GUIDE *FOR* TNR VICTIMS *IN* FRANCE

ON HOW TO:

FILE A CRIMINAL COMPLAINT

APPLY FOR ASYLUM IN FRANCE

IN THE CASE OF TRANSNATIONAL REPRESSION

IPHR International Partnership for Human Rights

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I. INTRODUCTION

International Partnership for Human Rights ("IPHR") is an independent, non-governmental organisation founded in 2008. Based in Brussels with a second office in Tbilisi, IPHR works closely with civil society groups from a range of countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities.

TNR refers to "foreign government conduct perpetrated (or having impact) on the French territory, including but not limited to assassinations, violence, intimidation, harassment, illegal deportations, abductions, digital threats, Interpol and extradition abuse, unlawful asset appropriation and revocation of travel documents, aimed at intimidating, silencing, coercing, harassing, or harming exiled individuals and members of exiled communities and those who support them in France."

Understanding your legal rights and relevant procedures is essential to ensure your protection and access to justice in the face of TNR conduct. This guide is intended for individuals located in France, who are victims of TNR and wish to:

- File a criminal complaint; and/or
- Apply for asylum or subsidiary protection in France.

The guide therefore presents the applicable procedure and the steps which TNR victims should follow in both cases.

II. FILING A COMPLAINT IN FRANCE

1. Who can file a complaint?

Any person who is a victim of an offense contained in the French Criminal Code has the right to file a complaint, regardless of nationality, administrative or immigration status or legal residency.

2. What kinds of offenses may be related to TNR?

- Physical or psychological harassment orchestrated from abroad;
- Threats of violence or death originating from or sponsored by a foreign power;
- Surveillance, stalking, and violations of privacy;
- Online harassment or hacking (cybercrimes);
- Attempted assault or actual physical harm;
- Targeted discrimination or incitement to hatred;
- Involvement or support by agents of a foreign state or affiliated groups.

TNR victims do not have to determine and qualify the offense they are victim of when they file a complaint. Victims are only required to describe the facts of the incident.

3. Where and how to file a complaint?

First option: ***File your complaint at a police station or gendarmerie***

You can visit any local police station or gendarmerie to file a complaint.

To find the police station or gendarmerie where you can file your complaint, use the following research tool, available in the following link: *https://www.service-public.fr/particuliers/vosdroits/F1435?lang=en*

Bring all the evidence you can gather, including text messages, photos, videos, medical certificates, and/or witness statements relating to the incident you are reporting.

If you do not know the perpetrator or if you are unsure of his/her identity, you can still file the criminal complaint. In this case, your complaint must be filed against "X".

At the end of your hearing with the police or gendarmerie, you have the right to receive a receipt confirming that your complaint has been officially recorded.

Second option: ***File your complaint by mail sent to the public prosecutor***

You can also write to the public prosecutor at the judicial court ("tribunal judiciaire") of the location where the offense occurred. In order to find the address where the letter must be sent, you may use the following link: *http://www.annuaires.justice.gouv.fr/*.

In your mail, describe the incident in detail and include supporting documents. You must also provide a copy of your identity card. You should keep a copy of the mail for your records.

Your letter must include the following information:

- Your civil status and full contact information (address and telephone number);
- A detailed account of the facts, date, and location of the offense. You may include supporting documents such as photographs, links to a video, medical certificates, etc.
- Name of the alleged perpetrator if known (otherwise, the complaint will be filed against an unknown person, "X");
- Name and address of any witnesses to the offense;
- Description and provisional or final estimate of the damages.

Third option: ***File your complaint through the online pre-complaint*** **form**

You may use the official platform *www.pre-plainte-en-ligne.gouv.fr* for certain offenses.

Online complaints are available for cases of damage to property: theft (mobile phone, car, bank card, etc.), burglary (damage to car, scratches, graffiti, etc.), scam on the internet (phishing, blackmail, hacking).

If you are victim of any offense other than offenses related to damage to property, you may not file your complaint through the online form.

A confirmation appointment at a police station will still be necessary.

4. Time limitations

You must file a complaint before the end of the following limitation period:

- 1 year for contraventions (for example, abnormal neighborhood disorder, verbal violence or other violence which resulted in no injuries)
- 6 years for offenses (for example, theft, assault, fraud)
- 20 years for crimes (for example, murder, rape, armed robbery).

It is recommended to file your complaint as soon as you can, following TNR incidents.

