EUROPEAN CIRCULATION RIGHTS
The Schengen area

The space and the cooperation Schengen are established on the treaty Schengen of 1985. The Schengen area consists of 25 European countries. Certain States are members of the European Union, but do not belong to the Schengen area. It is about the United Kingdom and about Ireland. Two other countries, Norway and Iceland, are not members of the European Union, but are however associated to the Schengen area by virtue of an agreement of cooperation concluded with the other States Schengen. The Schengen area is a space of free movement of people. By virtue of the Agreement of application of the Agreement of Schengen of June 14th, 1985, 25 member states deleted(eliminated) every control of the persons during the crossing of their internal borders.
Since December 21st, 2008, the Schengen area of free movement of people contains 24 countries: the countries of the European Union, with the exception of Ireland and of the United Kingdom which participate only in a part of Schengen capacities, as well as of Bulgaria, Cyprus and Rumania; on the other hand, Norway and Iceland adhered to it. As a rule, Switzerland will be a member of this European space from November 1st, 2008.
The Agreement of Schengen conceived uniform rules of entrance to all the member states. To enter the Schengen area, the nationals of the European Economic Space (EEE: les 25 Etats membres de l'Union Européenne (Allemagne, Autriche, Belgique, Chypre, Danemark, Espagne, Estonie, Finlande, France, Grèce, Hongrie, Irlande, Italie, Lettonie, Lituanie, Luxembourg, Malte, Pays-Bas, Pologne, Portugal, République Tchèque, Royaume-Uni, Slovaquie, Slovénie, Suède) plus l'Islande, le Liechtenstein et la Norvège.) must be provided with an ID card of current validity either with a valid passport or made obsolete for less than five years.

In case they are exempted from visa, the nationals of countries not - EEE can circulate freely in the Schengen area during a period of three months (90 days) maximum by half-year from the date of first entrance. For the nationals of countries not - EEE who are subjected to the obligation (bond) of visa according to their nationality, the visa specifies the duration of the authorized stay, which cannot exceed 90 days by half-year. Except opposite mention, the visa is valid for all the States Schengen.
In 2001, Commission proposed a project of directive establishing rules harmonized in the European scale on the conditions of entrance and residence of the nationals of third country coming to occupy an employment or to work on their account. But it was not received in a favorable way by the Council.

In spite of their differences in immigration, member states finally agreed in September, 2003 on essential legislative instrument: the directive relative to the family link for the nationals of third country. This directive (the first legislation on the immigration adopted by the EU) aims at harmonizing the relative national rules in the conditions of admission and of residence of the nationals of third country. Furthermore, it establishes the conditions according to which the foreign nationals who live legally in one of the member states have the right to make her husband come, wife and young children in the EU.
The following stage in the harmonization of the immigration policies of the EU was the directive relative to the status of the nationals of long-term resident third countries", adopted in November, 2003. It grants to the nationals of third country who live legally in the EU for at least five years an equal treatment in most of the social and economic domains. And, under certain conditions, it also gives the right to them to settle down in another member state to work on it, study, etc.

The right of asylum and the refugees
To find a consensus on the right of asylum at the European level turns out to be as well complicated as to establish a common politics for the immigration generally. In spite of their differences, the leaders of the EU undertook to develop a common system of asylum by the end of 2010. On average, the number of applications for asylum in the Western Europe fell until reach the levels of the second half of the 1980s. The constant decrease of the number of asylum seekers these last years is due to several factors; in particular a stricter politics(policy) of asylum in host countries and a bigger political stability in certain regions sources such as Afghanistan, Iraq and the Balkans.
The Process of The Hague on the refugees and the migration, adopted in November, 2004 by the European leaders, recommended an assistance to the member states which, because of their geographical situation, face a massive arrival of immigrants or asylum seekers.

For the moment, Brussels has only an emergency fund, an European fund for the refugees (FER) to accommodate, to feed and to bring a medical care to the migrants in the case of refugees' important arrival wherever in the EU. The European leaders assigned 216 million euro to the FER, for the fiscal year 2000-2004. This budget renewed since summer until 2010.
The illegal immigration

The number of illegal immigrants in the EU is estimated at approximately 8 millions. To check their influx became a priority for numerous member states. According to the Council of Europe (an organization independent from the EU which watches the respect for human rights), every year, approximately 51 000 migrants arrived by boat in Italy, in Spain, in Greece and to Malta, among which of numerous refugees and asylum seekers.

