

*This country fiche is being used to collect information on residence formalities for EU citizens and their family members in selected Member States.*

*The information for the country fiche has been collected by the research team through desk research based on available public reports and official information.*

*Please note that this country fiche is only intended to address the situation of EU citizens seeking registration as workers, self-employed persons, jobseekers, together with their family members, whatever their nationality. It does not address residence formalities that apply to other categories of EU citizens such as students and self-sufficient persons.*

Section A: Legal framework	Information collated for this Member State
<p><b>1. How has Directive 2004/38 been transposed in this Member State?</b></p>	<p>The Directive was transposed into French law by making amendments to the Code on the entry and residence of foreigners and the right of asylum<sup>1</sup> (hereafter referred to as 'the Immigration Code').</p> <p>The amending provisions are contained in Law No 2006-911 on immigration and integration<sup>2</sup> and the Ministerial Decree No 2007-371 on EU rights of residence.<sup>3</sup> Both these acts amended the specific parts of the Immigration Code which deal with EU citizens and members of their family. Several further amendments have since been made.</p> <p>The rules are supplemented by a Ministerial Circular which is publicly available.<sup>4</sup></p>
<p><b>2. Which legal instruments regulate residence formalities in this Member State?</b></p>	<p>Residence formalities are regulated by the Immigration Code, Articles L121-1 to L122-5 and R121-1 to L122-5 which transpose Articles 7 to 11 and Articles 16-20 of Directive 2004/38.</p> <p>Further provisions relating to the termination and withdrawal of residence rights, penalties for failure to comply with formalities and measures relating to the detention and expulsion of EU citizens and their family members are contained throughout the Immigration Code.</p>

<sup>1</sup> *Code de l'entrée et du séjour des étrangers et du droit d'asile*. The latest consolidated version is available on the official French legislation website: <<https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070158>>.

<sup>2</sup> *Loi n° 2006-911 du 24 juillet 2006 relative à l'immigration et à l'intégration*, JORF 25-07-2006 rect. 16-09.2006 <<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000266495>>

<sup>3</sup> *Décret n° 2007-371 du 21 mars 2007 relatif au droit de séjour en France des citoyens de l'Union européenne, des ressortissants des autres Etats parties à l'Espace économique européen et de la Confédération suisse ainsi que des membres de leur famille*, JORF 22-03.2007 <<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000822461>>

<sup>4</sup> Ministerial Circular No NOR IMIM1000116C of 10 September 2010 <[http://circulaire.legifrance.gouv.fr/pdf/2011/04/cir\\_32884.pdf](http://circulaire.legifrance.gouv.fr/pdf/2011/04/cir_32884.pdf)>.

<p><b>3. Do the national measures explicitly extend to nationals from Iceland, Liechtenstein, Norway and Switzerland?</b></p>	<p>Yes, they are explicitly included in the measures transposing Directive 2004/38.<sup>5</sup></p>
<p><b>4. Do the national measures explicitly extend to this Member State's own nationals?</b></p>	<p>No. Family members of French nationals are not covered by the rules concerning EU citizens and their family members.<sup>6</sup></p>
<p><b>5. Have any problems been noted as regards the transposition of residence formalities in this Member State?</b></p>	<p>Decree No 2007-371 and Article R 121-5 of the Immigration Code foresee the adoption of an implementing act ('<i>arrêté</i>')<sup>7</sup> by the Minister of the Interior in order to lay down the format of the certificate of registration for EU citizens. However, this act has still not been adopted, which continues to cause significant difficulties for EU citizens seeking registration. It has therefore been suggested that the transposition of the Directive is not yet complete.<sup>8</sup></p>
<p><b>6. Have any problems been noted as regards the practical application of residence formalities in this Member State?</b></p>	<p>While the Directive abolished the obligation for EU citizens to apply for a residence permit when taking up residence in an EU country other than their own,<sup>9</sup> the French transposition legislation has reintroduced them on a voluntary basis. This is the source of confusion for EU citizens,<sup>10</sup> given that they may subsequently be requested to provide a residence document in their interactions with public bodies in order to prove their lawful residence in France.<sup>11</sup></p> <p>Furthermore, significant problems have been reported concerning 'recurrent failures by local authorities in France to deliver, or to deliver within a reasonable timeframe, a certificate of registration, and the continuing difficulties experienced by self-employed persons in the recognition of their right to stay'.<sup>12</sup> This is considered 'a large-scale and systematic problem in France'.<sup>13</sup> Such problems have also been reported by the European Commission in its Single Market Scoreboard</p>

<sup>5</sup> Immigration Code, Art. L.121-1

<sup>6</sup> For the family reunification rules that apply to French nationals, see further Immigration Code, Art. L.211-2-1, Art. L.313-11, 4, Art. L.314-9, 3<sup>o</sup>, Art. L.314-11, 2<sup>o</sup>.

<sup>7</sup> An *arrêté* is intended to instruct the administration for the practical implementation of specific articles.

<sup>8</sup> European Citizen Action Service (ECAS), 'Comparative study on the application of Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States' (PE 410.650, European Parliament 2009), p. 72 <[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2009/410650/IPOL-JURI\\_ET\(2009\)410650\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2009/410650/IPOL-JURI_ET(2009)410650_EN.pdf)>.

<sup>9</sup> See, for example, as regards EU workers and their family members, Art. 4, Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families [1968] OJ L 257/13.

<sup>10</sup> Feedback from Your Europe Advice.

<sup>11</sup> Nicolau (n 17), pp. 13, 65-66.

<sup>12</sup> Vanessa Leigh et al, 'Obstacles to the right of free movement and residence for EU citizens and their families - Country report for France' (PE 556.955, European Parliament 2016), pp. 17-18 <[http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556955/IPOL\\_STU\(2016\)556955\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556955/IPOL_STU(2016)556955_EN.pdf)>.

<sup>13</sup> *ibid*, p. 18.