5. Possible outcomes of your complaint

The complaint triggers a **preliminary police investigation,** led by the police or gendarmerie. The investigation seeks to verify the existence of the offense(s) and to identify the perpetrator(s).

At the end of the preliminary investigation, the public prosecutor may take one of the following decisions:

- **Dismissal of the case *("classement sans suite"):*** After an investigation or a preliminary review, the public prosecutor may decide not to pursue charges. This could be due to insufficient evidence, legal technicalities or because the case is minor and it is not in the public interest to prosecute. The victim is notified of the public prosecutor's decision.
- **Alternative measures to prosecution *("mesures alternatives aux poursuites):*** The public prosecutor may decide to apply alternative measures to prosecution. The public prosecutor calls for these measures in consideration of the perpetrator's profile, when it is also possible to ensure compensation for the damage caused to the victim, to put an end to the disruption resulting from the offence or to contribute to the rehabilitation of the perpetrator without initiating proceedings against him/her.

  These alternative measures can take several forms: a probationary criminal warning, criminal mediation, and community service, for example.
- **Judicial investigation *("information judiciaire »):*** The public prosecutor sends the case to an investigative judge for further investigation. A judicial investigation is compulsory when the incident qualifies as a crime.
- **Trial:** This allows for the suspect to be immediately sent to trial before a criminal jurisdiction, without going through a judicial investigation.

Even if the prosecutor dismisses the criminal complaint *("classement sans suite"),* the victim can still pursue justice by directly involving an investigating judge through a civil party complaint. This gives the victim a formal legal pathway to potentially reopen the case and seek both criminal conviction and civil compensation. The complaint to the investigative judge will automatically trigger a judicial investigation. The steps to file a complaint with civil party status are the following:

a. **Draft the complaint:** The complaint must include:

   - a clear account of the alleged facts;
   - identification of the alleged perpetrator (if known);
   - evidence or documentation supporting the claim;
   - address in France;
   - information on the first complaint which the public prosecutor dismissed;
   - damage compensation request;
   - a formal declaration of becoming a civil party in the criminal case;

   A template of a complaint with civil party status is available in the following link *https://www.service-public.fr/particuliers/vosdroits/R11657*

   While it is not compulsory, a lawyer's assistance is highly recommended.

   If you do not have the financial means to benefit from a lawyer's assistance, you may apply for legal aid *("aide juridictionnelle")* through the following link *https://www.service-public.fr/particuliers/vosdroits/F18074?lang=en*. The State will pay all or part of the legal costs and lawyer's fees if you meet the eligibility requirements.

b. **Submit the complaint:** The complaint is submitted to the Dean of Investigative Judges *("Doyen des juges d'instruction")* at the judicial court *("tribunal judiciaire")* of the location where the offence occurred.

c. **Pay a deposit:** The investigative judge may require the plaintiff to pay a financial deposit (called a *"consignation"* in French). The amount varies according to the nature of the case and the plaintiff's financial situation. The payment of this *"consignation"* serves to prevent individuals from filing abusive complaints.

d. **Transmission to the public prosecutor:** The Dean of the Investigating Judges then forwards the complaint the public prosecutor for an opinion, called *"requisitions".* Before taking his requisitions, the public prosecutor may ask the investigating judge to hear the victim as a civil party and request a period of three months to pursue the investigation. In his application, the public prosecutor may ask the investigative judge to open a judicial investigation.

e. **Review of the complaint by the investigative judge:**

   The Dean of Investigative Judges may decide to follow or not to follow the requests of the public prosecutor. The judge may hear you on his own initiative or at the request of the public prosecutor.

f. Decision of the investigative judge:

The judge may:

- Dismiss the case again. The judge will write the formal decision to dismiss the case (called *"ordonnance de refus d'informer"*). This is the case if the alleged offense is not a criminal offense or if it is clear that it has not been committed. In the event of a refusal to inform, the investigation shall not be initiated.

  You can appeal of the decision refusing to investigate within 10 days following the notification of this decision. Appeals against decisions refusing to inform a heard by the Investigative Chamber of the Court of Appeal.

- Open a judicial investigation: If the Dean decides to open a judicial investigation, he/she then designates an investigative judge to lead the investigations. He can designate himself.

  The investigative judge conducts an inquiry (interrogation of witnesses and/or of the accused, order export reports, order searches, etc). As a civil party, the victim can have access to the case's file and request certain investigative acts.

- Send the case to trial if enough evidence is available to proceed. If the case proceeds to trial, the civil party can participate actively, by presenting arguments, supporting the prosecution's case, and requesting compensation to damages.

