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Refugee, subsidiary or temporary protection: what differences?

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Asylum is the protection afforded by a State to an alien who is or is at risk of persecution in his or her country. There are 2 forms of asylum protection: refugee status and subsidiary protection. The French Office for the Protection of Refugees and Stateless Persons (Ofpra) has sole competence to grant them in France. Temporary protection is a special measure decided at European level during a mass influx of displaced persons.

Refugee status

Refugee status shall be granted to the following persons:

- A foreigner persecuted in his country and who cannot or will not claim the protection of that country. They must be persecutions based on race, religion, nationality, membership of a certain social group (including gender and sexual orientation considerations, the risk of female circumcision) or political opinions. We're talking about *conventional asylum* with reference to the Geneva Convention of 28 July 1951.
- Foreign national persecuted because of his work for freedom. They may include, for example, political or trade union activists, journalists, artists or intellectuals threatened for their commitment to democracy in their country. We're talking about *constitutional asylum*.
- A foreigner who has been granted protection by the UN High Commission in his country, but can no longer remain there.

Subsidiary protection

Subsidiary protection is the other form of protection.

It is awarded to an alien who does not meet the conditions for obtaining refugee status and who proves that he is exposed in his country to one of the following risks:

- Death penalty or execution
- Torture or inhuman or degrading treatment or punishment
- A serious and individual threat to his or her life or person as a result of violence that may extend to persons regardless of their personal situation and resulting from a situation of internal or international armed conflict.

Temporary Protection

The persons concerned are non-European foreigners who flee their country or region of origin on a massive scale and who cannot return:

- due in particular to armed conflict or violence,
- or because they are victims of serious and repeated violations of human rights.

This exceptional and temporary measure is authorized by a decision of the Council of the European Union (EU). The decision shall define the beneficiaries and its date of entry into force.

The arrangement shall be decided for a period of one year and may be extended by a maximum of 2 years.

The Council of the EU can put an end to this at any time if the situation in the country of origin allows a safe and sustainable return of the displaced.



Please note : there are currently no foreigners benefiting from this scheme in France.

Statute and miscellaneous references

- Geneva Convention of 28 July 1951 relating to the Status of Refugees (PDF - 267.0 KB) [↗](https://ofpra.gouv.fr/sites/default/files/atoms/files/convention_1951_protocole_1967.pdf) (https://ofpra.gouv.fr/sites/default/files/atoms/files/convention_1951_protocole_1967.pdf)
- Directive 2001/55/EC of 20 July 2001 on the granting of temporary protection in the event of a mass influx of displaced persons [↗](https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=celex%3A32001L0055) (https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=celex%3A32001L0055)
- Code on the entry and residence of aliens and the right to asylum: Articles L711-1 to L711-6 [↗](https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006147794&cidTexte=LEGITEXT000006070158) (https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006147794&cidTexte=LEGITEXT000006070158)
Refugee status

- Code on the entry and residence of aliens and the right to asylum: Articles L712-1 to L712-4 [↗](https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006147795&cidTexte=LEGITEXT000006070158) (https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006147795&cidTexte=LEGITEXT000006070158)
Subsidiary protection
- Code on the entry and residence of aliens and the right to asylum: Articles L811-1 to L811-9 [↗](https://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006335386&idSectionTA=LEGISCTA000006147810&cidTexte=LEGITEXT000006070158) (https://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006335386&idSectionTA=LEGISCTA000006147810&cidTexte=LEGITEXT000006070158)
Temporary protection
- Code on the entry and residence of aliens and the right to asylum: Articles R811-1 to R811-4 [↗](https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006163310&cidTexte=LEGITEXT000006070158) (https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006163310&cidTexte=LEGITEXT000006070158)
Stay of beneficiaries of temporary protection

For more information, please contact

- Asylum: exclusion clauses for the benefit of asylum (Geneva Convention) [↗](https://www.ofpra.gouv.fr/fr/asile/l-exclusion-et-le-refus-de-statut) (https://www.ofpra.gouv.fr/fr/asile/l-exclusion-et-le-refus-de-statut)
French Office for the Protection of Refugees and Stateless Persons (Ofpra)
- Missions of the Office of the United Nations High Commissioner for Refugees (UNHCR) [↗](https://ofpra.gouv.fr/fr/l-ofpra/nos-interlocuteurs/le-hcr) (https://ofpra.gouv.fr/fr/l-ofpra/nos-interlocuteurs/le-hcr)
Ministry for Europe and Foreign Affairs
- Constitutional asylum [↗](https://www.ofpra.gouv.fr/fr/asile/les-differents-types-de-protection/l-asile-constitutionnel) (https://www.ofpra.gouv.fr/fr/asile/les-differents-types-de-protection/l-asile-constitutionnel)
French Office for the Protection of Refugees and Stateless Persons (Ofpra)