Centre” (CEF) on-line entry procedure in 31 of the 97 countries where the Campus France agency already has a presence and connected to 229 French Higher Education Establishments to assess files at a pedagogic level;
- the legislative and regulatory measures adopted to facilitate the stay of foreign students in France.

- **Visas issued to spouses of French persons**

2006	2007	2008	2009	2010
22,785	29,635	34,819	35,611	36,669
- 12%	+ 30%	+17.5%	+2.3%	+ 3%

Source: Immigration Directorate, Visa Department, Ministry of Interior

Note: the above figures include short stay visas issued to Algerian spouses for settling in France in application of the 1968 bilateral agreement.

This constant increase illustrates the increase in the number of marriages between French Nationals and foreigners.

- **Visas issued under family reunification**

- **family reunification under the French Office for Immigration and Integration procedure**

	2006	2007	2008	2009	2010
Spouses	10,641	10,584	9,953	8,288	8,554
Children	5,460	6,865	6,373	5,135	5,389
Total	16,101	17,449	16,326	13,423	13,943
Trend	- 25.2%	+ 8.4%	- 6.4%	- 17.8%	+ 3.9%

Source: Immigration Directorate, Visa Department, Ministry of Interior

**The number of visas issued in 2009 and 2010 under family reunification has fallen considerably compared to 2008:** - 17.8% in 2009 (although there was a slight increase in 2010, the figure still remains far below the peak levels of 2007 and 2008). **There are at least two reasons for this trend:**

- the extension of the period after which foreign nationals may request from twelve to eighteen weeks, contained in the provisions of the law of the 24<sup>th</sup> of July 2006;
- the change to the minimum conditions for income and accommodation provided under the law of the 20<sup>th</sup> of November 2007 for family reunification, itself in line with the effects of the economic crisis.

- **Visas for families of refugees**

	2006	2007	2008	2009	2010
Spouses	1,687	1,205	1,658	1,379	1,515
Children	996	2,026	2,708	2,543	2,952
Total	2,683	3,231	4,366	3,922	4,467
Trend	+ 4.8%	+ 20.4%	+ 35.1%	- 10.2%	+ 13.9%

Source: Immigration Directorate, Visa Department, Ministry of Interior

**The number of visas issued for family members of refugees is greatly on the increase,** partly due to the reabsorbing of most of the delays in processing application files incurred in recent years. However, the procedural change in August 2009 (visa applications submitted directly by family members at consulates) could explain the 10 % reduction observed for 2009; in fact, it is likely that the requirement to submit a complete file has a dissuasive effect on some families in terms of going

through these procedures, especially because of the many problems with checking civil status documents.

The increase recorded in 2010 (highest figure for the last 5 years) is mainly due to the consequences of the earthquake in Haiti in January 2010: great efforts were made to make up for long delays in processing these files and respond to this humanitarian emergency.

▪ **Visas issued for the settlement of minors in France**

	2006	2007	2008	2009	2010
Adoptions of minors	3,880	3,101	3,237	2,913	2,894
Trend against previous year	-2.9 %	-20.1 %	+4.4 %	-10%	- 0.7%
Foreign child (minor) dependent upon a French person	518	421	722	928	912
Child (minor) of spouse of French national	296	355	415	553	640
Minor accompanying a foreign “visitor”	1,524	1,755	1,629	1,752	1,948
<i>Sub-total (except adoption)</i>	2,338	2,531	2,766	3,233	3,500
Trend against previous year	+ 1.6 %	+8.3 %	+9.3 %	+16.9%	8.3%
<b>Total</b>	6,218	5,632	6,003	6,146	6,394
Trend against previous year	- 1.3 %	-9.4 %	+6.6 %	+2.4%	4%

Source: Immigration Directorate, Visa Department, Ministry of Interior

Following the sharp reduction observed for 2007 (-20 %), the number of adoption visas, which showed a slight recovery in 2008 (+ 4.4 %), started to fall back again slightly in 2009 (- 10 %) and 2010 (-0.7 %).

By way of contrast, we can observe a particularly marked increase for other categories: foreign minors dependent upon French nationals (+33 % in 2009 and stationary in 2010), foreign children (minors) of spouses of French nationals (+8.5 %) and minors accompanying a foreign “visitor” (+11.2 %).