- Offer mediation or settlement in minor cases.

III. PROCEDURES FOR SEEKING ASYLUM IN FRANCE

1. Definition and scope of asylum

Asylum is a fundamental right of individuals and an international obligation for state.

Asylum status is legal protection granted to individuals who have fled their home country, who are outside their home country or are unwilling to return due to fear of being persecuted because of heir race, religion, nationality, political opinion, or membership in a particular social group.

This definition thus includes TNR targets and/or victims, who are targeted by their state's security services or facing transnational threats abroad.

2. Step-by-step application process

The asylum application procedure varies according to whether you make your request at the French border or within France.

Application at the border:

a. Declare that you are an asylum seeker to French authorities

If you are coming to France in order to obtain refugee status, you must tell border police authorities at an airport, port, or station – or, if you entered otherwise, go to the nearest prefecture – and state your wish to apply for asylum.

You will then be informed, in a language you understand, about the procedure, your rights and obligations as an asylum seeker, and support services.

Your fingerprints will be taken (unless under 14 years old) by French state authorities.

You may be placed in a holding area while your case is reviewed (see step 2 and, if you are not placed in a holding area, see step 3).

b. If you are placed in a waiting/holding area,

Agents from Ofpra (French Office for the Protection of Refugees and Stateless Persons – *"Office Français de Protection des Réfugiés et Apatrides"*) will interview you to determine whether your asylum application does not fall under the jurisdiction of another State and to verify whether the application is well-founded (for example, it is not well-founded if you are not at risk in your country and are immigrating for economic reasons)

The Minister of the Interior takes the final decision on admission or refusal to enter the country.

c. If you are not authorised to enter the French territory,

You will be informed of such a refusal through a written decision explaining the reasons for such refusal. French authorities may reject your request to enter the territory if your asylum application should have been submitted to another country of the European Union, if your asylum application is manifestly unfounded, or if you are considered as a serious threat to French public order, for example.

You will also receive a copy of the report which Ofpra agents have drawn up based on the the interview with you.

You may appeal the decision within 48 hours after being notified. The competent tribunal will take the decision with 72 hours. While you wait for the tribunal's final decision, French authorities cannot forcibly return you to another country.

If the court dismisses your appeal, you can appeal within 15 days to the president of the administrative court of appeal. However, unlike the first appeal, appeals before the administrative court of appeal are not suspensive.

d. If you are authorised to enter French, receive your regularisation visa:

You will be issued an 8-day regularisation visa upon authorization to enter French territory.

Before the end of this visa, you must present yourself at a first reception structure for asylum seekers called *"Spade"* in the region where you intend to reside. SPADA stands for "Structure de Premier Accueil des Demandeurs d'Asile" (Initial Reception Establishment for Asylum Seekers). SPADA is an association that you must visit to schedule your appointment at the GUDA (*"Guichet Unique de Demande d'Asile"* - Dedicated Asylum Application Service Center).

The rest of the application procedure is the same as the procedure dedicated to those who apply directly within France, as detailed below:

Application directly within France

a. Report at the SPADA

If you apply for asylum while already in France, you must report at the SPADA (*"Structure de Premier Accueil des Demandeurs d'Asile"* - first reception facility for asylum seekers), where you will pre-register your asylum application.

The competent SPADA to receive your asylum application is determined according to the department of your residence in France or according to the place where you arrive in France.

You must provide the following information and documents:

- Information concerning your marital status and, possibly, that of your accompanying family members

- Any document proving that you have entered France regularly or, if you do not have one, any indication on the conditions of your entry into France and your travel itineraries from your country of origin
- 4 identity photos
- Indication of the address where you can be reached, if you have one.

You will receive an appointment for an interview with the GUDA (*"Guichet Unique de Demande d'Asile"* Dedicated Asylum Application Service Center).

b. Obtain a certificate of asylum seeker and an asylum application form:

Within 3 to 10 working days, the prefecture/SPADA will issue you a **1) certificate of asylum seeker** and an **2) asylum application form.**

The asylum seeker certificate is only valid in France for 10 months in the case of a standard procedure and 6 months in the case of an accelerated procedure. The asylum seeker certificate allows you to apply for asylum before the Ofpra, with the asylum application form.

Your application is fast-tracked in certain cases: nationality of a safe country of origin, refusal to submit to fingerprinting, concealment or falsification of elements of the file, serious threat to public order.