	<p>since at least 2012.<sup>14</sup> 11% of cases relating to residence rights handled by SOLVIT<sup>15</sup> in the period 2006-2015 involved France, the second highest proportion of such cases after the UK.<sup>16</sup> The on-going nature of such difficulties has been confirmed by the NGO ECAS in its recent report on obstacles faced by EU citizens,<sup>17</sup> which draws upon the enquiries received by the Commission's 'Your Europe Advice' service.<sup>18</sup> Similar problems have also been noted in a recent petition addressed to the European Parliament.<sup>19</sup> The imposition of excessive formalities in connection with applications for permanent residence by EU citizens and their family members has also been reported.<sup>20</sup></p> <p>Several problems regarding the issuance of entry visas to non-EU family members have also been reported.<sup>21</sup> The application process in respect of residence cards is also reported as particularly burdensome.<sup>22</sup> Reported difficulties include non-EU family members having to submit their application to the <i>préfecture</i> in a face-to-face appointment, which paradoxically can only be booked online; appointments are often only available at far away dates (often more than 6 months). Furthermore, there is no way in practice to make specific enquiries over the telephone about documentary requirements. As a result, non-EU family members run the risk that of being informed their file is not complete and having to make a new appointment to have their application formally accepted, with the consequence that the six-month deadline for processing the application does not even begin to run during these preparatory steps. Another further problem is that non-EU family members will not receive a certificate of application until their application has been formally accepted and many concerned family members find themselves with long periods of stay in France with no certificate of application well beyond the period of validity of their visa (or visa-exempt period of stay).</p>

<sup>14</sup> Single Market Scoreboard, 07/2013 edition (report for period June 2012 – March 2013), Feedback & Concerns, entry for France <[https://ec.europa.eu/internal\\_market/scoreboard/archives/2013/07/feedback/concerns/index\\_en.htm](https://ec.europa.eu/internal_market/scoreboard/archives/2013/07/feedback/concerns/index_en.htm)>.

<sup>15</sup> SOLVIT is a network of national authorities set up under the auspices of the European Commission with the mandate to provide an out-of-court dispute resolution service aiming to resolve problems encountered by individuals and business in exercising their rights in the European Economic Area <[http://ec.europa.eu/solvit/index\\_en.htm](http://ec.europa.eu/solvit/index_en.htm)>. The UK accounted for 40% of cases handled by SOLVIT relating to residence rights during this period.

<sup>16</sup> Data released by the European Commission under reference Gestdem 2015/2903.

<sup>17</sup> Anna Nicolau, 'Freedom of Movement in the EU: A look behind the curtain' (ECAS, 2018), p. 18 and pp. 65-66 <<https://ecas.org/wp-content/uploads/2018/03/ECAS-Long-report-final.pdf>>.

<sup>18</sup> Your Europe Advice is an independent service of the European Commission managed by ECAS, which provides personalised information and advice on EU rights including residence formalities <[https://europa.eu/youreurope/advice/index\\_en.htm](https://europa.eu/youreurope/advice/index_en.htm)>.

<sup>19</sup> Petition No 0925/2018 submitted on behalf of EU Rights Clinic on the implementation of Directive 2004/38/EC in France.

<sup>20</sup> Nicolau (n 17), p. 55; REFIT Platform Opinion on the submission of the REFIT Platform Stakeholder Group (Ms Kavrakova) on the Citizenship Directive (2017) <[https://ec.europa.eu/info/sites/info/files/xiii-10-a-social-security-coordination\\_en.pdf](https://ec.europa.eu/info/sites/info/files/xiii-10-a-social-security-coordination_en.pdf)>. For example, EU citizens have been refused the possibility of applying for permanent residence on the basis of a requirement that the five-year period of residence must have been completed immediately preceding the date of application.

<sup>21</sup> Leigh et al (n 12), pp. 17 and 21; Nicolau (n 17), pp. 19-41 and 47-48.

<sup>22</sup> Feedback from Your Europe Advice.

Section B: Nature of residence formalities	Information collated for this Member State
<p><b>1. Is registration compulsory for EU citizens and their family members? If registration is not obligatory, is voluntary registration possible?</b></p>	<p>While the Immigration Code, Art. L.121-2 foresees an obligation for EU citizens to register, no implementing ministerial order has been adopted in order to lay down the format of the registration certificate in accordance with Art. R.125-1. Hence, there is currently no obligation for EU citizens to register in practice. However, EU citizens have the option to request a residence card.<sup>23</sup></p> <p>Under Art. L.121-3, non-EU family members of EU citizens are obliged to apply for a residence card.</p> <p>It should also be noted that France does not operate a national population register.</p>
<p><b>2. What is the deadline for EU citizens and their family members to register?</b></p>	<p>In practice registration is not yet compulsory for EU citizens, given that no implementing ministerial order has been adopted as foreseen by Art. R.125-1 of the Immigration Code. However, while registration is not obligatory, it should be noted that the French rules<sup>24</sup> also provide that in the event an EU citizen has not registered within the three-month deadline, they are deemed to have been residing in France for less than three months. As a result, a failure to register means that the time already spent residing in France will not be taken into consideration. This legal presumption has been considered to be disproportionate.<sup>25</sup></p> <p>Non-EU family members of EU citizens are obliged to apply for a residence card<sup>26</sup> within three months of their arrival in France.<sup>27</sup></p>
<p><b>3. What penalty applies for failure to register within the deadline?</b></p>	<p>Once the obligation to register becomes effective for EU citizens, failure to register would lead to the imposition of a fine of € 750.<sup>28</sup> This has been considered excessively high.<sup>29</sup></p> <p>Non-EU family members who fail to register may lead to the imposition of a fine of € 1,500.<sup>30</sup> This has also been considered a disproportionate penalty.<sup>31</sup></p>

<sup>23</sup> Immigration Code, Art. L.121-2.

<sup>24</sup> Immigration Code, Art. L.121-2.

<sup>25</sup> ECAS (n 8), pp. 73; Leigh et al (n 12), pp. 10-11.

<sup>26</sup> Immigration Code, Art. L.121-3

<sup>27</sup> Immigration Code, Art. R.121-14.

<sup>28</sup> Immigration Code, Art. R.621-1, which refers to '*la peine d'amende prévue pour les contraventions de quatrième classe*', which refers to a fine of € 750 as specified in Article 131-13 of the French Penal Code.

<sup>29</sup> ECAS (n 8), pp. 73-75; Leigh et al (n 12), pp. 10-12.

<sup>30</sup> Immigration Code, Arts. R.621-2 and R.621-3, which refer to '*la peine d'amende prévue pour les contraventions de cinquième classe*', namely a fine of € 1500 as laid down by Article 131-13 of the French Penal Code.

<sup>31</sup> ECAS (n 8), pp. 73-75; Leigh et al (n 12), pp. 10-12.