In total, excluding adoption, there was an increase in minors of close to +17 % in 2009 and + 8.3 % in 2010.

- **Visas issued for settlement for employment reasons**

	2006	2007	2008	2009	2010
Visas issued	18,085	16,783	19,835	16,042	14,870
Trend	- 4.9%	- 7.2%	+ 18.2%	- 19.1%	- 7.3%

Source: Immigration Directorate, Visa Department, Ministry of Interior

These visas are issued when consulates have received a file containing the agreement of a territorial unit of DIRECCTE. **Following several years of decline, the number of visas issued for the purpose of carrying out professional activities increased sharply in 2008**; this development is in line with Government migration policy. For the years 2009 and 2010, the clear decline can be explained by the economic crisis.

It should also be noted that these figures do not take account of work carried out by foreign students (many of them have part-time jobs) and foreigners who, on the basis of their long stay visas, can obtain a “private and family life” residence permit authorising them to carry out paid activity.

#### - DOM-TOM Visas

Overseas visas are only a small percentage of all visas issued (1.6 %). Figures do not reveal a regular trend. Following a reduction between 2006 and 2007 (-4.7 %), there has been a recovery since 2008 (+12 % between 2009 and 2010).

	2006	2007	2008	2009	2010
Visas issued	28,706	27,364	27,975	29,223	32,729
Trend	+ 8.5%	- 4.7%	+ 2.2%	+ 4.5%	12%

Source: Immigration Directorate, Visa Department, Ministry of Interior

#### - Visas issued for diplomatic and service passports

	2006	2007	2008	2009	2010
Visas issued	97,898	97,870	88,910	75,129	70,547
Trend	- 1.9%	---	- 9.2%	- 15.5%	- 6.1%

Source: Immigration Directorate, Visa Department, Ministry of Interior

The reduction in the number of visas issued can be explained by the gradual spread of the exemption from requiring a visa for new nationalities and the increase in the number of circulation visas since 2008.

### 6.1.3 Geographical distribution of visas issued in 2010

*Distribution by geographical zone across all visas issued in 2009 and 2010*

Geographical zone	Visas issued in 2009	Geographical zone	Visas issued in 2010
Europe excluding Schengen	448 ,888	Europe excluding Schengen	473,947
Maghreb	363,491	Maghreb	377,022
Asia - Oceania	357,734	Asia - Oceania	436,002
Middle East	272,200	Middle East	310,525
French-speaking Africa	162,510	French-speaking Africa	163,944
Non French-speaking Africa	104,919	NonFrench-speaking Africa	112,027
Latin America - Caribbean	63,931	Latin America - Caribbean	67,571
North America	63,203	North America	52,975
Europe - Schengen	5,980	Europe - Schengen	5,399

Source: Immigration Directorate, Visa Department, Ministry of Interior

**The region of Europe excluding Schengen**, which is made up of Central and Eastern European countries, the United Kingdom and Ireland **has the greatest number of visas issued** to Russian nationals (302,047) and Ukrainians (40,056). The number of visas issued in Western Europe, especially in London, remains considerable (60 453); this is directly linked to the significant size of many foreign communities settled in the United Kingdom and Ireland – non Schengen States.

**The Asia-Oceania region reached second place** in 2010 (overtaking Maghreb), with a number of countries with high issue levels, such as China (217 070), India (58 251) and Taiwan (46, 680), which is some evidence of the economic upturn in this part of the world.

**Maghreb is in third position**, with an average of over 100,000 visas issued to the nationals of each of the three countries (157,750 for Morocco, 137,051 for Algeria and 82,221 for Tunisia).

**The Middle East is in fourth position**, showing a 14 % increase compared to 2009. The African Continent is in fifth position, showing a considerable level of stability for French-speaking countries, while non French-speaking countries show an upward trend of around + 7 %.

**The regions of North America and Latin America-Caribbean are in next to last position** due to the exemption from requiring short stay visas for many countries on the American Continent: the United States, Canada, Mexico, Argentina, Brazil, Venezuela, Chile, etc. However, we observe a considerable reduction for North America (- 16 %) due to the effects of the financial and economic crisis and the lifting of the requirement for a short stay visa to carry out paid activities in France.