Your asylum certificate can be used as a provisional residence permit. It is renewable for a period of 6 months pending a decision by Ofpra on your application.

c. Submit your asylum application to OFPRA

Once you have received your asylum certificate, you must submit your asylum application to Ofpra within 21 days, by filing the asylum application form.

The form must be written in French and needs to be dated and signed. The application also contains:

- Supporting documents for your background, and explain your fear of persecution in case of return to your country of origin.
- Travel documents which enabled you to come to France (passport or laissez-passez), if you have them.
- Asylum seeker certificate previously delivered to you by the prefecture/SPADA.
- Two identity photos.

You may send your application by mail or bring it in person to :

Office français de protection des réfugiés et apatrides (Ofpra)
201 Carnot Street
94136 Fontenay sous Bois Cedex

Ofrpa will inform you whether you application is complete or not. In the event that Ofpra asks you to submit additional information, you have 8 days to do so.

If your application contains all the required information, Ofpra will register and save it. You may then download the registration letter accompanying your application, as well as your file number, on your personal Ofpra account: *https://www.service-public.fr/particuliers/vosdroits/R70802*.

d. Request an extension of stay at the prefecture

Once you have received the registration letter from Ofpra, you must contact the prefecture of the French department where you are residing.

The prefecture will then acknowledge receipt of your complete file.

If you need to request an extension for your stay, once you have received your registration letter, you may do so at the prefecture. It will deliver you a temporary stay allowance for a period of 6 months. To do so, you must provide the following documents :

- Two identity pictures
- Proof of domicile (compulsory). This can be one of the following documents:
    - Proof of accommodation in reception centers for asylum seekers
    - Lease agreement in your name
    - Certificate of accommodation with a third party

This extension of stay provide you with a right of residence in France until Ofpra makes the final decision on your asylum application, or, in the event of an appeal against Ofpra's decision, until the National Court of Asylum (CNDA)'s decision.

e. Examination of the application by Ofpra

Ofpra first considers your asylum claim to determine whether it qualifies to asylum status' legal standards.

If you do not meet the requirement for asylum, your application is then reviewed for a subsidiary protection.

In the case of a fact-tracked procedure (in case you come from a safe country of origin), Ofpra will examine your application within 15 days following its registration. Your application will only be placed under the fast-tracked procedure after Ofpra sends you a written decision. An oral interview with Ofpra is compulsory (to safeguard your rights and provide you with the opportunity to explain your situation), except if Ofpra is about to approve your asylum application and provide you with asylum status.

In the case of a standard procedure (if you do not come from a safe country of origin), Ofpra has 6 months to examine your asylum application. You will also undergo an oral interview to allow you explain why you are applying for asylum.

At the end of the examination period, OFPRA will notify you of its written decision, in the language you chose when you filed your asylum application. Until you receive a written decision, your asylum application will neither be accepted nor rejected.

f. If the decision is favourable:

If Ofpra grants you a refugee status or subsidiary protection, you will need to apply for a residence permit and travel document.

Depending on Ofpra's decision, you can benefit from one of the following permits:

- A ten-year-long resident card, if you have been granted refugee status.
- A multi-annual residence permit, if you have been granted subsidiary protection by Ofpra.

g. If your application is rejected:

In the case of a negative decision, you will receive the reasons explaining why your asylum application was rejected.

The indication of the remedies and time limits for appeal is a compulsory indication in the rejection letter.

Ofpra may deny you with protection under asylum or subsidiary protection, if it considers that you do not fulfill the conditions under the respective legal frameworks.

Your application may also be considered as inadmissible if you are already enjoying effective protection under asylum in an EU Member State or if you are benefiting from refugee status and effective protection in a third State.

If Ofpra has rejected your application for asylum or subsidiary protection, you can file an appeal before the National Court of Asylum (CNDA) within one month of notification of the decision.

If you do not file an appeal, you no longer have the right to remain in France. The prefecture notifies you of a refusal of stay, accompanied by an obligation to leave French territory (*Obligation de quitter le territoire française - OQTF*).

IV. USEFUL CONTACTS AND RESOURCES

- OFPRA (French Office for the Protection of Refugees): www.ofpra.gouv.fr
- CNDA (National Asylum Court): www.cnda.fr
- France Victimes (support hotline): 116 006
- La Cimade (migrant support NGO): www.lacimade.org
- France Terre d'Asile: www.france-terre-asile.org
- GISTI – Groupe d'information et de soutien des immigrés : https://www.gisti.org/spip.php?page=sommaire