<p><b>4. What authority makes the decision on the registration of EU citizens and their family members?</b></p>	<p>Registration formalities for EU citizens and their family members are applied at local level in France. The departmental prefect<sup>32</sup> is competent to take decisions which relate to the residence rights of EU citizens and their family members.<sup>33</sup></p> <p>In theory once the obligation to register becomes effective for EU citizens, it is the mayor of the local municipality<sup>34</sup> who will in theory be competent to issue registration certificates.<sup>35</sup></p> <p>However, it has been reported that municipal authorities in France lack the resources to handle applications for registration certificates, so it is foreseen that should registration become mandatory, this legislation will be amended to allocate this competence to the <i>préfectures</i>.<sup>36</sup></p>
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Section C: Preparatory phase	
<p><b>1. What on-line information is available to EU citizens and their family members?</b></p>	<p>Information on registration formalities for EU citizens and their family members is available on the French government's public information portal<sup>37</sup> and is replicated on the website of the Ministry of the Interior.<sup>38</sup> The websites of the various municipalities sometimes contain information on registration formalities for EU citizens and their family members, but this is not always the case.<sup>39</sup> Moreover, the usefulness of the information contained varies greatly.</p> <p>The information for EU citizens and their family members is not readily indicated.<sup>40</sup></p> <p>However, once the correct page has been found,<sup>41</sup> the website<sup>42</sup> contains relatively user-friendly information and provides a detailed listing of the documentation requested from workers and the self-employed as well as what documents family members must provide. However, no information is given on the registration of jobseekers.</p>
<p><b>2. In what language is this information available?</b></p>	<p>The information is only available in French.</p>

<sup>32</sup> This refers to the *préfet de département*.

<sup>33</sup> Article 11-1 of Decree No 2004-374 (*Décret n°2004-374 du 29 avril 2004 relatif aux pouvoirs des préfets, à l'organisation et à l'action des services de l'Etat dans les régions et départements*, JORF 30-04-2004) <<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000249712>>.

<sup>34</sup> This refers to the *maire de leur commune de résidence*.

<sup>35</sup> Immigration Code, Art. L.121-2, Art. R.121-10.

<sup>36</sup> Feedback from legal practitioner.

<sup>37</sup> This page is entitled '*Titres, carte de séjour et documents de circulation pour étranger en France*' <<https://www.service-public.fr/particuliers/vosdroits/N110>>.

<sup>38</sup> This page bears the same title <<https://www.demarches.interieur.gouv.fr/particuliers/titres-carte-sejour-documents-circulation-etranger-france>>

<sup>39</sup> See for example, ICF GHK/ Milieu 'Evaluation of EU rules on free movement of EU citizens and their family members and their practical implementation – Country Fiche for France' (Report for the European Commission, 2013) pp. 2-3.

<sup>40</sup> See also Leigh et al (n 12), p. 18.

<sup>41</sup> Residence formalities may be accessed from the home page by clicking the tab *Étranger* > *Titre de séjour et document de circulation* and then selecting one of the options under the heading *Carte de séjour pour Européen*.

<sup>42</sup> For EU workers, see *Titre de séjour d'un travailleur citoyen UE/EEE/Suisse* <<https://www.service-public.fr/particuliers/vosdroits/F16003>>.

<p><b>3. What other means of assistance are available EU citizens and their family members wanting to obtain information on registration procedures?</b></p>	<p>No additional means of assistance appear to be available at national level.</p> <p>At municipal level, information can sometimes be obtained by email or by telephone.</p> <p>However, in practice, it appears that it is often difficult to obtain information from the <i>préfectures</i> over the telephone. Making a visit in person to obtain verbal information is also not without problems, as front-line staff may not be sufficiently aware of the relevant rules and may give incorrect information.<sup>43</sup></p>
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Section D: Application phase	Information collated for this Member State
<p><b>1. What procedure applies to the lodging of an application for registration of EU citizens and their family members?</b></p>	<p>While registration is not presently obligatory for EU citizens, they have the option of applying for a residence card.<sup>44</sup></p> <p>Family members who are not EU citizens are obliged to apply for a residence card within three months of their arrival in France.<sup>45</sup></p> <p>There is no standardised application form or official explanatory guidance issued to applicants.<sup>46</sup> The process places a particular emphasis on face-to-face contacts between applicants and officials.<sup>47</sup></p>
<p><b>2. Does an application for registration by EU citizens and their family members have to be made in person?</b></p>	<p>The practice varies greatly from one <i>préfecture</i> to another.<sup>48</sup> All applications require at least one appearance to be in person<sup>49</sup> at the local <i>préfecture</i> where their domicile is situated (or in some departments, the local <i>sous-préfecture</i>).</p>
<p><b>3. Does an application for registration by EU citizens and their family members require a prior appointment to be made?</b></p>	<p>EU citizens and their family members must usually first request a personal appointment in order to be able to submit their application in person,<sup>50</sup> but this varies greatly according to the <i>préfecture</i>.<sup>51</sup></p> <p>In some municipalities, non-EU family members must obtain a prior appointment and this can only be requested online, with often only available slots several months later.<sup>52</sup></p>

<sup>43</sup> Feedback from Your Europe Advice.

<sup>44</sup> *ibid.*

<sup>45</sup> Immigration Code, Art. L.121-3, Art. R.121-14.

<sup>46</sup> ICF GHK/ Milieu (n 39), pp. 3-4.

<sup>47</sup> *ibid.*, p. 4.

<sup>48</sup> For example, the website of the *préfecture de police* for Paris states that EU citizens have to make an appointment by email: '*Procédure à suivre : Veuillez prendre rendez-vous par courriel*' <<https://www.prefecturedepolice.interieur.gouv.fr/Demarches/Particulier/Ressortissants-etrangeurs/Ressortissants-etrangeurs/Les-titres-de-sejour-ressortissants-europeens>>. Other examples include, the *préfecture* for Rhône which instructs applicants to make an appointment online; the *préfecture d'Isère* instructs applicants to appear in person at 9am on certain days.

<sup>49</sup> ICF GHK/ Milieu (n 39), p. 8.

<sup>50</sup> For example, the website of the *préfecture de police* for Paris states that EU citizens have to make an appointment by email: '*Procédure à suivre : Veuillez prendre rendez-vous par courriel*' <<https://www.prefecturedepolice.interieur.gouv.fr/Demarches/Particulier/Ressortissants-etrangeurs/Ressortissants-etrangeurs/Les-titres-de-sejour-ressortissants-europeens>>.

<sup>51</sup> For example, the *préfecture* for Bordeaux which allow applications to be initiated by post.

<sup>52</sup> Feedback from Your Europe Advice.

<p><b>4. What is the average waiting time for obtaining an appointment for registration by EU citizens and their family members?</b></p>	<p>No information on average waiting times is available. In practice, long waiting times for obtaining an appointment have been reported in France, which can sometimes reach over nine months.<sup>53</sup></p>
<p><b>5. What information and documentation do EU citizens and their family members have to produce to start the registration process?</b></p>	<p>At the time they submit their application, EU citizens must present a valid passport or identity card, together with proof of their right of residence as a salaried or self-employed worker,<sup>54</sup> student<sup>55</sup> or self-sufficient person,<sup>56</sup> or, alternatively as their family member.<sup>57</sup> The French rules do not address the situation of jobseekers. When family members who are not EU citizens submit their application for a residence card, they must present a valid passport and documents establishing their family ties and the residence rights of their EU relative.<sup>58</sup> <i>see Section G below for further details on documents required</i></p>
<p><b>6. Are non-EU family members required to produce an entry visa when applying for registration?</b></p>	<p>No. In theory there is no obligation on non-EU family members to furnish an entry visa when applying for registration. In practice, it has been reported that the municipal authorities sometimes require non-EU family members to obtain a long-stay family reunification visa and in some cases have advised them to return home in order to apply for such a visa at the local French consulate.<sup>59</sup></p>
<p><b>7. Are EU citizens and their family members issued with a certificate of application upon submitting an application?</b></p>	<p>When an application is lodged by an EU citizen or their family member, they should immediately receive a certificate of application.<sup>60</sup></p>
<p><b>8. Following the lodging of an application, do EU citizens and their family members benefit from a further deadline to submit all relevant documentation proving their right of residence?</b></p>	<p>No. EU citizens and family members have to provide all supporting documents at the time they submit their application for a residence document.</p>

<sup>53</sup> Nicolau (n 17), p. 47.