**Finally, “visa” activity at consulates in Schengen countries is residual in nature**, and is set to fall even further due to the coming into force of Regulation EC n°265 relating to long stay visas on the 5<sup>th</sup> of April 2010, allowing holders to move freely with the Schengen Area without a residence permit while their visa remains valid.

#### 6.1.4 Countries where French Diplomatic Consulates issue the greatest number of visas

The following table indicates the 15 countries where French diplomatic consulates issued the greatest number of visas in 2009 and 2010.

Country	Visas issued in 2009	Country	Visas issued in 2010
1. RUSSIA	248 107	1. RUSSIA	302 007
2. CHINA	157 077	2. CHINA	217 070
3. MOROCCO	148 664	3. MOROCCO	157 750
4. ALGERIA	138 576	4. ALGERIA	137 051
5. TURKEY	95 496	5. TURKEY	109 463
6. TUNISIA	76,251	6. TUNISIA	82,221
7. UNITED KINGDOM	69,171	7. SAUDI ARABIA	67,875
8. INDIA	59,169	8. UNITED KINGDOM	62,350
9. UNITED STATES	53,642	9. INDIA	58,251
10. SAUDI ARABIA	52,209	10. TAIWAN	46,680
11. TAIWAN	43,945	11. UNITED STATES	43,912
12. UKRAINE	43,218	12. UKRAINE	40,056
13. SOUTH AFRICA	26,973	13. EGYPT	32,535
14. EGYPT	26,409	14. THAILAND	29,890
15. LEBANON	24,711	15. SOUTH AFRICA	29,316

Source: Immigration Directorate, Visa Department, Ministry of Interior

With just over 300,000 visas issued, i.e. 15 % of all issues, **Russia has the highest level of visa activity by far.**

**However, the comparative table shows little difference compared to the one for 2009:** the top six countries are unchanged, Thailand has made its entry, just ahead of South Africa, which has fallen back compared to 2009, and Lebanon no longer appears. We can observe a general upwards trend (strong for Russia, China, Saudi Arabia and Turkey); only the United States and Ukraine show a drop, particularly pronounced for the former.

These 15 countries account for a total of 1,416,427 visas issued, i.e. a little over two thirds (71 %) of the visas issued by our Embassies and Consulates across the entire network.



## 6.2 Statistics on flows of third-country nationals to France

As mentioned above (in 6.1), there is **an increase in the flows for study or work reasons. Family immigration, by contrast, has decreased significantly.**

For countries where migrants hold a residence permit, Africa (the Maghreb and sub-Saharan Africa) leads but its share is declining to the benefit of countries with important economic growth, such as China or Brazil.

### *Residence permits issued by reason from 2004 to 2010*

#### **Titres de séjour par motifs de délivrance**

	<b>Total</b>	Etudes	Travail *	Famille	autres			
					total	<i>dont</i>		
						<i>Raisons humanitaires et statuts de protection</i>	<i>Résidence seule</i>	<i>inconnu</i>
2001								
2002								
2003								
2004	<b>197 423</b>	49 401	12 746	101 356	33 920	13 647	8 639	11 634
2005	<b>193 815</b>	46 506	12 616	99 854	34 839	15 281	8 350	11 208
2006	<b>188 410</b>	45 095	12 126	102 355	28 834	10 316	8 290	10 228
2007	<b>176 886</b>	46 778	12 154	91 111	26 843	9 851	7 425	9 567
2008	<b>189 790</b>	52 309	21 792	87 728	27 961	11 613	6 504	9 844
2009	<b>193 503</b>	53 304	19 626	90 139	30 434	12 726	7 332	10 376
2010 **	<b>195 973</b>	59 964	18 129	88 167	29 713	11 568	7 288	10 857

Source : Ministère de l'intérieur, de l'outre-mer, des collectivités territoriales et de l'immigration - SGII - SST - DSED

\* : à partir de 2008 comprend les titres "saisonnier" et "compétences et talents"