In June, 2008, the European Parliament adopted a series of measures debated on the management of the illegal immigration. According to the new rules, the illegal immigrants can be held until 18 months and be struck by a ban on the European territory of 5 years. According to the EU, the return of the illegal in their country of origin must be accompanied with a systematic dialogue with the third countries on the management of the migration.
Means of support:
For example in France, the persons have to have of
56,20 € a day: equivalent of a daily SMIC(GUARANTEED MINIMUM WAGE)
28,10 € a day: equivalent of half a SMIC(GUARANTEED MINIMUM WAGE) for the travelers with certificate of welcome
For Germany: 45€ a day…..
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La Documentation française – rapport de la Cour des comptes

Premier Ministre, rapports annuels au Parlement
French Law about Immigration
Introduction:

The immigration is the moving of people, called « immigrants », in a country which isn’t their land of origin, so they aren’t of the nationality of the country where they arrived. The immigration is controlled, in France, by minister of interior (today Brice Hortefeux) and by minister of immigration (Eric Besson). The foreigners’ law is the regulations which organize the entrance, the stay and the exit on the French territory ; it was codified by the *Code of entrance and stay of aliens and of the asile law* (CESEDA in French). The asile right, considered like a fundamental right assured by the French Constitution and by the *Geneva Convention* of July 1951, is separated of the foreigners’ law and depend of the *National Court of Asile Right* (CNDA), whereas foreigners’ law depend of the ordinary administrative courts.

In this law, we can find three « level » :

- The legal level,
- The statutory level,
- The real put into practice.
In the law,
we have separated the duties and the rights.
Aliens’ duties:

The French law allows many conditions about the aliens’ stay on the territory, conditions which have to be fulfilled to stay in France legally. To enter in France, everyone must have:

- A passport (before expiry),
- A Visa unexpired,
- and, sometimes (subject of international conventions):
  - charge attestation if the stay is a private visit,
  - related documents which prove the purpose of the stay (tourism, business, hospitalization, etc.),
  - and, if it’s necessary: evidence of the means, guarantees of the repatriation, insurance, etc.
- complementary documents about the exercise of professional activities…

Some people are avoided to present these documents, they’re the spouses and children who enter in France with the family reunification, or it’s because they’re nationals from countries with which there are agreements.
Aliens’ duties:

To get this papers there are many possibilities with the Schengen area: the short-stays visas can be obtain in all countries of the Schengen space (except if the stay is longer in France than in the others land or if the France was the country of entrance in the Schengen area, but for the long-stays visas it’s necessary to do the demand at the French consulate of the country of origin. Once in France, a visa can’t be modified!
Aliens’ duties:

Remark: to work in France, it’s necessary to have a special visa but every job aren’t « open » to the aliens: to can work, a stranger has to find an employer who accepts to do the necessaries steps and to pay a tax at the OFII (French office for immigration and integration). The posts have to respect the french law about work and pay.

N.B.: Bulgarians and Romanians don’t have the right to free-circulation so they don’t have the same rights that the others Europeans on the work.
The rights of immigrants:

At legal level a lot of rights are accorded to immigrants and without-papers, in several fields like family, work, health, etc.:

- treatments (and there cost) are possible thanks to the AME (medical help),
- without-papers and immigrants have the free access to free devices of public healthy like HIV testing center, etc.,
- since 2000, termination of pregnancy is accessible to all women, without stay-conditions,
- the right to be married is fundamental, so no visas are compulsory,
- every children have the right (and the duty) to go to school like every french children, to have treatment and medical watch because it’s guarantee by international conventions,
- social-security benefits to childhood (ASE) are paid even if the stay is irregular,
- consultation in maternal and infantile protection center are free,
- access to nursery is without nationality conditions,
- an illegal worker have the same rights (minimum salary, etc.) that a legal worker,
The rights of immigrants:

- Immigrants can access to a jurisdictional help under some conditions,
- Toute personne, avec ou sans titre de séjour, a le droit d’avoir un compte bancaire,
- urban transport authorities have the obligation to offer pricing reductions of 50% to people who earn not very money, moreover the ATA (temporary allowance of wait) can be paid to the foreigners.
   → Beneficiaries:
     ▪ Immigrants who are 18 and who have asked to have asylum status,
     ▪ Immigrants beneficiaries of temporary protection,
     ▪ Immigrants who have a resident’s permit with the note « private and family life » having lodged a complaint or having testified in a trial,
     ▪ Stateless persons.
The rights of immigrants:

Attention!
Asylum seeker who want the re-examination of their request are expelled of the ATA, except case indicated by the French office of refugees and stateless persons protection (OFPRA).
The rights of immigrants:

Apart from the politics rights, related to the nationality (vote, etc.) and apart from the entrance and stay law, aliens have (in theory) the same rights that the Frenchmen.

In France, cannot join on electoral rolls, and all the more participate, that the immigrants and the descendants of French immigrants (what represents more than 97 % of the second generations, but 40 % of the immigrants from 18 to 50 years old). However, the nationals of the European Union can participate in the municipal and European elections since 1992.
Moreover, French law respect the European law, the *Universal Declaration of Human Rights* (adopted by United Nations in 1948) and the *Convention for the Protection of Human Rights and Fundamental Freedoms*, which guarantee many fundamental rights as equality, liberty, etc.
Evolution of immigrants’ law

All the law about immigration, in France, evolve for several years (≈2003) with many reforms. This started in 2003 with the reforms of De Villepin (prime minister) and Sarkozy (minister of interior) which reform the entrance of immigrants. In 2005, creation of *Code of entrance and stay of aliens and of the asile law* (CESEDA) (with his reform in 2006). In 2007, Hortefeux’s (minister of interior) reform which resort to DNA test to prove the filiation with families (for the family reunification). In 2010, there are reforms of CESEDA to take immigrants away the France with the nationality decline. This reform is still in debate. The reforms are accelerated since 2007, and today gypsies are source of debate in France and in European Union.
12 octobre 2010: new law

• The very controversial text plans in particular to deprive of their French nationality the murderesses of persons agents of the public authority. It was adopted by 294 voices against 239 in the National Assembly, in spite of the opposition of a part of members of parliament of the majority.

• The bill, which resumes several announcements made by Nicolas Sarkozy this summer in Grenoble, widens the list of the motives for decay of the French nationality to the condemned persons naturalized for less than ten years having caused the death of a person agent of the public authority.

• It also contains several measures relative to the illicit camps and which aim at facilitating the eviction of the nationals community as the Roma.

• Finally, the access to the medical aid for the foreigners without residence permit was made more difficult, to avoid a "unreasonable cost of the French health system".
Involving particularly the biometric recording information on the Roma, the Resolution of european parliament underline that the statement of the fingerprints of the expelled Roma is illegal and against the Charter of the fundamental rights of the European Union, to treaties and to right of the European Union, and that it establishes a discrimination based on the ethnic or national origin.

It is nevertheless exactly what France suggests making very soon. Certainly, the file OSCAR, the legality of which was disputed in front of the Council of State, aims all the foreigners susceptible to benefit from a repatriation grant. But, in practice, it is mainly the Roma, that they are Bulgarian or Rumanian nationals, who are aimed because they represent 90% of the persons who see attributing a "humanitarian" repatriation grant. The reason is simple there: public authorities developed a consisting strategy, during the evacuation of a camp of Rumanian or Bulgarian Roma, to force them the hand so that they accept the "humanitarian" repatriation grant, at the risk of being placed in police custody or incurring legal proceedings.

The biometric recording information on the Roma, which takes a particular relief in the current context, establishes an unacceptable denial of their European citizenship
In France, centers of administrative keeping back (C.R.A). Have vocation to receive the foreigners who have no right(law) to stay on the French territory and are under the blow of a ban on territory or on a procedure of estrangement the time to be able to send them to their country of origin and allow them to exercise steps of appeal. The foreigners returning on the territory and in wait of regularization of their situation (via applications for asylum, etc.) are there also present. They stay there between two and thirty two days maximum for the moment, the duration averages of keeping back being from nine to ten days.
centers of administrative keeping back (C.R.A). Le Mesnil Amelot close to Paris
Figure 3 - Fréquence des contrôles de police sur la dernière année selon l’origine des immigrés, des natifs d’un DOM et de leurs descendants

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