<sup>54</sup> Immigration Code, Art. R.121-10.

<sup>55</sup> Immigration Code, Art. R.121-12.

<sup>56</sup> Immigration Code, Art. R.121-11.

<sup>57</sup> Immigration Code, Art. R.121-13.

<sup>58</sup> Immigration Code, Art. R.121-14.

<sup>59</sup> Nicolau (n 17), pp. 37 and 47.

<sup>60</sup> Immigration Code, Art. R.121-15. This is referred to as '*un récépissé*'.

Section E: Verification of domicile	
1. Does the registration process involve a physical verification of the domicile of the EU citizens and their family members?	No. In practice, EU citizens and family members have to provide proof of address when they submit their application, which may be adduced by any means. <sup>61</sup>
2. In practice, how long does the verification of domicile typically take to complete?	Not applicable.

Section F. Registration phase	
1. What is the deadline for making decisions of applications?	No deadline is laid down in the Immigration Code <sup>62</sup> for issuing a residence card to EU citizens. While the law provides that a registration certificate should be issued 'immediately', <sup>63</sup> this provision requires an enabling act which has yet to be adopted. A residence card must be issued to a family member within six months of an application being submitted. <sup>64</sup>
2. In practice, how long does the registration procedure typically take to complete? Have any specific problems been identified in practice?	According to the French authorities, <sup>65</sup> the issuance of residence documents to EU citizens takes between three weeks and six months, depending on the complexity of the case. The average length of time to obtain a residence document is 40 days. However, serious delays with registration formalities have been reported. <sup>66</sup> It can sometimes take several months for EU citizens to obtain an appointment for lodging an application. <sup>67</sup> It has also been observed that the processing times for EU nationals and their family members are generally longer than third country nationals because <i>préfecture</i> officials often indicate that these applications are not considered a priority. <sup>68</sup>

<sup>61</sup> For example, the list of documents which are required when an EU citizen applies for a residence card as a worker lists: *Titre de séjour d'un travailleur citoyen UE/EEE/Suisse* > *Pièces à fournir*: '[...] Indication relative à votre domicile : apportée par tout moyen' <<https://www.service-public.fr/particuliers/vosdroits/F16003>>.

By way of further example, the acceptable means of proof of domicile, which French citizens may provide when applying for a national identity card or a passport, include showing documentation showing a person's name and address, such as utility bills, receipt for payment of rent or proof of property ownership, income tax bill, local property tax bill, household insurance bill among others. Documents in electronic format are accepted <<https://www.service-public.fr/particuliers/vosdroits/F14807>>.

<sup>62</sup> Art. L.121-2 or Art. R.121-10

<sup>63</sup> Immigration Code, Art. R.121-5.

<sup>64</sup> Immigration Code, Art. R.121-15.

<sup>65</sup> ICF GHK/ Milieu (n 39), p. 9.

<sup>66</sup> ECAS (n 8), p.85; Citizens Without Borders, 'Free movement and residence in the European Union a challenge for European citizenship' (2013), p. 31 <[https://www.meltingpot.org/IMG/pdf/citizien\\_inglese.pdf](https://www.meltingpot.org/IMG/pdf/citizien_inglese.pdf)>; Leigh et al (n 12), pp. 17 and 21; Nicolau (n 17), pp. 47, 50 and 65-66.

<sup>67</sup> Petition No 0925/2018 (n 19); Nicolau (n 17), p. 47, who reports a delay of nine and a half months faced by in obtaining an appointment to apply for registration.

<sup>68</sup> Feedback from legal practitioner.

<p><b>3. What kind of residence documentation is issued to EU citizens and their family members?</b></p>	<p>EU citizens are issued with a residence card in the uniform residence permit format laid down by Regulation 1030/2002<sup>69</sup> with the following label for salaried or self-employed workers: '<i>Citoyen UE/EEE/Suisse - Toutes activités professionnelles</i>'. The French rules do not address the situation of jobseekers. Family members (whatever their nationality) should be issued with a residence card in the uniform residence permit format laid down by Regulation 1030/2002 with the label '<i>Carte de séjour de membre de la famille d'un citoyen de l'Union/EEE/Suisse-Toutes activités professionnelles</i>'. It should be noted that while Directive 2004/38 provides that a residence card should be valid for a period of five years or the envisaged period of residence of the EU citizen,<sup>70</sup> the French authorities have been reported to issue residence documents with a limited validity of six or twelve months regardless of proof being provided that the anticipated duration of residence will be longer.<sup>71</sup> It has also been reported that applications submitted by non-EU family members have been considered under the immigration rules which incurred payment of fees and led to the issuance of ordinary residence permits.<sup>72</sup></p>
<p><b>4. What additional functions (if any) do the different types of residence documents have in relation to public services (e.g. in relation to tax, health, social security, use as an electoral card)?</b></p>	<p>No. The residence card serves no additional functions in respect of public services.<sup>73</sup></p>
<p><b>5. What additional functions (if any) do the different types of residence documents have in relation to private-sector services (e.g. in relation to the right to work, access to banking or transport services)?</b></p>	<p>Yes. A residence card can be used to prove the right to work of non-EU family members.<sup>74</sup> It is standard practice for potential employers to insist upon possession of a residence card.<sup>75</sup> Otherwise a residence card serves no additional functions.<sup>76</sup></p>
<p><b>6. What is the cost to the individual citizen applying for residence documents?</b></p>	<p>None. There is no cost for issuance of the residence cards to EU citizens or their family members.<sup>77</sup></p>
<p><b>7. Can the registration procedure be completed on-line?</b></p>	<p>No. There is no standardised application form available on-line.<sup>78</sup></p>
<p><b>8. Is there an expedited registration procedure or premium service available?</b></p>	<p>No. No expedited or premium application service exists.</p>

<sup>69</sup> Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals [2002] OJ L 157/1.

<sup>70</sup> Article 11 of Directive 2004/38.