\*\* : provisoire

Source: Immigration Directorate, Visa Department, Ministry of Interior

**Residence permits issued by reason and for the 10 first nationalities (outside EU 27) from 2004 to 2010**

**Titres de séjour par motif de délivrance et pour les 10 premières nationalités (hors EU - 27)**

	ordre	Pays	Total	Etudes	Travail *	Famille	autres			
							total	dont		
								Raisons humanitaires et statuts de protection	Résidence seule	inconnu
2004	1	Algérie	34 279	4 792	626	24 073	4 788	338	2 451	1 999
2004	2	Maroc	28 985	4 734	1 318	21 145	1 788	32	885	871
2004	3	Tunisie	10 783	2 314	324	7 563	582	40	200	342
2004	4	Turquie	9 859	537	523	6 927	1 872	1 370	123	379
2004	5	Chine (Hong-Kong inclus)	9 611	6 293	623	2 209	486	57	142	287
2004	6	Etats-Unis d'Amérique	6 574	2 519	2 107	946	1 002	1	978	23
2004	7	Cameroun	4 997	1 026	115	2 958	898	74	47	777
2004	8	Côte d'Ivoire	4 714	692	105	2 804	1 113	308	57	748
2004	9	Sénégal	4 655	2 088	140	2 018	409	34	80	295
2004	10	Fédération de Russie	4 345	1 082	342	1 078	1 843	1 600	132	111
2005	1	Algérie	31 698	3 296	569	23 188	4 645	297	2 629	1 719
2005	2	Maroc	26 723	4 706	1 104	19 264	1 649	28	633	988
2005	3	Tunisie	10 161	2 284	357	7 111	409	25	144	240
2005	4	Turquie	9 776	576	665	6 583	1 952	1 371	127	454
2005	5	Chine (Hong-Kong inclus)	9 723	6 344	631	2 296	452	70	189	193
2005	6	Etats-Unis d'Amérique	5 952	2 218	2 000	777	957	6	926	25
2005	7	Cameroun	5 119	903	94	3 164	958	129	60	769
2005	8	Fédération de Russie	4 323	1 107	338	1 236	1 642	1 431	115	96
2005	9	Sénégal	4 318	1 780	89	2 127	322	38	70	214
2005	10	Côte d'Ivoire	4 207	438	64	2 684	1 021	405	48	568
2006	1	Algérie	31 287	3 260	477	23 546	4 004	171	2 451	1 382
2006	2	Maroc	24 481	4 429	670	17 832	1 550	21	600	929
2006	3	Chine (Hong-Kong inclus)	11 691	6 867	723	3 569	532	59	256	217
2006	4	Tunisie	10 268	2 063	309	7 530	366	31	135	200
2006	5	Turquie	9 192	496	547	6 486	1 663	1 116	136	411
2006	6	Etats-Unis d'Amérique	6 149	2 229	2 150	737	1 033	2	1 006	25
2006	7	Cameroun	4 807	800	105	3 045	857	87	76	694
2006	8	Côte d'Ivoire	4 122	522	68	2 646	886	284	47	555
2006	9	Sénégal	4 022	1 494	74	2 151	303	42	72	189
2006	10	Congo, République démocratique	3 916	119	74	2 166	1 557	689	39	829
2007	1	Algérie	26 816	3 078	429	20 228	3 081	174	1 716	1 191
2007	2	Maroc	24 049	4 665	941	16 986	1 457	12	554	891
2007	3	Chine (Hong-Kong inclus)	12 164	8 596	683	2 328	557	81	221	255
2007	4	Tunisie	9 826	2 221	345	6 879	381	31	168	182
2007	5	Turquie	8 036	486	365	5 735	1 450	983	137	330
2007	6	Etats-Unis d'Amérique	5 777	2 019	2 084	691	983	2	961	20
2007	7	Cameroun	4 442	882	99	2 663	798	84	58	656
2007	8	Sénégal	4 048	1 554	75	2 115	304	41	70	193
2007	9	Côte d'Ivoire	3 862	555	80	2 448	779	207	45	527
2007	10	Brésil	3 755	1 696	598	1 177	284	5	227	52
2008	1	Maroc	27 866	4 923	5 033	16 574	1 336	23	453	860
2008	2	Algérie	26 320	4 096	758	18 452	3 014	140	1 542	1 332
2008	3	Chine (Hong-Kong inclus)	14 104	10 411	1 027	2 137	529	116	139	274
2008	4	Tunisie	10 274	2 536	938	6 407	393	26	170	197
2008	5	Turquie	8 161	527	854	5 448	1 332	898	118	316
2008	6	Etats-Unis d'Amérique	6 150	2 309	2 115	871	855	2	827	26
2008	7	Mali	5 181	512	1 434	2 201	1 034	489	19	526
2008	8	Cameroun	4 461	1 078	145	2 514	724	69	65	590
2008	9	Sénégal	4 203	1 555	292	2 052	304	53	50	201
2008	10	Brésil	4 046	1 850	617	1 274	305	1	220	84
2009	1	Algérie	25 461	3 954	838	17 784	2 885	75	1 397	1 413
2009	2	Maroc	25 013	4 999	2 360	16 134	1 520	18	576	926
2009	3	Chine (Hong-Kong inclus)	14 186	10 075	1 152	2 305	654	196	197	261
2009	4	Tunisie	12 196	2 729	1 743	7 254	470	27	189	254
2009	5	Turquie	7 419	499	674	4 912	1 334	871	163	300
2009	6	Mali	6 114	465	2 124	2 520	1 005	526	25	454
2009	7	Etats-Unis d'Amérique	5 658	2 125	1 673	997	863		835	28
2009	8	Sénégal	5 223	1 916	438	2 508	361	118	51	192
2009	9	Cameroun	4 704	1 186	134	2 647	737	52	70	615
2009	10	Fédération de Russie	4 264	1 122	340	1 237	1 565	1 184	245	136
2010 **	1	Algérie	24 290	4 645	701	16 414	2 330			
2010 **	2	Maroc	23 943	5 800	1 597	15 116	1 430			
2010 **	3	Chine (Hong-Kong inclus)	14 099	9 722	1 157	2 468	752			
2010 **	4	Tunisie	12 468	2 743	1 372	7 944	409			
2010 **	5	Etats-Unis d'Amérique	7 486	3 406	2 164	923	993			
2010 **	6	Turquie	6 469	743	461	4 076	1 189			
2010 **	7	Mali	5 453	642	1 588	2 325	898			
2010 **	8	Haïti	5 376	529	130	3 792	925			
2010 **	9	Sénégal	4 972	1 665	461	2 450	396			
2010 **	10	Brésil	4 878	2 154	495	1 778	451			

Source : Ministère de l'intérieur, de l'outre-mer, des collectivités territoriales et de l'immigration - SGII - SST - DSED

\* : à partir de 2008 comprend les cartes "saisonniers" et compétences et talents"

\*\* : provisoire

Source: Immigration Directorate, Visa Department, Ministry of Interior

# APPENDICES

## APPENDIX 1: Bibliography

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## APPENDIX 2: List of abbreviations used in the study

- **AGDREF**: Management application for the files of foreigners in France (*Application de gestion des dossiers des ressortissants étrangers en France*)
- **ATP**: Provisional work permit (*Autorisation provisoire de travail*)
- **CESEDA**: Code for Entry and Residence of Foreign Persons and the Right of Asylum (*Code de l'Entrée et du Séjour des Etrangers et du Droit d'Asile*)
- **CNIL**: French National Commission on Information Technology and Civil Liberties (*Commission nationale de l'informatique et des libertés*)
- **CRV**: Appeals commission against the decision to refuse an entry visa for France (*Commission de recours contre les décisions de refus de visa d'entrée en France*)
- **DCPAF**: Border Police Central Directorate (*Direction centrale de la police aux frontières*)
- **DIRECCTE**: Regional Directorates for Business, Competition Policy, Consumer Affairs, Labour and Employment (*Direction Régionale des Entreprises, de la Concurrence, de la Consommation, du Travail et de l'Emploi*)
- **DROM-CTOM**: Overseas Departments and Regions and Overseas Territories (*Départements et Régions d'Outre-mer - Collectivités Territoriales d'Outre-mer*)
- **MAEE**: Ministry of Foreign and European Affairs (*Ministère des Affaires Etrangères et Européennes*)
- **OFII**: French Office for Immigration and Integration (*Office Français pour l'Immigration et l'Intégration*)
- **OFPRA**: French Office for the Protection of Refugees and Stateless persons (*Office Français de Protection des Réfugiés et Apatrides*)
- **RMV**: Visa Global Network (*Réseau Mondial Visas*)
- **SIS**: Schengen Information System (*Système d'Information Schengen*)
- **SMIC**: Minimum wage (*Salaire minimum interprofessionnel de croissance*)
- **VIS**: Visa Information System
- **VLS-TS**: Long Stay Visa Equivalent to a Residence Permit (*Visa de long Séjour valant titre de Séjour*)