<sup>71</sup> Nicolau (n 17), pp. 58-59.

<sup>72</sup> ICF GHK/ Milieu (n 39), p. 10.

<sup>73</sup> CSES, 'Study to Support the Preparation of an Impact Assessment on EU Policy Initiatives on Residence and Identity Documents to Facilitate the Exercise of the Right of Free Movement' (Report for European Commission, 2017), p. 62 <[https://ec.europa.eu/info/sites/info/files/dg\\_just\\_final\\_report\\_id\\_cards\\_and\\_residence\\_docs\\_cses\\_28\\_august\\_2017\\_2.pdf](https://ec.europa.eu/info/sites/info/files/dg_just_final_report_id_cards_and_residence_docs_cses_28_august_2017_2.pdf)>.

<sup>74</sup> Immigration Code, Art. L.121-3.

<sup>75</sup> Feedback from Your Europe Advice.

<sup>76</sup> CSES (n 73), p. 63.

<sup>77</sup> See for example, *Titre de séjour d'un travailleur citoyen UE/EEE/Suisse > Coût 'La délivrance de la carte de séjour Citoyen UE/EEE/Suisse est gratuite'* <<https://www.service-public.fr/particuliers/vosdroits/F16003>>.

<sup>78</sup> ICF GHK/ Milieu (n 39), pp. 4-5.

Section G: Documentary requirements	Information collated for this Member State
<p><b>1. What documentation is required from EU citizens in order to prove their identity?</b>  <b>Have any specific problems been identified in practice?</b></p>	<p>The French rules specify that an EU citizen applying for a residence card must provide a valid passport or identity card.<sup>79</sup> Non-EU family members must provide a valid passport.<sup>80</sup></p> <p>It has been reported that, in some cases, identity cards have not been accepted as sufficient proof of EU citizenship.<sup>81</sup> In addition, it is also reported that the <i>préfectures</i> will frequently refuse to accept an application for a residence card submitted by an EU citizen on the basis that possession of such a document is not compulsory.<sup>82</sup></p>
<p><b>2. What documentation is required from EU citizens applying to register as workers?</b>  <b>Have any specific problems been identified in practice?</b></p>	<p>An EU citizen applying for a residence card as a worker must either provide a confirmation of engagement or certificate of employment.<sup>83</sup> An applicant will also have to provide proof of domicile and three-passport photographs.<sup>84</sup></p> <p>In practice, applicants may also be required to produce proof of income, such as monthly payslips, particularly when they are supporting non-EU family members.<sup>85</sup></p>
<p><b>3. What documentation is required from EU citizens applying to register as self-employed persons?</b>  <b>Have any specific problems been identified in practice?</b></p>	<p>An EU citizen applying for a residence card as a self-employed person must provide proof of self-employment.<sup>86</sup></p> <p>While the rules do not specify how such proof is to be adduced, the French government's public information portal specifies that 'any documentary proof of the regular, effective and lasting nature of the activity' must be provided which includes 'enrolment on business registers (company and business register or trade register), enrolment with professional bodies and social security institutions, subscription of insurance policies, minutes of appointment, lease for business premises, invoices for the purchase of supplies, sales contracts or services agreements, official declaration of turnover, accounting books for sales and purchases, etc.'<sup>87</sup> An applicant will also have to provide proof of domicile and three-passport photographs.<sup>88</sup></p> <p>In practice, applicants may also be required to prove their income<sup>89</sup> which requires to produce additional documentation such as statements of accounts stamped by</p>

<sup>79</sup> Immigration Code, Art. R.121-4.

<sup>80</sup> Immigration Code, Art. R.121-14.

<sup>81</sup> Nicolau (n 17), p. 54.

<sup>82</sup> Nicolau (n 17), pp. 13, 65-66.

<sup>83</sup> Immigration Code, Art. R.121-5.

<sup>84</sup> See *Titre de séjour d'un travailleur citoyen UE/EEE/Suisse > Pièces à fournir* <<https://www.service-public.fr/particuliers/vosdroits/F16003>>.

<sup>85</sup> Nicolau (n 17), p. 51.

<sup>86</sup> Immigration Code, Art. R.121-5.

<sup>87</sup> See *Titre de séjour d'un travailleur citoyen UE/EEE/Suisse > Pièces à fournir* <<https://www.service-public.fr/particuliers/vosdroits/F16003>>.

<sup>88</sup> *ibid.*

<sup>89</sup> Leigh et al (n 12), p. 18.

	an accountant, <sup>90</sup> invoices issued to clients, income tax statements, or quarterly VAT declarations etc.
<b>4. What documentation is required from EU citizens applying to register as jobseekers? Have any specific problems been identified in practice?</b>	The French rules do not explicitly address the right of residence of jobseekers, <sup>91</sup> who are not covered by the categories of EU citizens listed in the Immigration Code, Art. L.121-1.  In practice, jobseekers who apply for residence documentation may be turned away and refused the possibility to apply for registration until they can provide evidence of work. <sup>92</sup> Alternatively, jobseekers applying for residence documentation may be requested to prove they have sufficient resources. <sup>93</sup>
<b>5. What documentation is required from family members to prove the existence of a family relationship? Have any specific problems been identified in practice?</b>	Family members need to provide proof of their family ties and documents that demonstrate their EU relative's right of residence. Although the French rules do not further specify what documents need to be submitted, the government's public information portal provides examples: 'proof of family ties (for a spouse, marriage certificate; for a child, birth certificate showing parentage; for an ascendant, birth certificate of the child who is the sponsor); proof of the right of residence of the sponsor in France (for example: employment contract, proof of resources; healthcare insurance; student identity card). <sup>94</sup> A family member will also have to provide proof of domicile and three-passport photographs. <sup>95</sup>  These rules apply equally to non-EU family members <sup>96</sup> as well as those who are EU citizens. <sup>97</sup> Since 2011, these rules have been extended to 'other family members'. <sup>98</sup>  In addition, it is reported that 'there is constant suspicion about the legitimacy of marriages'. <sup>99</sup> Furthermore, the French authorities sometimes also require applicants to demonstrate that they have registered or transcribed their marriage

<sup>90</sup> Nicolau (n 17), p. 50-51.

<sup>91</sup> For the sake of completeness it should be observed that Art. 14(4)(b) of Directive 2004/38 on protection from expulsion for jobseekers who demonstrate 'a genuine chance of being engaged' has been transposed into French law by Art. R.121-4 of the Immigration Code.

<sup>92</sup> *ibid.*, p. 52.

<sup>93</sup> Citizens Without Borders (n 66), p. 30.

<sup>94</sup> See *Carte de séjour de membre de la famille d'un citoyen de l'Union/EEE/Suisse > Pour la famille d'une autre nationalité > Pièces à fournir* <<https://www.service-public.fr/particuliers/vosdroits/F19315>>.

<sup>95</sup> *ibid.*

<sup>96</sup> Immigration Code, Art. R.121-14.

<sup>97</sup> Immigration Code, Art. R.121-13.

<sup>98</sup> This refers to 'other family members' falling within the scope of Article 3(2) of Directive 2004/38. Immigration Code, Art. R.121-14-1 provides that the provisions of Art. R.121-13 and Art. R.121-14 are to apply to other family members listed in R. 121-2-1 who apply for the facilitation of their residence under R. 121-4-1. These provisions were inserted by Decree No 2011-672 (*Décret n° 2011-1049 du 6 septembre 2011 pris pour l'application de la loi n° 2011-672 du 16 juin 2011 relative à l'immigration, l'intégration et la nationalité et relatif aux titres de séjour*, JORF 07-09-2011 <<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024537138>>).

<sup>99</sup> Citizens Without Borders (n 66), p. 30; Leigh et al (n 12), p. 21.

	<p>in their home country even if there is no such requirement under the law of the spouse's country of origin.<sup>100</sup></p> <p>For unmarried partners, establishing the durable nature of their relationship has sometimes proven difficult as it is reported that the French authorities impose limitations on the means of proving cohabitation.<sup>101</sup></p>
<p><b>6. What requirements apply as regards translation and legalisation? Have any specific problems been identified in practice?</b></p>	<p>Documents issued under Regulation 2016/1191 should be exempted from translation and legalisation requirements.<sup>102</sup> In theory, any other official civil status certificate drawn up abroad is required to be legalised (unless exempted under an international agreement)<sup>103</sup> and translated into French<sup>104</sup> by a sworn translator.<sup>105</sup> However, in practice, original civil documents with a sworn French translations are accepted without necessarily needing to be legalised (although this may be needed when registering with social security institutions).</p> <p>These requirements have been reported as leading to difficulties for applicants,<sup>106</sup> particularly for those born outside the EU who may experience difficulties obtaining foreign certificates<sup>107</sup> or having them recognised by the French authorities.<sup>108</sup></p>
<p><b>7. Have any other specific problems been noted as regards the documentary requirements concerning residence formalities in this Member State?</b></p>	<p>There are reports of <i>préfectures</i> requesting documents which are not foreseen by the EU rules.<sup>109</sup> Despite the listings of suggested documentation required for registration by EU citizens and their family members (reflecting the suggested lists contained on the French government's public information portal) having been communicated by the French Ministry of the Interior to the <i>préfectures</i>, these official lists are not necessarily used and some have developed their own.<sup>110</sup></p>

Section H: Permanent residence	Information collated for this Member State
<p><b>1. Is permanent residence recognized to EU citizens and their family members in this Member State?</b></p>	<p>Yes. The Immigration Code, Art. L.122-1 transposes Article 16 of Directive 2004/38 and provides that EU citizens acquire a right of permanent residence after a</p>

<sup>100</sup> Leigh et al (n 12), p. 22; Nicolau (n 17), pp. 48-49.

<sup>101</sup> Nicolau (n 17), pp. 49-50 and 54.

<sup>102</sup> Arts. 4 and 6, Regulation (EU) 2016/1191 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union [2016] OJ L 200/01.

<sup>103</sup> Law No 2019-222 of 23 March 2019, Art. 16-II (*Loi n° 2019-222 du 23 mars 2019 de programmation 2018-2022 et de réforme pour la justice*, JORF 24-03-2019) <<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000038261631>>

<sup>104</sup> See further, General instructions relating to civil status (*Instruction générale relative à l'état civil du 11 mai 1999*), Title IV, chapter VII <<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000647915>>.

<sup>105</sup> This is a translator who has sworn an oath before a French Court of Appeal.

<sup>106</sup> Citizens Without Borders (n 66), p. 30;

<sup>107</sup> Nicolau (n 17), pp. 48-49 and 54.

<sup>108</sup> Leigh et al (n 12), pp. 21-22.

<sup>109</sup> Leigh et al (n 12), pp. 18 and 21-22; Nicolau (n 17), pp. 50-54.

<sup>110</sup> Petition No 0925/2018 (n 19).

	<p>continuous period of five years of lawful residence in France. Family members also acquire a right of permanent residence after a continuous period of five years of lawful residence with their EU relative in France.</p> <p>It should be noted that the French rules refer to “<i>les cinq années précédentes</i>”,<sup>111</sup> which suggests applicants have to provide evidence that they have been lawfully resident in France in the five years preceding their application, whereas the case law of the Court of Justice suggests that permanent residence can be acquired following a continuous period of five years that has occurred at any time before an application is submitted.<sup>112</sup> It is not clear how this condition is applied in practice.</p> <p>It is also often the case that the <i>préfectures</i> will verify whether, at the time of applying for a permanent residence card, an EU citizen met the initial conditions for having the right of residence during their entire presence in France, which may pose a problem in particular to those who have become unemployed or inactive <u>after</u> gaining a permanent right of residence.<sup>113</sup> There are also reports of applicants having to prove that they possess sufficient resources and healthcare insurance going forward from the date of application.<sup>114</sup></p>
<p><b>2. Is permanent residence documentation automatically issued, or must EU citizens and their family members make a specific request for such documentation?</b></p>	<p>No. EU citizens and their family members wishing to obtain a permanent residence document must apply for it.<sup>115</sup></p>
<p><b>3. What is the procedure that applies when EU citizens and their family members request permanent residence documentation?</b></p>	<p>EU citizens may apply for a permanent residence document at any time.<sup>116</sup></p> <p>Non-EU family members are required to apply ‘at least two months before expiry of the continuous five-year period of lawful residence’.<sup>117</sup> This is a notable difference with Article 20(2) of Directive 2004/38, which only requires an application to be made by non-EU family members before expiry of their previous residence card.<sup>118</sup></p> <p>In practice, applications will often be accepted if made before expiry of the previous residence card.<sup>119</sup> Late filings are also sometimes accepted but on a discretionary basis.<sup>120</sup></p> <p>In practice, an application for a permanent residence document must be submitted in person.<sup>121</sup></p>

<sup>111</sup> Immigration Code, Art. L.122-1.

<sup>112</sup> Case C-162/09 *Lassal* EU:C:2010:592; Case C-325/09 *Dias* EU:C:2011:498.

<sup>113</sup> Feedback from Your Europe Advice.

<sup>114</sup> Nicolau (n 17), pp. 54-55.

<sup>115</sup> Immigration Code, Art. R.122-1 for EU citizens and Art. R.122-2 for non-EU family members.

<sup>116</sup> Immigration Code, Art. R.122-1.

<sup>117</sup> Immigration Code, Art. R.122-1.

<sup>118</sup> Leigh et al (n 12), p. 11.