## APPENDIX 3: Questionnaire sent to French Consulates abroad

### 1. The European Migration Network in a few words

The main objective of the European Migration Network (EMN)<sup>16</sup> is to meet the information needs of Union institutions and of Member States' authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas.

The Network, instituted by a Council Decision dated the 14<sup>th</sup> May 2008, is coordinated by the European Commission under the direct responsibility of the Directorate General Home Affairs in co-operation with National Contact Points (EMN NCPs) appointed in each Member State.

In France, the National Contact Point is the Secretary General in charge of immigration and integration of the Ministry of Interior.

### 2. Study objective and issues addressed <sup>17</sup>

Within the activities to be carried out in 2011, National Contact Points are required to carry out a study on visa policy as migration channel. To do this, NCPs must conduct interviews with national experts/specialists on visas and migration policy.

**The objective of the study is to analyse the links between visa policy and the management/control of immigration.**

We need to answer the following two questions in this regard:

Does your national visa policy/legislation include an explicit link to migration policy in particular relating to:

- **Legal immigration?** If so, is any specific focus placed on certain third countries and/or any specific categories of third-country nationals (e.g. highly qualified)?
- **Irregular migration?** If so, is any specific focus placed on certain third countries, any specific visa types and/or specific categories of third-country nationals (e.g. students who may potentially abuse student visas in order to stay for other purposes)?

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<sup>16</sup> For further information on the REM and its work, please go to [www.emn.europa.eu/](http://www.emn.europa.eu/)

<sup>17</sup> The specifications for this study are detailed in a separate document

In order to respond to this issue, we would like to ask you the following questions:

- **What is the connection between visa policy and legal immigration?**
  - What type of immigration is encouraged, and according to what criteria (for example, categories of third country nationals, income, potential, etc.)?
  - What methods are used in response to the set criteria?
  - Do migration agreements (for example, concerted management agreements for migration flows, visa facilitation agreements and other bilateral/multilateral agreements) make it easier to issue visas? What is the role of these agreements in terms of issuing visas?
  - Do these agreements have a more specific focus on facilitating legal migration and/or preventing illegal migration?
- **What is the connection between visa policy and the fight against illegal immigration?**
  - How do you evaluate/measure the migration risk and the risk of the misuse of the purpose of the visa? At what level are they evaluated?
  - What resources do you use to detect fraud - particularly document fraud (civil status deeds issued in the country of origin, etc.)?
  - What type of cooperation is there with the countries of origin to combat the migration risk?
  - Do you pay special attention to some categories of visa applicants (for example, students and spouses of French persons, etc.)?
  - What measures are taken to prevent illegal immigration during the various phases of visa application, inspection, issue and follow-up?
    - a) Visa application stage: check to confirm absence of criminal convictions, signed declaration, proof of return ticket, etc.;
    - b) Examination stage: inspection of the documentary evidence supplied, contact with other Member States (e.g. prior visa refusals), intention of returning to country of origin, financial risks, refusals and reasons, etc.;
    - c) Entry and stay: withdrawals, follow-up if the stay is extended, visa extension requests, visa change requests, etc.

- What other measures have been taken to prevent illegal immigration, and especially to strengthen staff capacity for handling visa applications (training, information system development, checklists, blacklists, information on country of origin, experts employed at Consulates, etc.)?

- **Organization of Consulates**

- Does your Consulate use external service providers to manage visa applications and issue?
- If applicable, what tasks does the external service provider carry out, and how far does its role extend (from simply making appointments, to receiving visa application files and entering into the computer and visa charge payments to collecting biometric data)?