<sup>119</sup> Feedback from legal practitioner.

<sup>120</sup> *ibid.*

<sup>121</sup> See *Titre de séjour d'un travailleur citoyen UE/EEE/Suisse > Après 5 ans de séjour > Demande de la carte* <<https://www.service-public.fr/particuliers/vosdroits/F16003>>.

<p><b>4. What documentation is required to apply for permanent residence documentation?</b></p>	<p>The French rules are silent on what documents need to be submitted in support of an application for permanent residence.</p> <p>The government's public information portal provides examples as regards applications submitted by EU citizens: 'proof of continuity of residence in France for five years: one document per semester (receipt for rent or charges, household bills, etc.); proof of right of residence in France for the past five years (employment contract, etc.).'<sup>122</sup></p> <p>No such information is provided as regards applications for permanent residence submitted by family members (whatever their nationality).<sup>123</sup></p>
<p><b>5. Are EU citizens and their family members issued with a certificate of application?</b></p>	<p>While the French rules are silent on this point, in practice, EU citizens and their family members who apply for a permanent residence document will be issued with a certificate of application.<sup>124</sup></p>
<p><b>6. What is the deadline for making a decision on an application?</b></p>	<p>For EU citizens, a document certifying permanent residence should be issued as soon as possible.<sup>125</sup></p> <p>For non-EU family members, a permanent residence card should be issued within six months of an application being submitted.<sup>126</sup></p>
<p><b>7. In practice, how long does an application for permanent residence typically take to complete?</b></p>	<p>No official information could be found on the average duration of the process.</p> <p>In practice, it takes the same amount of time as a standard residence card application and can vary greatly depending on the <i>préfecture</i>, with processing times ranging from six weeks to six months.</p>
<p><b>8. What kind of permanent residence documentation is issued to EU citizens and their family members?</b></p>	<p>EU citizens are issued with a document certifying permanent residence using the uniform residence permit format laid down by Regulation 1030/2002 with the label '<i>Citoyen UE/EEE/Suisse - Séjour permanent - Toutes activités professionnelles</i>'.<sup>127</sup></p> <p>Non-EU family members are issued with a permanent residence card in the uniform residence permit format laid down by Regulation 1030/2002 with the label '<i>Directive 2004/38/CE - Séjour permanent - Toutes activités professionnelles</i>'.<sup>128</sup> The document is valid for a period of ten years and renewable upon request.<sup>129</sup></p>

<sup>122</sup> *ibid*, see *Pièces à fournir*.

<sup>123</sup> See *Carte de séjour de membre de la famille d'un citoyen de l'Union/EEE/Suisse* <<https://www.service-public.fr/particuliers/vosdroits/F19315>>.

<sup>124</sup> See, for example, *Titre de séjour d'un travailleur citoyen UE/EEE/Suisse > Après 5 ans de séjour > Demande de la carte* <<https://www.service-public.fr/particuliers/vosdroits/F16003>>.

<sup>125</sup> Immigration Code, Art. R.122-1.

<sup>126</sup> Immigration Code, Art. R.122-2.

<sup>127</sup> Immigration Code, Art. R.122-1.

<sup>128</sup> Immigration Code, Art. R.122-2.

<sup>129</sup> Immigration Code, Art. L.122-1

<b>9. What is the fee charged to EU citizens and their family members applying for permanent residence documents?</b>	There is no cost for issuance of the residence cards to EU citizens or their family members. <sup>130</sup>
<b>10. Can the registration procedure be completed on-line?</b>	No. There is no standardised application form available on-line. <sup>131</sup>
<b>11. Is there an expedited registration procedure or premium service available?</b>	No expedited or premium application service exists.
<b>12. Have any other problems been noted as regards applications for permanent residence in this Member State?</b>	There are reports that the <i>préfectures</i> will often refuse to accept an application for a permanent residence card submitted by an EU citizen on the basis it is not obligatory to hold such a document. <sup>132</sup>  In relation to Brexit, difficulties have been reported as regards applications submitted by British citizens who have been refused the right to apply or have been issued ordinary residence documentation instead of permanent residence cards. <sup>133</sup> British citizens residing in France were subsequently informed that a new online application system would become live in the second half of 2020, and they should make applications for a new residence permit at that time. <sup>134</sup> It remains to be seen whether such application process meets the requirement under Article 18 the Withdrawal Agreement for the process to be “smooth, transparent and simple”, which ensures that “any unnecessary administrative burdens are avoided and for application forms to be “short, simple, user friendly”.

<b>Section I: Appeals</b>	<b>Information collated for this Member State</b>
<b>1. In case of a refusal, can EU citizens and their family members have recourse to an administrative review process? If so, what administrative authority is competent to conduct such a review? What is the deadline for requesting administrative review?</b>	Yes. A decision refusing the issue of a residence document may be challenged by way of a request for administrative review. <sup>135</sup> A request for administrative review must be made within two months of the date of notification of the decision. <sup>136</sup> An administrative review may be requested from either the decision’s author ( <i>‘recours gracieux’</i> ) or their immediate superior ( <i>‘recours hiérarchique’</i> ). <sup>137</sup> A decision on an administrative review should be taken within two months of the request for reconsideration. In case no decision is taken within this period, the request is

<sup>130</sup> See for example, *Titre de séjour d'un travailleur citoyen UE/EEE/Suisse > Après 5 ans de séjour > Coût 'La délivrance de la carte Citoyen UE/EEE/Suisse - Séjour permanent - Toutes activités professionnelles est gratuite.'* <<https://www.service-public.fr/particuliers/vosdroits/F16003>>.

<sup>131</sup> ICF GHK/ Milieu (n 39), pp. 4-5.

<sup>132</sup> Nicolau (n 17), pp. 13, 65-66.

<sup>133</sup> Nicolau (n 17), p. 50; Petition No 0925/2018 (n 19). See also ‘Brits seeking permanent residency in France told ‘come back after Brexit’ (*TheLocal.fr*, 21 November 2017) <<https://www.thelocal.fr/20171121/brits-seeking-residency-permits-in-france-told-to-come-back-after-brexit>>; Michaela Benson, ‘Brexit and the British in France’, Report for Brexit Brits Abroad (2020), pp. 22-23 <<https://brexitbritsabroad.org/about-the-project/reports.html>>.

<sup>134</sup> Update of the online residence permit request service for British citizens residing in France <<http://invite.contacts-demarches.interieur.gouv.fr/BREXIT/Update-of-the-online-residence-permit-request-service-for-British-citizens-residing-in-France>>.

<sup>135</sup> The procedure on administrative review is governed by the Code on relations between the public and the administration (*Code des relations entre le public et l'administration*), Arts. L.411-1 to L.411-7 <<https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000031367825&cidTexte=LEGITEXT000031366350>>.

<sup>136</sup> Code on relations between the public and the administration, Art. L.411-2.

<sup>137</sup> For a summary of the procedure, see <<https://www.demarches.interieur.gouv.fr/particuliers/litige-administration-recours-gracieux-hierarchique-obligatoire-rapo>>.

	<p>deemed to have been rejected.<sup>138</sup> An administrative review does not suspend the decision under challenge.</p> <p>It should be noted that requesting an administrative review suspends the two-month deadline for filing a judicial appeal.<sup>139</sup></p> <p>However, this suspension does not apply when the request for administrative review relates to a decision containing an obligation to leave French territory ('<i>Ordre de quitter le territoire français</i>') (see further 4. below).</p>
<b>2. In case of a refusal, can EU citizens and their family members have recourse to a judicial appeal process?</b>	Yes. An administrative decision may be challenged before the administrative courts directly or following a request for administrative review. <sup>140</sup>
<b>3. What judicial authority is competent to hear such appeals?</b>	A judicial appeal against a decision refusing the issue of a residence document lies before the local administrative tribunal ( <i>tribunal administratif</i> ). Subsequent appeals lie before the Administrative Court of Appeal ( <i>Cour d'appel administrative</i> ) and the Council of State ( <i>Conseil d'État</i> ). <sup>141</sup>
<b>4. What is the deadline for lodging a judicial appeal?</b>	<p>A judicial appeal against a decision refusing the issue of a residence document must be filed within a two-month deadline for filing a judicial appeal.<sup>142</sup> The deadline starts to run from the date when the decision is notified.</p> <p>Where an administrative review has been requested, a judicial appeal must be brought within two months of the date on which a decision on the administrative review was taken<sup>143</sup> or, if no decision is taken, within two months of the date on which the administrative review is deemed to have been rejected.<sup>144</sup></p> <p>However, a shorter deadline of 30 days applies for filing an appeal against a decision containing an obligation to leave French territory ('<i>Ordre de quitter le territoire français</i>').<sup>145</sup> In such a case, the 30-day time limit within which to lodge a judicial appeal is not extended if a request for administrative review is lodged.<sup>146</sup></p>
<b>5. What is the nature of the judicial review process? Does it suspend the effects of the decisions under appeal?</b>	An administrative tribunal has the power to review the legality of decisions taken by the French administrative authorities. <sup>147</sup> While a tribunal does not have the

<sup>138</sup> Code on relations between the public and the administration, Art. L.411-7.

<sup>139</sup> Code on relations between the public and the administration, Art. L.411-2.

<sup>140</sup> The procedure on judicial appeals is governed by the Immigration Code, Arts. L.512-1 to L.512-6 and Art. R.512-2, as well as the Code on administrative justice (*Code de justice administrative*) <<https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070933>>.

<sup>141</sup> For an overview of the judicial review process in administrative cases, see <<https://www.demarches.interieur.gouv.fr/particuliers/juridictions-administrativeshttps://www.vie-publique.fr/decouverte-institutions/justice/fonctionnement/justice-administrative/>>.

<sup>142</sup> Code on administrative justice, Art. R.421-1.

<sup>143</sup> Code on administrative justice, Art. R.421-2.

<sup>144</sup> Art. R.421-1 of the Code on administrative justice read in conjunction with Art. L.411-2 of the Code on relations between the public and the administration.

<sup>145</sup> Immigration Code Art. L.512-1; Code on administrative justice, Art. R.776-2.

<sup>146</sup> Code on administrative justice, Article R.776-5.

<sup>147</sup> The powers of judicial review of the administrative courts are mostly the result of the extensive case law of the French Council of State. For an overview, see <<https://www.vie-publique.fr/decouverte-institutions/institutions/approfondissements/quatre-types-contentieux-administratif.html>>.

<p><b>What are the fees for lodging a judicial appeal?</b></p>	<p>power to remake an administrative decision, whenever its ruling implies that the administrative authorities will have to act in a certain way in order to comply with the ruling, its broad powers of injunction<sup>148</sup> enable it to order the administration to issue residence documentation<sup>149</sup> and fix a deadline by which to do so.<sup>150</sup> An administrative tribunal also has the power to award costs, (including lawyer fees) against the losing party on the basis of what is equitable and having due regard to the losing party's economic means.<sup>151</sup></p> <p>A judicial appeal does not suspend the decision under challenge.</p> <p>There are no court fees for filing appeals before the administrative courts.</p>
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Section J: Impact of residence formalities on equal treatment	Information collated for this Member State
<p><b>Has Article 25 of Directive 2004/38, which provides that the exercise of a right or completion of an administrative formality should not be conditional upon possession of a residence document, been accurately transposed in this Member State?</b></p>	<p>This provision has not been correctly transposed.<sup>152</sup></p>
<p><b>Have any problems been noted as regards the impact of residence formalities on equality of treatment for EU citizens and their family members?</b></p>	<p>The absence of compulsory registration appears to be a source of significant problems in France,<sup>153</sup> where it is reported that the social security bodies – typically the local health insurance funds (CPAM)<sup>154</sup> and the local bodies responsible for family benefits (CAF)<sup>155</sup> – will often insist upon EU citizens and family members having to present a residence document in order to claim benefits and invoke their right to equal treatment.<sup>156</sup> Although in theory French law provides the option to apply for a residence card, in situations where EU citizens decide to make use of this option, the local authorities are reported as refusing to process applications on the basis that there is no obligation to apply for such a residence card.<sup>157</sup></p>

<sup>148</sup> Code on administrative justice, Arts. L.911-1 - L.911-3; Council of State, judgment of 29 June 2001, *Vassilikiotis (CE Ass., arrêt du 29/06/2001, Vassilikiotis n° 213229)*.

<sup>149</sup> See for example, Administrative Court of Appeal of Marseille, judgment of 4 July 2019 (*CAA de Marseille, 1ère chambre, arrêt du 04/07/2019 n° 19MA01401*).

<sup>150</sup> *ibid*: in this case, the Court ordered the administration to issue a permanent residence card within two months.

<sup>151</sup> Code on administrative justice, Art. L.761-1.

<sup>152</sup> Claire Dupont, 'Conformity Study for France - Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States' (Report for the European Commission), p. 8.

<[https://200438ecstudy.files.wordpress.com/2013/05/france\\_compliance\\_study\\_en.pdf](https://200438ecstudy.files.wordpress.com/2013/05/france_compliance_study_en.pdf)>

<sup>153</sup> Feedback received from Your Europe Advice.

<sup>154</sup> This refers to the *caisses primaires d'assurances maladie*.

<sup>155</sup> This refers to the *caisses d'allocations familiales*.

<sup>156</sup> *ibid*.

<sup>157</sup> Nicolau (n 17), pp. 13, 65-66.